



An
Bord
Pleanála

Inspector's Report 304109-19

Development	Retention and completion of 2 dwelling houses
Location	Faunmore, Kilcrohane, Bantry, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	1900021
Applicant(s)	Clogheen Development Ltd.
Type of Application	Planning permission
Planning Authority Decision	Grant permission
Type of Appeal	Third party
Appellant(s)	Thomas McCarthy
Observer(s)	None
Date of Site Inspection	29 th May 2019
Inspector	Mary Kennelly

1.0 Site Location and Description

- 1.1.** The site is located in the townland of Faunmore, which is located 200m the north of the village of Kilcrohane. The village is situated on the Sheep's Head peninsula, approx. 23km to the southwest of Bantry and c. 15km to the southwest of Durrus Village. The site is located on the periphery of the village but is within the development boundary for Kilcrohane. Access to the site is gained from the L47039, (also known as Cois Farraige), which is a local cul-de-sac road that branches off the R591. This road is very narrow in parts with sharp bends and is poorly surfaced and is on a steep incline. There is an S-bend in the road adjacent to the site. It is a rural road with several dwellings located on the road. The topography is undulating with rocky outcrops.
- 1.2.** The appeal site is situated on the western side of the local road. Part of the southern boundary is with the road, from which access to the site is gained, and the remainder of this boundary is with a field. There is a concrete fence with mature trees and hedging along the southern and eastern roadside boundaries and the Kilcrohane River runs alongside the western and northern boundaries. There are two small housing developments to the south and south-west, Fan Mor and Radharc Alainn. The former is located to the south of the adjacent field and forms the interface with the built-up part of the village. The latter adjoins the main road leading north from the village, where there are several small developments, one of which backs onto the western boundary of the appeal site.
- 1.3.** The site area is given as 1ha and is essentially an overgrown and abandoned construction site with uneven ground, rocky outcrops and excavated heaps of soil scattered throughout the site. Ground levels generally rise from south to north. It contains two existing partially complete roofless houses, which have been constructed to wall plate level. The houses form part of a larger development of 25 houses, (04/9151), which was granted in 2004, part of which has been constructed to the south of the site.

2.0 Proposed Development

- 2.1.** It is proposed to retain and complete the two partially complete detached dwelling houses, and to install 2 no. individual wastewater treatment plants. It is no longer

proposed to discharge wastewater to the public sewer. The proposed wwtps are proprietary systems with a pumped feed to raised bed pressurised soil polishing filters, which will provide primary, secondary and tertiary treatment of wastewater. The proposal also seeks to realign and widen the adjacent local road (L47039). The proposed development will be accessed by means of the existing entrance at the south-eastern corner of the site. This will serve both dwellings. Each of the proposed dwellings has a floor area of 138m² and comprise 3-bedroomed one and a half storey detached houses.

- 2.2.** The application was accompanied by an Appropriate Assessment Screening Report, a draft CEMP and a Flood Risk Assessment. A site suitability Assessment Report and details of the proposed Sewage Treatment systems was also provided.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 26 conditions. These were generally of a standard type. The following conditions are of note:

3. No further subdivision of site
4. Connection agreement with Irish Water prior to commencement of development
5. No dwelling to be occupied until water/sewerage services operational.
11. One common entrance to be recessed 4.5m from front boundary fence.
13. Sight distance of 45m to north and 62.8m to south required at 4.5m back from road edge.
14. No vegetation greater than 1m within sight triangle.
15. Details of front boundary treatment to be agreed prior to commencement of development.
16. Utility poles within roadside boundary setback to be repositioned behind boundary fence at applicant's expense.

22. Archaeologist to monitor under licence removal of all topsoil and ground works/construction works/soil stripping. In the event that archaeological material is found, work shall be stopped, and all items recorded.
23. To prevent pollution of watercourse during construction, a temporary line of fencing shall be erected 10m from the Kilcrohane River.
24. CEMP to be submitted.
26. Development Contribution - €3,731.84.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Area Planner's report (6/03/19) includes detailed information regarding the planning history of the appeal site. In particular, the most recent decision by the Board to refuse permission for a similar development on three grounds (PL88.247591). In brief, these related to prematurity due to lack of capacity in the WWTP serving the village; inability to rule out significant effects on Farranamanagh Lough SAC; and traffic hazard due to substandard road and inadequate sightlines. The Assessment section considers the main issues under specific headings and the main conclusions may be summarised as follows:

Preliminary Screening – the need for EIA was screened out based on the small scale and nature of the project.

Principle of development – it was noted that the original permission for 25 houses had included 5 houses on the subject site with an estate road and that the current proposal relates to just two houses on a much larger site with a shared entrance from the public road. Reference was made to the acceptance by the Board and the Inspector of the principle of development given the location within the development boundary, compliance with the Development Plan policies and the fact that there are two unfinished houses on the site, notwithstanding the stated reasons for refusal.

Flood risk – it was noted that the site is located within Flood Zone A and that the applicant had submitted a Flood Risk Assessment in accordance with the requirements of the Flood Risk Management Guidelines. It was stated that both houses are outside the flood zone and that although the western extremity of the site

might be affected by fluvial flooding, the FFL for that house is c. 2.5m – 3.0m above the level of the river. It was further noted that there is no history of flooding on the site and that it is proposed to use the soil heaps to level the site. It was concluded that there would be little risk of flooding given the proposed final ground levels relative to the river bed.

Road safety/Traffic – it was noted that it is proposed to widen and realign the road in order to improve sightlines, road safety and drainage. The new carriageway would be 5.5m wide and the emerging sight lines would be 45m and 62.8m to the north and south respectively. These measures were not included in the scheme refused by the Board. The Area Engineer raised no objection. Area Planner considered that the proposed development would be acceptable, and that Reason No. 3 had been addressed.

Wastewater treatment – the proposed development differs from that refused by the Board (247591) in that it had previously been proposed to serve each dwelling with a wwtp which was to discharge to the public sewer system, whereas the current scheme proposes to discharge to ground instead. The applicant proposes to provide proprietary treatment units with a pumped feed to a polishing filtration system. The Area Engineer and Area Planner considered that the proposal has addressed the first reason for refusal under 247591.

Appropriate Assessment – it was noted that the site is located 660m from the nearest European site and 920m and 1.46km from two further European sites. However, the Inspector's report (247591) had indicated that the main reason for concern had related to the proposal to discharge to the public sewer, whereby no capacity was available. A Screening Report was submitted with the current application which notes that there is no hydrological connection and there is no proposal to discharge to the public sewer. No objection was raised by the Heritage Officer. It was considered that having regard to the revised proposal, which also included a draft CEMP, and to the conclusions of the Screening Report, which found no likelihood of significant effects having regard to the C.O.s for the sites nearby, condition 2 had been addressed.

Recommendation - It was recommended that permission be granted subject to conditions.

3.2.2. Other Technical Reports

Area Engineer's Report – (06/02/19) – No objection to revised proposals as submitted. Permission recommended subject to conditions.

Estates Report (22/01/19) – The report noted the history of the site, particularly relating to phasing and addressed the issue of flooding. No objection was raised subject to conditions.

Archaeologist (27/02/19) – Report notes that site is located within the Zone of Archaeological Potential around a Recorded Monument (CO 129-007), a Ringfort and recommends a monitoring condition.

Heritage Officer (05/02/19) – Report notes the submission of the AA Screening Report and the conclusions of same, and of the proposed draft CEMP. Permission was recommended subject to conditions.

3.3. Prescribed Bodies

Inland Fisheries Ireland – no objection subject to disposal of effluent to percolation following treatment. A condition is requested prohibiting interference with, bridging, culverting or draining the adjoining watercourse.

Irish Water – No objection subject to a connection agreement and constraints of Irish Water Capital Investment Programme.

3.4. Third party observations

Objections were submitted by three residents of neighbouring properties, Monica Keegan, Patricia Sheehan and Tom McCarthy (appellant). The main points made may be summarised as follows:-

- Third application for retention and completion of dwelling houses. Still premature as infrastructure has still not been upgraded and it is in contravention of condition 2 of 04/9151. It is manipulation of planning system. There has been no change since refusal by Board. Houses have been built illegally.

- Site in a Flood Risk Area. No details submitted of local flooding on Faunmore Road. Freedom of Information Request sought re this flooding over last 10 years.
- Proposal contravenes objectives of Local Area Plan and would have negative impact on residential amenities of neighbouring properties. Removal of roadside boundary will adversely affect natural character of area. Condition will be required to restrict on-site lighting, if granted.
- Wastewater treatment issues remain outstanding. It is not clear if the proposal will comply with EPA Guidelines.
- Potential impact on Farranamanagh Lough SAC. AA Screening Report is deficient.
- Does not meet local housing need.
- Threat to ringfort.

4.0 Planning History

04/9151 – planning permission granted by P.A. on significantly larger site for 25 dwelling units. The permission was granted subject to 15 conditions. Phase I comprised 15 dwellings at the southern end of the elongated site and this was completed. Phase II represented Houses 16-20 and Phase III Houses 21-25. The site of the current application roughly corresponds to Phase III.

Condition 2 – required phasing and restricted Phase I to Nos. 1-15. Subsequent phases were prohibited until the public water supply and public sewerage facilities had been upgraded. Appropriate arrangements for Part V to be made for each phase.

Condition 3 – Units 1-12 restricted to short-term holiday rental only and no change of use without further planning permission. Remainder of dwellings not to be used for short-term holiday rental.

08/440 – Permission granted for a change of use of houses 1-12 from short term letting to owner occupier.

10/326 – Permission granted for extension of duration of permission in 2010. This permission expired on 22/09/15. It was noted that 15 units had been completed.

PL88.247591 - The Board refused permission following a third-party appeal for retention and completion of 2 no. houses with 2 no. septic tanks and associate site works. The septic tanks would have discharged to the public sewer. The site area is identical to the site of the current application/appeal. The main substance of the reasons for refusal was based on the following:

1. Premature and disorderly development due to lack of capacity in wastewater treatment plant serving the village, which could result in a breach of the combined approach under the Waste Water Discharge Regulations and would materially contravene an objective of the Bantry Electoral Area Plan 2011.
2. Board not satisfied, based on information submitted, that the proposal either alone or in combination with other plans or projects, would not be likely to have a significant effect on the Farranamanagh Lough SAC in view of the site's conservation objectives. Hence Board precluded from granting permission.
3. The proposal would endanger public safety by reason of traffic hazard due to the substandard width and alignment of the public road, which lacks any provision for pedestrians, and to the inadequate sightlines available at the entrance.

5.0 Policy Context

5.1. National Planning Framework – Project Ireland 2040

National Policy Objective 3a – Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.

5.2. Cork County Development Plan 2017-2023

The site is located in an area designated as Tourism and Rural Diversification Areas. These areas are described as exhibiting characteristics such as evidence of considerable pressure for rural housing, in particular higher demand for holiday and

second homes. They are noted as being more distant from the major urban areas and the associated pressure from urban generated housing. These areas are stated to have higher vacancy rates, relatively stable populations, higher levels of environmental and landscape sensitivity and a weaker economic structure with significant opportunities for tourism and rural diversification. Relevant policies include

RCI 4-3 which sets out the criteria which must be complied with for applications for rural housing, whereby an individual with a genuine rural housing need seeks to build his/her first home for permanent occupancy. The overall aim of the policy is to make provision for people with genuine rural housing need from the local community seeking to build his/her first home for permanent occupancy, as well as recognising the significant opportunities for tourism and rural diversification.

TM 3-3 – ensure all new vehicular accesses are designed to appropriate standards to ensure the safety of other road users.

RCI 6-1 – Design and Landscaping of New Dwelling Houses in Rural Areas

- (a) Encourage design that respects character, pattern and tradition of existing places, materials and built forms and that fit appropriately into the landscape.
- (b) Promote sustainable approaches to design – energy efficient in design, layout and siting.
- (c) Require appropriate landscaping and screen planting with mainly indigenous /local species and groupings.

GI-6-1 Landscape

- (a) Protect the visual and scenic amenities of County Cork’s built and natural environment.
- (b) Landscape issues – important factor in all land-use proposals
- (c) Ensure new development meets high standards of siting and design.
- (d) Protect skylines and ridge lines for development
- (e) Discourage development requiring the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments.

5.3. West Cork Municipal District Local Area Plan 2017

Kilcrohane is designated as a Village in the West Cork Municipal District LAP. The site is located within the Development Boundary for the Village. It is within the area identified as Flood Zone A. The vision for the village is stated as

- To encourage and consolidate sympathetic development within this unique and sensitive landscape setting along the Sheep's Head Peninsula and
- To promote the expansion of community and tourist services while maintaining and restoring the environmental quality of the area through the provision of appropriate infrastructure.

DB-01 seeks to encourage the development of up to 40 additional dwelling units within the development boundary during the plan period.

DB-02 seeks to counteract sprawl and development should be encouraged outward from the nucleus of the settlement in a sequential and co-ordinated manner.

U-01 seeks to prioritise the provision and upgrading of footpaths in the village. Particularly along the main street.

5.4. Natural Heritage Designations

Farranmanagh Lough SAC (002189) located approx. 900m to the south

Sheep's Head SAC (000102) located approx. 548m to the west.

Sheep's Head to Toe Head SPA (004156) located approx. 1 km to the southwest.

6.0 The Appeal

6.1. Grounds of Appeal

The third-party appeal was submitted by Thomas McCarthy with an address in the UK, who owns the residential property immediately to the east, on the opposite side of the road. The main points raised may be summarised as follows:

- **Board decision** – the current application does not address the reasons for refusal in the Board's previous decision.

- **Flood risk** – The site is in an area identified as being at risk of flooding (Zones A and B). The area has previously flooded whereby the road was flooded and was swept away. Any development on this site is considered reckless to the environment.
- **Wastewater treatment subject to flooding** – The proposal no longer seeks to discharge to the public sewer, but there is still a risk of contamination of the nearby watercourses and private wells. The watercourses experience heavy waters in winter and there has been major flooding in this area, which poses a risk of contamination by flooding of the wwtps.
- **Concentration of wastewater treatment plants excessive** – the treatment plants and polishing filters are designed for single dwellings, and as they would be side by side, this would lead to an overconcentration of effluent which would breach the EPA guidelines.
- **Threat to European sites and private wells from wastewater treatment** – the treatment of effluent may result in synthetic toxins and/or residue waste reaching the watercourse or the water table. The plants may also fail due to flooding. This could pose a threat to both the European site via the watercourse and private wells via ground water. The adequacy of the Site Risk Assessment is questioned on the basis that it was carried out by agents on behalf of the developer.
- **Site entrance** – in the original permission it was proposed to build 5 houses on this site with access to be gained internally from the remainder of the development to the south. The current proposal is unacceptable due to the substandard nature of the road which would lead to a traffic hazard.
- **Layout and scale of development** – the proposed layout is unacceptable as it would result in overlooking and loss of privacy. The scale of the dwellings is excessive and inappropriate to the surroundings.
- **Light pollution** – there has been no assessment of light pollution.
- **Legality of development** – the applicant has constructed these dwellings illegally without permission. This application is an effort to manipulate the planning system and circumvent the need to comply with condition 2 of

04/9151. The Board's decision to refuse permission should surely now be enforced by requiring the structures to be removed from the site.

- **The planning notice was not advertised** – as the notice was not advertised in a newspaper, the application is invalid.

6.2. Planning Authority Response

The P.A. responded to the grounds of appeal on the 17th April 2019. No further comments were made.

6.3. First Party Response 03/05/19

The response was mainly in the form of rebuttal. It was considered that the proposed development adequately addresses the three grounds of refusal of the Board's decision under 247591. The following comments were also made:

- It is no longer necessary to discharge effluent to the public sewer. The proposed individual wastewater treatment plants include tertiary treatment and comply comfortably with the parameters in the EPA Code of Practice. No risk of flooding was identified in the Flood Risk Assessment submitted with the application in respect of either the houses or the sites of the wwtps.
- The concerns raised by the Board in respect of the previous scheme regarding Farranamanagh SAC related to the lack of capacity in the village WWTP together with the proximity of this treatment plant to the SAC. It is submitted that now that it is proposed to treat the wastewater on site, this issue does not arise. The Screening Report had found that there was no risk posed by the development on the SAC, and that a draft CEMP has been prepared for the proposed development.
- The widening and realignment of the road will significantly improve safety on the adjoining road.
- The applicant has no knowledge of flooding on the site or the adjoining road during the period of their ownership.
- It was confirmed that the application had been publicised in the local newspaper.

7.0 Assessment

7.1. I would agree with the planning authority that the main issues relate to whether the three reasons for refusal in the Board's decision on 247591 have been addressed. It was clear from that decision, and from the Inspector's Report, that the principle of the development had been accepted and that flood risk relating to the site and the proposed dwelling units had been adequately addressed. Although a new Local Area Plan has since been adopted, it is considered that there are no significant changes to the policies for the area which would alter the assessment in respect of the principle of development on this site. The site is still within the development boundary for the village and the planning history has not changed in the interim period. In respect of flood risk, it has been accepted that the site and proposed dwellings are not at risk of flooding, but this matter will be considered below in the context of any potential impact on the operation of the waste water treatment plants, as the treatment of wastewater on site is a new element of the proposed development.

It is considered that the main issues arising from the appeal are as follows:-

- Prematurity of development and adequacy of wastewater treatment
- Road safety and access; and
- Appropriate Assessment and in particular, potential impacts on Farranamanagh SAC.

7.2. Prematurity of development and adequacy of wastewater treatment

7.2.1. The Board's first reason for refusal was based firstly on concerns that given the lack of available capacity in the wastewater treatment system for the village, a breach of the Combined Approach under the Wastewater Discharge (Authorisation) Regulations 2007 could not be ruled out, by reason of the proposal (at that time) to discharge to the public sewer. Secondly, the Board considered that the proposed development materially contravened a development objective of the Bantry Electoral Area LAP, DB-01(d), which required new developments to make provision for a connection to the public wastewater treatment system in the future and have a sustainable private water system. It was on this basis that the Board decided that the

development would be disorderly, would materially contravene this objective and would be premature pending the upgrade of the village services.

- 7.2.2.** The public waste water infrastructure has not been upgraded since the original planning permission was granted (04/9151). The applicant proposes to address the issues raised in the reason for refusal by providing individual proprietary waste water treatment units which would include primary, secondary and tertiary treatment of effluent on site with no discharge to the public system. A Site Suitability Report (by DCMA Consultants) and details of the proposed package treatment system (Biorock) were submitted. The potential targets in the area were identified as groundwater (including several private wells), surface water (river alongside western boundary) and a public water supply located 7m to the south of the site boundary. It was noted that there are several dwellings located in the vicinity, all of which are served by public watermains apart from houses to the north and northeast, which are upgradient of the site of the proposed WWTS. The site was deemed unsuitable for traditional septic tank due to the high water table (1.1m), but suitable for a packaged WWTS with a raised polishing filter.
- 7.2.3.** The proposed system provides for separation, aerobic digestion and filtration of effluent to a raised bed (150m²). I would agree with the P.A. Engineer that the recommended separation distances from a public well (60m), domestic wells (25m same level, 15m uphill) and from an adjacent watercourse (10m) would be comfortably met in the proposed development (c.120m, c.47m, c.73m and 110m, and 18.7m, respectively). It is considered that the discharge from the proposed waste water treatment systems, provided that they are installed and maintained in accordance with the EPA Code of Practice, would meet the required standards.
- 7.2.4.** It is noted that the Bantry Electoral Area Plan 2011 has been replaced by the West Cork Municipal District Local Area Plan 2017. The new plan no longer contains the objective that “any new dwellings with individual wastewater treatment must make connection to the public system in the future and have a sustainable properly maintained private water system” (DB-01(d)). Objective DB-01 of the new plan establishes a scale of growth for Kilcrohane of 40 dwelling units, which represents approx. 50% growth. The proposed development would generally be in accordance with this objective. It is noted, however, that condition 2 of the parent permission prohibits the completion and occupation of any subsequent phases (beyond Phase

1, i.e. House Nos.1-15) until the water and wastewater infrastructure have been upgraded.

- 7.2.5.** Chapters 1 and 2 of the LAP set out the overall policy including the growth strategy, which is based on the core strategy contained in the County Development Plan. It is pointed out (1.7.10) that since 2014, Irish Water has assumed responsibility for the operation of public water services (drinking water and waste water) which includes the granting of consent for connections as well as planning and delivery of new/future infrastructure needs. Although it is recognised that the scale of growth for the villages (40 dwellings in the case of Kilcrohane), may not be achievable due to the deficit in public water/wastewater infrastructure, the LAP seeks to “retain the scale of growth with the expectation that the infrastructure will be delivered over time by Irish Water” (2.4.11). It also acknowledges that in some areas where water services infrastructure is not available, nor likely to be available, it will be necessary to manage growth accordingly and development will be limited to a small number of houses with their own individual treatment plants (2.4.12).
- 7.2.6.** The current proposal for a lower density of houses with individual treatment plants is generally consistent with this approach. It is noted that a letter from Irish Water (23/08/17) has been provided with the application documents which states that a water connection can be facilitated and that the requirement to connect to the public wastewater system (once upgraded) is no longer required.
- 7.2.7.** The potential for flooding of the site was assessed in the previous scheme considered by the Board, which had included a Site Specific Flood Risk Assessment, when it was concluded that the proposed development would not be at risk of flooding nor would it cause an unacceptable risk of flooding elsewhere. This conclusion was reached based on the flood risk assessment and having regard to the level profiles for the site which indicated that the houses would be some 2.5-3.0 metres above the level of the river bed.
- 7.2.8.** I note that the FRA submitted with the current application has stated in relation to foul drainage (3.3.3) that it is proposed to discharge wastewater to an existing public sewer system. This is clearly erroneous as it is no longer proposed to discharge to the public sewer. I note however from the submitted drawings that the raised bed percolation areas associated with the wastewater treatment units are located at the

highest point in the site and that the level profiles indicate that the river bed is at a substantially lower level. I do not consider, therefore, that the wastewater treatment system would be at risk of flooding.

- 7.2.9.** Based on the foregoing, it is considered that the applicant has adequately addressed the matters raised in the Board's first reason for refusal and would generally be in accordance with the objectives of the West Cork Municipal District Local Area Plan.

7.3. Road safety and access

- 7.3.1.** The Board's third reason for refusal (247591) related to traffic hazard arising from the substandard nature of the public road at a location where there are inadequate sightlines and no provisions for pedestrians. The road serving the site is a narrow, winding and substandard local road which is poorly aligned, both vertically and horizontally. However, it is a cul-de-sac road which serves a handful of dwellings and farms. It is therefore very lightly trafficked, and the traffic would be predominantly for private access.
- 7.3.2.** The existing access point is substandard with poor visibility, particularly to the east. It is located on the inside of a bend with a sightline of 60m to the south (towards the village) but a sightline of just 34.8m to the east towards the next bend in the road. However, the applicant has control over the roadside boundary immediately to the east of the entrance and around the corner to the north of the second bend. It is proposed to relocate the fencing and cut back the vegetation, creating a level grassed area immediately to the east of the entrance as far as the bend and up to a distance of 10m along the road to the north of the bend. This would provide for an increased sightline of 42 metres. In addition, it is proposed to widen the carriageway of the road from c.3.04 - 3.84 to 5.5 metres for the same stretch of road to the east and for a distance of c.70m to the south.
- 7.3.3.** It is considered that the proposed realignment and widening of the road, together with the improved sightlines, will significantly improve the safety of the road. The removal of vegetation is regrettable, but it is considered that this can be replaced by planting within the site. Although it is not proposed to provide a footpath as part of the development, the planning authority could decide to provide one if deemed necessary. Having regard to the above and to the lightly trafficked nature of the road,

it is considered that the proposed access arrangements are acceptable in this instance. It is considered, therefore, that the proposed development has addressed the Board's third reason for refusal.

7.4. Appropriate Assessment

7.4.1. There are three European sites in the vicinity of the site, which are as follows:

Farranamanagh Lough SAC (002189) which lies approx. 900m to the south.

Sheep's Head SAC (000102) which lies approx. 548m to the west.

Sheep's Head to Toe Head SPA (004156) which lies approx. 1.46km away.

7.4.2. The Board's second reason for refusal related to the lack of information to enable it to be satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the Farranamanagh Lough SAC, or any other European site, in view of the site's Conservation Objectives. As such, it was precluded from granting approval/permission as the application related to development to be retained. It is noted from the Inspector's report that no Screening Assessment report had been submitted with that application and that the principal area of concern related to the proposal to discharge effluent to the public sewer, given that the village treatment plant is overloaded and that it currently discharges into Dunmanus Bay, which directly adjoins the Farranamanagh Lough SAC.

7.4.3. Farranamanagh Lough SAC is described in the Site Synopsis as a small shallow sedimentary lagoon located on the south side of Sheep's Head peninsula. It lies behind a stony barrier through which runs an apparently permanent outlet. Freshwater streams enter from the north and seawater enters at spring tide through the outlet, and also by percolation and overtopping of the barrier during storms. It is designated as an SAC for two habitats, Coastal Lagoons (a 'priority habitat') and Perennial Vegetation of Stony Banks. Site Specific Conservation Objectives were published in 2018 for each of the qualifying interests, which are summarised in the Screening Report.

7.4.4. Sheep's Head SAC encompasses the Sheep's Head peninsula and is bounded to the north by Bantry Bay and to the south by Dunmanus Bay. It is designated for Wet

Heath, Dry Heath and Kerry slug. Sheep's Head to Toe Head SPA is a large site situated on the coast to the south-west of the site. It encompasses high sea cliffs and is designated for Chough and Peregrine Falcon.

- 7.4.5.** A Screening Report was submitted with the current application which was carried out by Limosa Environmental. This is a comprehensive 47 page report which included a desktop study, a walkover survey of the site, bird surveys and an aquatic survey of the river, as well as a detailed scientific review of the potential impacts of the proposed development on the designated sites. Ecological connectivity between the site and the designated Farranmanagh Lough SAC was established by reason of a hydrological link via the Kilcrohane River, (which flows alongside the site). However, a direct hydrological link was not established as the Kilcrohane River discharges to the sea, some 950 metres from the site. It was further established that there was no source-pathway-receptor link between the appeal site and the Sheep's Head SAC or the Sheep's Head to Toe Head SPA.
- 7.4.6.** The potential impacts on the Farranamanagh Lough SAC were then identified for the works carried out to date and for the proposal currently before the Board. Potential effects identified included the uncontrolled surface or storm water run-off and accidental spillage of fuels, oils, greases which could arise during the proposed development and may have arisen during the previous development for which retention is sought. In addition, the potential effects of the installation and operation of an inadequate waste water treatment system serving the two dwellings was discounted based on the revised wastewater treatment proposals for the site.
- 7.4.7.** The magnitude of the potential impacts was considered in respect of the qualifying interests of the SAC. Although there was some potential for silt and sediment and for oils, fuels following an accidental spillage, to be transported along the watercourse, it was concluded that given the small-scale nature of the proposed development and to the fact that the Kilcrohane River discharges to the marine environment and not directly into the lagoon, together with the dispersion effects in the marine waters, the likelihood of significant impacts was very low. In coming to this conclusion, regard was had to the threats to the qualifying interests and to the conservation objectives for the designated habitats as well as the distance from the river discharge point to the coastal lagoon (over 800m). It was further noted that the scrub vegetation that grows inside the site and alongside the Kilcrohane River, together with riparian

vegetation will provide a buffer which will minimise the risk of silt/sediment escapes from the site.

7.4.8. No objection was raised by the Heritage Officer on the basis of the limited scale and nature of the development, that there is no hydrological connection between the appeal site and the lagoon which forms part of the European site, the distances involved, and that there is no longer a proposal to discharge to the public sewer. However, it was considered that the Kilcrohane River was of high ecological local value and that measures should be put in place to protect the water quality and ecology of the river. In this respect, the proposed draft CEMP and the proposed 10m buffer zone were considered to be appropriate. Permission was recommended subject to 3 conditions. These related to a temporary fence to be erected along the buffer zone of the river during construction, the submission of a final CEMP for agreement prior to construction and adherence to same, and disposal of construction waste to a licensed facility. The Heritage Officer also noted the findings of the ecological assessment that there is no documented case of pollution in the Kilcrohane River which has a Q4 value up and down stream of the site and that this points to no major pollution in event in recent years when the construction of the two dwellings commenced.

7.4.9. I have reviewed the AA Screening Report and the Report of the P.A.'s Heritage Officer, together with other internal reports and the Site Synopses and Conservation Objectives for the designated sites in the vicinity of the appeal site, and have inspected the site. It is considered that having regard to the revised proposal to provide tertiary treatment for effluent and to discharge it within the application site, to the inclusion of a Draft CEMP, and to the conclusions of the AA Screening Report, which found no likelihood of significant effects having regard to the C.O.s for the sites nearby, the Board's second reason for refusal has been addressed. Having regard to the nature and limited scale of the proposed development, the distances from the said designated sites, and in particular the distance between the lagoon and the discharge point of the river, and to the qualifying interests for which the sites were designated, and the conservation objectives for these sites, it is considered that no Appropriate Assessment issues arise. It is concluded that the proposed development would not be likely to have a significant effect individually or in

combination with other plans or projects on a European site, having regard to the conservation objectives for those sites.

7.5. Environmental Impact Assessment

Having regard to the nature, size and location of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

I would agree with the P.A.'s Heritage Officer's recommendation in respect of the measures to be taken to protect the water quality and ecology of the Kilcrohane River which adjoins the site.

7.6. Other matters

7.6.1. Layout and scale of development

As the principle of the development had already been accepted by the Board in the consideration of 247591, and as the layout and scale of the two houses as constructed on site generally equates to two of the five houses previously permitted on the site under 04/9151, it is considered that the layout and scale as currently proposed is acceptable. The design, scale and layout of the houses is generally equivalent to that previously considered by the Board. As such, it is considered that there would be no significant loss of residential amenity due to issues such as overlooking, loss of privacy and light pollution.

7.6.2. Validity of development

The appellant considers that the application for retention and completion of the development is seeking to circumnavigate the planning system and claims that the public notices were not advertised in the newspaper. It is acknowledged that the two dwellings were commenced without permission, in contravention of condition 2 of the parent permission (04/9151). This issue has been discussed in some detail in section 7.2 above, when it was concluded that the Board's first reason for refusal under 247591, which had embodied these issues, had been addressed. The

applicant has provided evidence that the application was advertised in the Evening Echo on December 20th, 2018.

8.0 Recommendation

- 8.1. I recommend that planning permission should be granted for the proposed development for the reasons and considerations set out below.

9.0 Reasons and Considerations

The site is located within the development boundary for Kilcrohane Village in the current West Cork Municipal District Local Area Plan 2017. Having regard to the development objectives for the site as set out in the said Local Area Plan, to the planning history of the site, to the nature and topography of the site, to the revised proposal to provide individual proprietary waste water treatment units with polishing filters on the site and to the revised proposals to improve sightlines at the entrance and to widen and realign the public road adjoining the site it is considered that subject to compliance with the conditions set out below, the proposed development would be in accordance with the policy objectives for the area, would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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. (a) Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the dwelling houses hereby permitted without a prior grant of planning permission.
- (b) Further subdivision of the site shall not take place without a further grant of planning permission.

Reason: In the interests of orderly development and to safeguard the amenities of the area.

3. Prior to commencement of development, the developer shall enter into a connection agreement with Irish Water in relation to the development.

Reason: In the interests of public health.

4. (a) The treatment plants and polishing filters for each dwelling shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 11th day of January 2019, and in accordance with the requirements of the document entitled “Code of Practice – Wastewater Treatment and Disposal systems Serving Single Houses (p.e.< 10)” – Environmental Protection Agency, 2009. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.
- (b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.
- (c) A maintenance contract for each of the treatment systems shall be entered into and paid in advance for a minimum of five years from the first occupancy of the dwelling house and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation of each unit.

- (d) Surface water soakaways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.
- (e) Within three months of the first occupation of each of the dwellings, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

Reason: In the interests of public health.

- 5. The external walls of the dwelling houses shall be finished in a neutral coloured nap plaster render, using colours such as grey or off-white. The roof colour of the proposed houses shall be blue-black, black, dark brown or dark grey. The colour of the ridge tile shall be the same as the colour of the roof.

Reason: In the interest of visual amenity.

- 6.
 - (a) One common entrance recess shall be formed to serve both houses and the entrance gates shall be recessed a minimum of four metres and not more than six metres from the edge of the public road. Wing walls serving the entrance shall be splayed at an angle of not less than 45 degrees and shall not exceed one metre in height.
 - (b) A sight distance of 45 metres to the north and 62.8 metres to the south shall be provided from a centre point of the entrance 4.5m back from the public road edge. No vegetation or structure shall exceed 1m in height within the sight distance triangle.
 - (c) The side walls and piers of the entrance and of any new road boundary shall be of local natural stone or sod and stone or an earth berm with hedge of indigenous species planted on top at 60cm intervals.

- (d) Details of the treatment of the front boundary of the site shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of road safety and to provide proper sight distances for emerging traffic.

- 7.
 - (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.
 - (b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.
 - (c) A corrie pipe drain shall be provided under the entrance from the public road and a concrete channel shall be provided along the entire road frontage of the site to accommodate roadside drainage.

Details of the roadside drainage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of traffic safety and to prevent pollution and flooding of the public road.

- 8.
 - (a) The 10 metre wide buffer zone with the Kilcrohane River as shown on the submitted drawing No. 30746/013A shall be maintained free of development at all times. Nothing shall be stored or placed within the fenced off sensitive area. The ground levels shall not be altered and the vegetation within the riparian buffer zone shall be retained as existing.
 - (b) During the construction phase, a temporary line of fencing shall be erected along the buffer zone with the river before any equipment,

machinery or materials are brought onto the site for the purposes of development and shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

Reason: To prevent pollution of the watercourse and to protect sensitive habitats and species.

9. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

10. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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 operations (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) Employ a suitably qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) The nature and location of archaeological material on the site, and
- (ii) The impact of the proposed development on such archaeological material.

A report containing the results of the assessment shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including if necessary archaeological

excavation) prior to commencement of excavation works. In default of agreement on any of these requirements, the matters shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-site or by record) and protection of any archaeological remains that may exist within the site.

11. The site shall be landscaped, using only indigenous deciduous plants and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. The scheme shall include the following
 - (a) Contoured drawings to a scale no less than 1:500 showing –
 - A survey of all existing trees and hedging plants on the site, their variety and size, age and condition, together with proposals for their conservation or removal
 - A continuous hedge of indigenous species (e.g. holly, hawthorn, beech or field maple) planted for the full length of the southern boundary, to the east of the entrance and of the eastern boundary.
 - (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.
 - (c) Proposals for the protection of all existing and new planting for the duration of the construction works on site, together with proposals for adequate protection of new planting from damage until established.
 - (d) A timescale for implementation which shall provide for the planting to be completed before the dwellings are first made available for occupation.

Deciduous trees shall be planted at not less than 750 millimetres in height. Species to be used shall not include either cupressocyparis x leylandii or grisellinia. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with

others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

12. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. This plan shall have regard to the draft CEMP submitted with the planning application and standard best practice methods during construction. It shall provide details of intended construction practice for the development including the following

- (a) Location of the site and materials compound including areas for the storage of construction refuse;
- (b) Details for on-site parking of cars for site workers during construction;
- (c) Details of hours of working and appropriate mitigation measures for noise, dust and vibration;
- (d) Containment of all construction-related fuel and oil within specially constructed bunds;
- (e) Off-site disposal of construction/demolition waste and measures for the management of excavated soil and the control of water pollution.
- (f) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface waters.
- (g) A suitably qualified and experienced person shall be responsible for the implementation of the CEMP including environmental protection measures and for the supervision of the works.

A copy of the CEMP shall be kept on site and a record of daily checks that the works are being undertaken in accordance with the CEMP shall be available for inspection during the construction phase.

Reason: In the interests of amenities, public health and safety and to prevent water pollution.

13. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting development in the area of the planning authority that is provided or intended to be provided on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under Section 48 of the Planning and Development Act, 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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.

Mary Kennelly
Planning Inspector
9th July 2019