



An  
Bord  
Pleanála

## Inspector's Report

### ABP-306037-19

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<b>Development</b>	Construction of a dwelling with associated landscaping, drainage and vehicular entrance
<b>Location</b>	Garranefeen, Kilbrittain, Co. Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	19/4477
<b>Applicant(s)</b>	Lorna and Joseph Ryan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party V. Grant
<b>Appellant(s)</b>	(1) Eoin O'Hanlon (2) Denis and Brid Cudmore
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	7 <sup>th</sup> February 2020
<b>Inspector</b>	Elaine Power

## 1.0 Site Location and Description

- 1.1. The appeal site is located to the north of the R600 in the townland of Garranefeen, approx. 3km south of Kilbrittain and approx. 13km south west of Kinsale. Garranefeen is a rural area characterised by agricultural lands and associated dwellings and outbuildings.
- 1.2. The R600 is a coastal road with a significant level of ribbon development along the northern side. The site is bound to the east and west by existing detached dwellings. To the north the site is bound by agricultural lands and to the south it is bound by the R600. There is a detached dwelling on the opposite side of the road and there is a bar and restaurant located approx. 150m east of the appeal site.
- 1.3. The site has a stated area of 0.1261ha and is generally rectangular in shape. It has a maximum width of 21m, which narrows to 9m at the southern boundary of the site with the R600. The site is significantly elevated from the public road with a level difference of approx. 9m between the public road and the centre of the site.

## 2.0 Proposed Development

- 2.1. It is proposed to construct a contemporary, two-storey house with a gross floor area of 171sqm. The house is rectangular in shape. It has a flat roof with a height of approx. 6m. The living rooms are located at first floor level and bedrooms are located at ground floor level. An external stairs provides direct access to the first-floor level. The external materials include a natural stone at the ground floor level with a zinc cladding at first floor level on the side. A significant portion of the front (southern) elevation is glazed and the first-floor level of the northern (rear) elevation is finished in a cedar cladding.
- 2.2. The house is generally located in the centre of the site, approx. 40m from the public road. Access is provided via a new 3m wide driveway, located along the western boundary of the site. Car parking with an associated turning area is provided to the rear of the house.
- 2.3. A wastewater treatment system and bored well are proposed.

**2.4. *Unsolicited Further Information lodged 28<sup>th</sup> March 2019***

A letter of consent from the landowners to the making of the applicant was submitted.

**2.5. *Unsolicited Further Information lodged 26<sup>th</sup> April 2019***

The applicants submitted a response to third-party objections which raised concerns regarding the negative impact of the proposed development on existing residential amenities, drainage and flooding.

**2.6. *Further Information lodged 28<sup>th</sup> August 2019***

The planning authority requested 9 no. items of further information. Items 1-6 related to access and egress arrangements. In response to these items the applicant submitted the following: -

- Details of sightlines for vehicles egressing the site, including details of the proposed entrance piers;
- Details of stopping distances for vehicles accessing the site;
- Details of the gradient of the driveway; and
- Auto-track drawings for the proposed entrance.

Items 7-9 related to water services. In response to these items following information was submitted: -

- A hydrology report was submitted, which indicates that the proposed bored well would not have an adverse impact on existing wells;
- A drawing indicating the location of all existing bored wells, septic tanks and percolation areas within 100m of the site; and
- Details of surface water run-off.

**2.7. *Clarification of Further Information lodged 9<sup>th</sup> October 2019***

Additional details regarding available sightlines, turning movement into and within the site and the gradient of the driveway were submitted.

## 2.8. **Clarification of Further Information lodged 11<sup>th</sup> October 2019**

An additional drawing was submitted which provided clarity of available sightlines, stopping distances and forward visibility lines.

## 3.0 **Planning Authority Decision**

### 3.1. **Decision**

Permission was granted subject to 9 no. standard conditions.

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

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

The initial reports by the Area Planner and the Senior Planner recommended that permission be refused for 2 no. reasons.

- 1. The proposed site is located in a scenic coastal unserviced rural area under strong urban pressure and part of the designated high value landscape with high sensitivity of national importance, and the area is characterised by a significantly high number of individual houses. It is considered that the proposed development would exacerbate an existing trend towards the creation of an excessive density of haphazard rural housing development, would encourage and exacerbate the developing pattern of ribbon development, would militate against the preservation of the rural environment and lead to demands for the efficient provision of public services and infrastructure outside of identified settlement areas. The proposed development would, therefore, represent haphazard and unplanned residential development in a rural area under pressure for development and would be contrary to the proper planning and sustainable development of the area.*
- 2. The proposal would endanger public safety by reason of traffic hazard because the site is inadequate to accommodate satisfactory sightlines.*

Having regard to the medical circumstances, the Senior Executive Officer recommended that the applicant's respond to the items of concern raised in the Engineers report. Further information was requested on the 24<sup>th</sup> April 2019.

Following receipt of further information the Area Planners report, dated the 20<sup>th</sup> September 2019, notes that the further information relates to engineering issues only. Having regard to the Area Engineers report it is recommended that clarification of further information be sought.

Following receipt of clarification of further information, the reports of the Area Planner and the Senior Executive Planner considered that all concerns regarding road safety had been addressed. The report recommended that permission be refused in line with reason no. 1 of the initial Area Planners report outlined above.

The final report by the Senior Planner considered that the site was an infill site and, as such, recommended that permission be granted subject to conditions.

### 3.2.2. ***Other Technical Reports***

***Area Engineers*** final report: No objection subject to conditions

***Heritage Unit*** report: Recommended that further information be sought regarding the submission of a Construction and Environmental Management Plan and a comprehensive landscaping plan

***Liaison Officers*** report: No comment

### 3.3. **Prescribed Bodies**

None

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

2 no. observations were received from (1) Denis and Brid Cudmore and (2) Eoin O'Hanlon whose properties adjoin the appeal site. The concerns raised are similar to those raised in the appeal.

## 4.0 Planning History

No recent or relevant planning history.

## 5.0 Policy Context

### 5.1. Cork County Development Plan, 2014

- 5.1.1. The site is located in an area of unzoned land. Figure 4.1 of the Plan '*Rural Housing Policy Area Types*' identifies the site as being located in a 'Rural Area Under Strong Urban Influence'. Policy RCI 4-2 notes that these areas are under significant pressure for rural housing. Therefore, applicants are required to demonstrate that their proposal complies with a genuine housing need.

RCI 4-2 (d) Rural Area under Strong Urban Influence and Town Greenbelts is considered relevant '*Persons who have spent a substantial period of their lives (i.e. over seven years), living in the local rural area in which they propose to build a first home for their permanent occupation*'.

- 5.1.2. The site is located in an area identified as Indented Estuarine Coast in Appendix E of the Plan. These locations are designated as area of very high landscape value, very high landscape sensitivity and are of national importance. Section 13.6 – *Landscape Character Assessment of County Cork* states that these landscapes (e.g. seascape area with national importance) are likely to be fragile and susceptible to change. Policy GI 6-1: Landscape relates to the protection of the landscape of County Cork and ensure that any new development meets high standards in terms of siting and design.

- 5.1.3. Policy RCI 6-3: Ribbon Development states that there is a 'Presumption against development which would contribute to or exacerbate ribbon development'. The following policies are also relevant:-

- RCI 6-1: Design and Landscaping of New Dwelling Houses in Rural Areas
- RCI 6-4: Occupancy Conditions
- RCI 2-1: Urban Generated Housing
- RCI 2-2: Rural Generated Housing

- RCI 4-8: Exceptional Health Circumstances
- HE 4-6: Design and Landscaping of New Buildings.
- GI 6-1: Landscape

The Cork Rural Design Guide: Building a New House in the Countryside, 2003 is also considered relevant.

## 5.2. ***Sustainable Rural Housing Development Guidelines***

The guidelines require a distinction to be made between 'Urban Generated' and 'Rural Generated' housing need. A number of rural area typologies are identified including rural areas under strong urban influence which are defined as those with proximity to the immediate environs or close commuting catchment of large cities and towns. Examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply. These include 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.

Appendix 4 provides guidance on ribbon development and notes that the '*guidelines recommend against the creation of ribbon development for a variety of reasons relating to road safety, future demands for the provision of public infrastructure as well as visual impacts.*'

## 5.3. ***National Planning Framework***

Policy Objective 19: '*Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:*

- *In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements;*
- *In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory*

*guidelines and plans, having regard to the viability of smaller towns and rural settlements’.*

It is also stated that Development sprawl at every settlement level in Ireland has manifested as scattered development, ‘leapfrogging’, continuous suburbs and linear patterns of strip or ribbon development. This type of development has made it costly and often unfeasible for the State to align and invest in infrastructure delivery where it cannot be justified.

National Policy Objective 33: *‘Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.’*

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

The southern boundary of the site is located approx. 55m north of Courtmacsherry Bay SPA (004219) and Courtmacsherry SAC (001230)

#### **5.5. EIA Screening**

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

### **6.0 The Appeal**

#### **6.1. Grounds of Appeal**

2 no. third-party appeals were received from (1) Eoin O’Hanlon (2) Denis and Brid Cudmore whose properties adjoin the appeal site. The issues raised are summarised below.



### ***Procedural Concerns***

- There are inadequacies with the drawings submitted and they are incomplete and contradictory. They do not show the septic tank or wells of the adjoining properties or the context of the site. The titles of the elevational drawings are also incorrect, which causes confusion.
- Having regard to the planning and technical reports on file, which recommended that permission be refused, the decision is not reasoned. The requested for further information related to engineering concerns only and did not address the genuine planning concerns raised. There are also concerns that the appellants did not have an opportunity to respond to the additional information submitted as part of the application.

### ***Compliance with Rural Housing Policy***

- The applicants have not demonstrated a genuine rural housing need and do not comply with the criteria set out in the Development Plan. They have no connection to the area and have entered into a contract with the existing landowner to purchase the site. The applicants are not employed in the area and not tied to any particular location. The health circumstances of a family member are irrelevant when determining of the construction of a house in the rural area.
- There are available sites within the settlement boundaries of adjoining villages and settlements. Alternatively, the applicants could purchase an existing house within the area.
- The development would contribute to ribbon development.

### ***Residential Amenity***

- The proposed development is significantly elevated would have a negative impact on the existing residential amenities of adjoining properties. The proposed house includes a balcony. There are particular concerns regarding undue overlooking.
- It is unclear how the existing boundary treatments would be retained during the construction phase.

- The development does not contribute positively to the character or identity of the area.
- The development would devalue adjoining properties.
- The development would set an undesirable precedent for similar developments in the surrounding area.

### ***Visual Amenity***

- The site is located in close proximity to an SAC and is in a particularly sensitive and scenic area of the county. The R600 forms part of the Wild Atlantic Way.
- There are long distance views of the site from Courtmacsherry. The development is not compliant with development plan policy.
- A comprehensive landscaping scheme for the site is required

### ***Traffic and Access***

- The site is very restricted, and the development would result in a traffic hazard.
- Permission was refused for a house on the site in 1985 the reasons for refusal related to traffic safety and the limited size of the site to accommodate a septic tank. While the recommendations regarding septic tanks may have changed the concerns around traffic safety remain.
- A traffic report is submitted with Denis and Brid Cudmore's submission, which concludes that the proposed vehicular access arrangements are not sufficient to accommodate safe access / egress.

### ***Legal***

- The proposed works include the demolition of a boundary wall. The appellants (Denis and Brid Cudmore) contend that this wall forms part of their property. They have not given their consent to the demolition of this wall.

### ***Water Services***

- The site and the adjoining properties flooded in 2015 and concerns regarding flooding have not been addressed.
- The wells of adjoining properties have run dry in recent years.

### ***Flooding and the Construction Phase***

- The proposed construction access from an agricultural field located to the rear of the site would exacerbate surface water run-off to adjoining residential properties, which are on lower lands. The field is also inadequate and inappropriate to facilitate construction traffic.
- A Construction Management Plan and a Construction Management and Environmental Plan should have been required as part of the application.
- There are no limitations on the hours of works. This would have a negative impact on the adjoining residential properties.

### **6.2. Applicant Response**

The applicant's response is summarised below: -

#### ***Principle of Development***

- The proposed development is compliant with development plan policies.
- Permission was refused for a house on the site 38 years ago. The reasons for refusal are no longer relevant. The proposed wastewater system and access / egress arrangement are acceptable to the planning Authority's Area engineer.

#### ***Compliance with Rural Housing Policy***

- The site is a small infill site located within an established cluster of houses.
- Permission was granted in 2009 (Reg. Ref. 09/7064) for an infill house to the east of the appeal site. This house was considered to be consistent with the linear pattern of development and was not considered to be ribbon development. The development plan sets out criteria for assessing ribbon development. The house is an infill house and is the last opportunity for development along the road.
- The development is compliant with development plan policies. The applicants have a genuine social need to live in this rural area. One of the applicants is a career for a family member. Her family home is located 2.5km from the appeal

site. A personal letter from one of the applicants (Lorna Ryan) has also been submitted which details her mother's medical condition. A letter from her employer has been submitted which states that she works from home. The second applicant is currently undertaking GP training and intends to work in the local area. It has always been his intention to work in this rural community.

- Details of grants of permission for similar types of developments have also been included with the submission.

### ***Residential Amenity***

- The house is located on a natural plateau within the site and is consistent with the established building line.
- The house is contemporary and has been designed to a very high standard. There are no windows on the side (east and west) elevations. The primary living areas are located to the front of the house and overlook the public road. The houses to the east and west are significantly larger than the proposed dwelling.
- There are no views to the side, east or west from the balcony.
- The proposed development would not devalue adjoining properties.

### ***Visual Amenity***

- It should be noted that condition 9 requires a comprehensive landscaping plan to be submitted. The applicants have no objection to a condition requiring a Construction and Environmental Management Plan be submitted for the agreement of the planning authority.
- The proposed development would not result in a negative impact on the visual amenities of the area. It sits within an established pattern of development. A photomontage of the proposed house has been submitted with the response.

## ***Traffic***

- Following consultation with the planning authority 80m sightlines are provided for the proposed vehicular access. The traffic report submitted by the appellants have applied a higher speed limited on the road than is achievable. Having regard to the rural nature of the actual road speed limited is lower as drivers drive with more caution. The house is a single-family dwelling and is unlikely to generate movements from large delivery vans. It is also noted that any larger vehicles would most likely be travelling from the east and therefore would have a wider swept path to access and egress the site. The gradient proposed for the driveway is consistent with adjoining properties.

## ***Legal***

- The section of wall to be demolished is within the ownership of the applicants.

## ***Water Services***

- The proposed wastewater treatment system is in accordance with EPA guidelines. The planning authority's Area Engineer had no objection to the proposed system. It is also noted that the report from the Heritage Unit considered that the proposed development would not impact on the SAC or SPA.
- The proposed site is outside of any flood risk areas. It is acknowledged that the appellants site flooded in 2015. The flooding incident was pluvial flooding caused by heavy rainfall and inadequate on-site stormwater management. The layout includes on-site soakaways which will ensure that surface water is managed on site.
- There is no evidence that the flooding of adjoining sites was caused from run-off on the agricultural lands to the north.

## ***Flooding and the Construction Phase***

- The applicants have permission from the adjoining landowner to use an agricultural field for construction traffic. The construction phase would be fully

managed, and the field would revert to its current state once construction is complete.

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

None

### 6.4. **Appellant (Eoin O’Hanlon) Further Responses**

In response to the third-party appeal by Denis and Brid Cudmore, the appellant wishes to support their appeal and the concerns raised. The response notes that the location of existing septic tanks have not been clearly indicated on drawings and there are concerns regarding the impact on water quality in the area.

The appellant also reiterates concerns raised regarding road safety, legal boundaries and ownership, flooding and hydrological issues and the quality of the information submitted.

### 6.5. **Appellants (Denis and Brid Cudmore) Further Response**

In response to the third-party appeal by Eoin O’Hanlon, the appellants wishes to support the appeal and the concerns raised.

### 6.6. **Applicants Further Response**

The applicant’s response to Eoin O’Hanlon further response notes that the key issues of concern are the same as those raised in the appeal. Further clarity is provided regarding the proposed wastewater treatment system, localised flooding and hydrology and access arrangements. Additional drawings of the proposed access and egress arrangements were submitted. It is also noted that the application was validated by the Planning Authority and all documents are clear and legible.

## 7.0 **Assessment**

7.1. The main issues in this appeal relate to compliance with rural housing policy, residential amenity, visual amenity, traffic and access, legal issues, water services and flooding / construction phase. Appropriate Assessment requirements are also

considered. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Compliance with Rural Housing Policy
- Residential Amenity
- Visual Amenity
- Traffic and Access
- Legal Issues
- Water Services
- Flooding / Construction Phase
- Appropriate Assessment

## **7.2. *Compliance with Rural Housing Policy***

- 7.2.1. Concerns have been raised that the applicants do not have a genuine rural housing need and that the proposed development would contribute to ribbon development. The site is located in an area of unzoned land, approx. 3km south of Kilbrittain. Figure 4.1 - '*Rural Housing Policy Area Types*' of the Development Plan identifies the site as being located in a 'Rural Area Under Strong Urban Influence'. This area applies a restrictive approach regarding the eligibility of applicants for rural housing need. Policy Objective RCI 4-2 requires the applicants to demonstrate that their proposal complies with a number of criteria. Relevant criteria includes persons who have spent a substantial period of their lives (i.e. over seven years), living in the local rural area in which they propose to build their first home for permanent occupation.
- 7.2.2. The Sustainable Rural Housing Guidelines define rural areas under strong urban influence as those within proximity to the immediate environs or close commuting catchment of large cities and towns. Circumstances for which a genuine housing need might apply include persons who are an intrinsic part of the rural community and persons working full time or part time in rural areas. In addition, Policy Objective 19 of the National Planning Framework requires that, in rural areas under urban influence,

the core consideration for the provision of a one-off rural house should be based on the demonstratable economic or social need to live in the rural area.

- 7.2.3. The Development Plan defines the 'local rural area' by reference to the townland, parish or catchment of the local rural school to which the applicant has a strong social and / or economic link. One of the applicant's (Lorna Ryan) family home is located in Farrannagark, which is approx. 2.5km from the site and in the same catchment as the subject site. The applicant attended local schools and lived at the family home until 2017. At present she is renting with her family in the local area. A personal statement was also submitted by the applicant which details her mother's medical condition and the level of care that is required on a daily basis. It is noted that the applicant, along with other family members are caring for her mother. The applicant is an accountant and a letter from her employer 'Deloitte' has been submitted with the response to the appeal which notes that she is capable of working from home. Additional details regarding the applicant's social ties to the area have also been included, in this regard links to the local church and the GAA and camogie clubs.
- 7.2.4. The other applicant, Dr. Joseph Ryan, is from Ballinascarthy, which is located approx. 12km north west of the appeal site. He is currently undergoing training as part of the Cork GP Scheme. Once completed he intends to work as a GP in the local rural area and serve this community. A letter of endorsement has been included from Dr. Paddy Duggan, which notes that the applicant has always had an ambition to study medicine with the goal of serving this rural community.
- 7.2.5. It is acknowledged that one of the applicants is from the local area and has strong familial and social ties to the area. However, having regard to the information submitted and to their current occupations, as an accountant and a doctor, it is my view the they have not demonstrated a sufficient economic or social need to live in this particular rural area, as set out in Policy Objective RCI 4-2 of the Development Plan, the Sustainable Rural Housing Guidelines and Policy Objective 19 of the National Planning Framework. In the absence of an identified locally based economic or social need to live in the area it is considered that the proposed development would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of



public services and infrastructure and would negatively impact on the viability of smaller towns and villages.

7.2.6. Policy RCI 4-8: Exceptional Health Circumstances also allows for the provision of a rural dwelling to facilitate the housing needs of persons who are considered to have exceptional health circumstances that require them to live in a particular environment or close to family support in the rural area. It is acknowledged that one of the applicants is currently a carer for her mother, at her family home approx. 2.5km from the site. The applicant has provided details of the daily care that is required by her and her family members to support her mother. However, as the site is not on family lands and having regard to the distance from the family home, it is my view that there are no exceptional health circumstances that require the applicant to live at this particular site.

7.2.7. Concerns have also been raised in the appeal that the proposed development would constitute ribbon development. Policy 6-3 of the development plan states that there is a presumption against ribbon development. In addition, the Sustainable Rural Housing Guidelines (Appendix 4) recommend against ribbon development and advise Planning Authorities to form a view as to whether a particular proposal would contribute to or exacerbate ribbon development. The characteristics of ribbon development are stated to include "a high density of almost continuous road frontage type development, for example where 5 or more houses exist on any one side of a given 250 metres of road frontage". There are a significant number of existing houses along the northern side of the R600, with 6no. existing dwellings within 250m of the subject site and 20 no. houses within approx. 900m of the existing site. The applicants have argued that the site is an infill site. Having regard to the unzoned and unserviced nature of the site and to the criteria set out in the guidelines, it is my view that the proposed development would exacerbate the almost continuous road frontage type development along this section of the R600. The proposed development would, therefore, constitute ribbon development and would be contrary to policy 6-3 of the development and to the Sustainable Rural Housing Guidelines.

### 7.3. ***Residential Amenity***

7.3.1. It is proposed to construct a contemporary, two-storey house with a gross floor area of 171sqm. The house is rectangular in shape with a flat roof with a height of approx.

6m. The external materials include a natural stone at the ground floor level with a zinc cladding at first floor level on the side.

7.3.2. The house is generally located in the centre of the site, approx. 40m from the public road. It is located approx. 3m from the eastern boundary and approx. 16m from the existing house. It is located approx. 5m from the western boundary and approx. 24m from the existing house. Due to the topography of the area the proposed house is approx. 1.5m lower than the adjoining house to the east and approx. 4.5m higher than the existing house to the west. To the rear the side is bound by an agricultural field.

7.3.3. Concerns have been raised that the proposed development would have a negative impact on the existing residential amenities, with particular concerns regarding overlooking. It is noted that the elevational drawings submitted within the original application dated 28<sup>th</sup> February 2019 are labelled incorrectly. The elevational drawings submitted by way of further information on the 4<sup>th</sup> April 2019 are correctly labelled. In this regard the proposed house has a southern orientation. . A significant portion of the front (southern) elevation is glazed with an external stairs, which provides access to the living rooms at first floor level. There are no windows on the eastern or western (side) elevations of the house. The front building line of the house generally reflects the established building line of the adjoining houses. Having regard to the design and siting of the house and to the separation distances provided, it is my view that the proposed house would not have a negative impact on the existing residential amenities in terms of undue overlooking, overshadowing or result in an overbearing impact.

7.3.4. Concerns were also raised regarding the loss of a mature hedge along the site boundaries. The applicant submitted a landscaped plan with the response to the appeal which indicates a planting plan for the site. It is considered that concerns regarding the loss of mature boundary treatments could be addressed by way of condition.

#### 7.4. ***Visual Amenity***

7.4.1. The site is located in an area identified as Indented Estuarine Coast in Appendix E of the Plan. These locations are designated as area of very high landscape value, very high landscape sensitivity and are of national importance. Section 13.6 – *Landscape Character Assessment of County Cork* states that these landscapes (e.g. seascape

area with national importance) are likely to be fragile and susceptible to change. The appellants raised concerns that the proposed development would be out of character with the area and would have a negative impact on the visual amenities.

- 7.4.2. The applicants submitted a photomontage of the proposed house with the appeal response. In my view the proposed development comprises a high quality and contemporary design which is reflective of the nature of the site. Notwithstanding the location of the site in an area designated as a very high landscape value and sensitivity and in a rural unserviced area, it is considered that having regard to the pattern of development along the R600 the proposed development would not detract from the character of the area or have a significant negative impact on the existing visual amenities of the area.

#### **7.5. *Traffic and Access***

- 7.5.1. The site narrows to approx. 9m in width at the boundary with the R600 (public road). It is proposed to provide a new 5m wide vehicular entrance located approx. 2.4m from the public road. This set back allows for 80m sight lines in both directions.
- 7.5.2. The appellants consider that the proposed access / egress arrangements would result in a traffic hazard, as the 80m sightlines and proposed turning movements are not achievable due to an existing wall along the southern boundary of the site, which is outside of the applicants ownership. It is also considered that insufficient information has been submitted regarding forward visibility / stopping sight distance. In addition, concerns were raised regarding the steep gradient of the driveway and the potential for a traffic hazard in icy weather.
- 7.5.3. In response the applicant has stated that all traffic safety issues have been comprehensively assessed by the Planning Authority and that the boundary wall is within their ownership and that the removal of a service pole on the public road would be removed at their expense. It is also stated that the gradient of the driveway is similar to that of the adjoining properties and would not result in a traffic hazard.
- 7.5.4. It is noted that further information and clarification of further information were sought regarding access and traffic safety concerns and that the Area Engineer in the final report considered that all issues had been fully addressed. The drawing submitted in response to the third-party responses indicate that there are minimum 80m sightlines

for the proposed access and the access is in accordance with the requirements of the Planning Authority's Area Engineer.

- 7.5.5. Having regard to the information submitted, the limited number of vehicular movements potential generated by the proposed development and the pattern of development in the area, it is my view that the proposed development would not result in a traffic hazard or any road safety issues.

## 7.6. **Legal Issues**

- 7.6.1. Concerns were raised that a portion of the front boundary wall, which it is proposed to demolish to achieve the required sightlines, is not within the ownership of the applicant. In response the applicant has state that the section of the wall to be demolished is within their ownership. Section 5.13 of the Development Management Guidelines for Planning Authorities advise that the planning system is not designed as a mechanism for resolving disputes about rights over land and that these are ultimately matters for resolution in the Courts. Section 34(13) of the Planning and Development Act 2000 (as amended) states, 'a person shall not be entitled solely by reason of a permission under this section to carry out any development'. It is my view that the disputes between the parties in relation to site boundaries, that may or may not arise, are ultimately matters that would be dealt with more appropriately outside of the planning appeal process.

## 7.7. **Water Services**

- 7.7.1. It is proposed to install a packaged wastewater treatment system and polishing filter with discharge to ground water. The proposed treatment system and the percolation area is located approx. 8m to the front (south) of the house. The submitted Site Suitability Assessment Form states that the trial hole with a depth of 2.3m, recorded 100mm topsoil; 200mm of sand and 2000mm gravelly silt. With regard to the percolation characteristics of the soil, a T value of 11.97 minutes / 25mm was recorded. This indicates that the site is suitable for the installation of an on-site domestic wastewater treatment system.
- 7.7.2. It is also proposed to provide a bored well located approx. 18m to the rear (north) of the house and approx. 33m from the proposed wastewater treatment system. Table 6.1 of the 'EPA Code of Practice for Waste Water Treatment and Disposal Systems

Serving Single Houses' sets out minimum separation distances. The proposed system reaches and exceeds the recommended separation distances.

- 7.7.3. Concerns were raised regarding a potential risk of pollution to the water well supply and a potential negative impact on water supply for existing properties. A hydrological report was submitted by way of further information. The report states that the adjoining properties have a similar layout to the proposed development. In this regard the existing bored wells are located uphill to the north (rear) of the houses. Therefore, there is no potential upgradient sources of groundwater contamination from the proposed development.
- 7.7.4. The hydrological report also provides information on water supply for the area. It states that groundwater flow is north to south-southwest. Therefore, groundwater flow would not be impacted by the proposed development. The report also states that there are approx. 30 no. existing dwellings in the vicinity of the site that abstract groundwater. The cumulative requirements for these dwellings is estimated to be 27m<sup>3</sup>/d (based on each house having a maximum occupancy of 6 persons). The report states that this is significantly below the confirmed yield in the area (44 -100 m<sup>3</sup>/d), therefore, the proposed development would not impact on groundwater levels or well yields.
- 7.7.5. It is noted that the Planning Authority's Area Engineer final report raised no objection to the proposed development. Having regard to the information submitted, I am satisfied that the subject site is suitable for the installation of the proposed packaged wastewater treatment system with polishing filter and a bored well and would not result in a potential risk of pollution to the water well supply or have a negative impact on water supply for existing properties

## 7.8. ***Flooding / Construction Phase***

- 7.8.1. By reference to the OPW Flood Maps the proposed site is not located within a flood zone, and there is no reference to past flooding events. The proposed development includes on-site soakaways to ensure that all surface water would be managed within the site and would not flow onto the public road or adjoining sites.
- 7.8.2. The appellants (Denis and Brid Cudmore) have submitted photographic evidence of a flooding event on their property in 2015. It is considered that the flood event was

pluvial, caused by surface water run-off from an agricultural field to the rear of the appeal site, which is elevated from the existing residential properties. Concerns have been raised that the proposed development, which includes a construction access from this agricultural field would increase the flow of surface water run-off and would result in increased flood events.

- 7.8.3. The applicant has stated, in the response to the appeal, that there is no evidence that surface water runoff from the agricultural field resulted in localised flooding of the existing residential properties. It is also stated that all construction access through the adjoining agricultural field would be managed in accordance with best practice. Upon completion of the construction phase the field would be returned to agricultural use. It is considered that it would not result in any additional surface water run off to adjoining sites.
- 7.8.4. It is noted that the Area Engineer raised no objection to surface water disposal or localised flooding.
- 7.8.5. In my view the onus is on the applicant and their contractors, to ensure that the construction phase is undertaken in a safe manner, in accordance with their obligations under separate codes, and I further note that the granting of permission would not relieve the applicants of their responsibilities in this regard. It should be noted that under section 34(13) of the Planning and Development Act 2000, as amended, a person shall not be entitled solely by reason of a permission to carry out any development.
- 7.8.6. Having regard to the information submitted and the sites location, outside of a flood zone, I am satisfied that surface water run off can be managed within the site and that the proposed development would not result in localised flooding.

## 7.9. ***Appropriate Assessment***

- 7.9.1. Concerns were raised in the appeals that the proposed development would have a negative impact on Courthmacsherry SAC. The site is located approx. 55m north of Courthmacsherry SAC (001230) and Courthmacsherry SPA (004219). The appeal site and the designed sites are separated by a regional road and a private dwelling. The

proposed development would not be located within the SAC or SPA and there would be no direct effects as a result of the works.

- 7.9.2. Notwithstanding the proximity of the site to both the SAC and the SPA, it is my view that, having regard to the nature and small scale of the proposed development and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

## **8.0 Recommendation**

- 9.0 I recommend that permission be refused for the reasons stated in the attached schedule.

## **10.0 Reasons and Considerations**

1. The subject site is located within an 'Rural Area Under Strong Urban Influence', as identified in the Cork County Development Plan, 2014, the Sustainable Rural Housing Guidelines and in the National Planning Framework. National Policy Objective 19 aims to facilitate the provision of single housing in the countryside, based on the viability of smaller towns and rural settlements. Having regard to the documentation submitted with the application and appeal, the Board is not satisfied that the applicant has a demonstrable economic or social need or exceptional health circumstances to live in this rural area. It is also considered, therefore, that the applicant does not come within the scope of the housing need criteria as set out in the Cork County Development Plan, 2014 or in national policy for a house at this location. The proposed development would, therefore, contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and

the efficient provision of public services and infrastructure and would negatively impact on the viability of smaller towns and villages.

2. The proposed development, when taken in conjunction with existing development in the vicinity of the site would contravene policy RCI 6-3, which aims to prevent ribbon development. It would consolidate and contribute to the almost continuous road frontage type development along this section of the R600. This would militate against the preservation of the rural environment and lead to demands for the provision of further public services and community facilities. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Elaine Power  
Planning Inspector

26<sup>th</sup> March 2020