



An  
Bord  
Pleanála

## Inspector's Report ABP-308515-20

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<b>Development</b>	Two houses
<b>Location</b>	Cove Hill, Baltimore, County Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	19/739
<b>Applicant(s)</b>	Jamesmont Ltd. & Others
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Gerard & Catherine O'Driscoll
<b>Date of Site Inspection</b>	8 <sup>th</sup> December, 2020
<b>Inspector</b>	Kevin Moore

## 1.0 Site Location and Description

- 1.1. The site of the proposed development is located at the south-western end of the built-up area of the village of Baltimore in West Cork. The location for the proposed houses comprises elevated land to the rear of established detached houses. The land comprises undulating, poorly drained ground with some rock outcrop. The site is accessed from a minor local road to the east (“The Hill”) and from there via a narrow, overgrown lane. Development in the vicinity comprises extensive detached houses to the north and north-east, a reservoir to the east, and very marginal agricultural lands to the south and west.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the construction of two detached, single-storey houses on a site area of 0.799 hectares. They would each be three bedroom units, one with a stated floor area of 136 sqm and the other with a floor area of 143 sqm. The houses would be connected to the public watermain and mains sewer. They would be served by a single driveway with a single entrance at the end of the laneway to the south-east of the site.

## 3.0 Planning Authority Decision

### 3.1. Decision

On 30<sup>th</sup> September 2020, Cork County Council decided to grant permission for the proposed development subject to 18 conditions.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The Planner noted development plan provisions and third party submissions. A request for further information was recommended seeking to address issues relating to access road improvements, sightlines, wastewater, and visual impact.

#### 3.2.2. Other Technical Reports

The Area Engineer noted the narrow road serving the site. It was submitted that the public sewerage system is running at full capacity and connection to it should be ruled out. It was further submitted that there is limited capacity in the public water supply. A request for further information was recommended seeking future expansion proposals and the impact on the minor road and a requirement to obtain clarity from the Wastewater Section that the pumping station can accommodate the extra loading generated from the proposal.

### **3.3. Prescribed Bodies**

Irish Water had no objection to the proposed development.

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

David Turner and Mairead de Barra raised concerns about the traffic impacts arising from the narrow laneway intended to provide access to the site.

Helen O'Connell objected to the proposal, raising concerns relating to impact on amenity, flooding, potential future development, and contravention of the development plan.

Philomena Hanna raised traffic and surface water concerns.

James Sheedy raised concerns relating to encroachment on his lands and right of way.

Gerard and Catherine O'Driscoll raised concerns relating to development plan provisions and traffic related matters.

Richard Leonard raised concerns relating to stability arising from services provision and required rock breaking, flooding and development plan provision anomalies.

- 3.5. A request for further information was issued on 14<sup>th</sup> January, 2020 and a response was received on 23<sup>rd</sup> July, 2020. The applicant submitted that there were no further developments proposed on the site and that passing bays were not required on the access road. It was further stated that the applicant's agent spoke with a Council Area Engineer who held the view that there are no issues with a foul connection to the existing pumping station. It was also submitted that visual markers had been

erected on the site and were reviewed by the Council. The response also addressed issues raised in submissions from third parties.

3.6. The reports to the planning authority were as follows:

The Area Engineer accepted there were no issues with the capacity of the pumping station. Clarification was requested on landownership, access road design, the site entrance, passing bays, and landscaping.

The Planner considered details on the applicant's landholding to be incomplete and concurred with the Area Engineer's recommendation.

3.7. A request for clarification was made on 28<sup>th</sup> July 2020 and a response was received from the applicant on 4<sup>th</sup> September 2020.

3.8. The reports to the planning authority were as follows:

The Area Engineer had no objection to a grant of permission subject to a schedule of conditions.

The Planner considered the response for clarification to be adequate and recommended that permission is granted subject to a schedule of conditions.

## 4.0 **Planning History**

I have no record of any planning application or appeal relating to this site.

## 5.0 **Policy Context**

### 5.1. **West Cork Municipal District Local Area Plan**

Baltimore is a designated 'Key Village' in the Local Area Plan. The location for the proposed houses lies within the village's settlement boundary while the driveway and laneway proposed as the access lie outside of the settlement boundary.

The strategic aim for the village is to encourage the consolidation of the village within its rural setting, protect the unique architectural character and coastal landscape setting of the settlement and to promote sympathetic development in tandem with the provision of services.

It is noted that the majority of housing development since 2005 has occurred in the form of holiday homes to the east of the village core.

It is stated that there is spare capacity in the water supply and wastewater treatment plant to cater for future growth in the village.

It is acknowledged that the village is in an area designated a High Value Landscape.

Development Boundary Objectives for the village include:

**DB-01**

Within the development boundary encourage up to 85 houses for full time occupation during the plan period.

**DB-02**

Protect and enhance the attractive coastal setting and landscape character of the village.

**DB-04**

Limited provision may be made for managed holiday home accommodation within the village where a need has been demonstrated, subject to normal proper planning and sustainable development considerations.

Specific Development Objectives include:

**U-03**

Scenic walk through the upper reaches of Baltimore.

This relates to a proposed walkway using part of a roadway to the north of the site.

## **5.2. EIA Screening**

Having regard to the nature, size and location of the proposed development, there is no real likelihood of significant effects on the environment. The submission of an EIAR is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of the appeal may be summarised as follows:

- Development boundary objectives for Baltimore are not being adhered to.
- There are concerns as to how the proposal meets with County Development Plan Objective RCI 7-1 relating to holiday and second home development.
- There are major traffic concerns with “The Hill” and the proposed passing bay does not adequately deal with the problem. There is also increased danger for pedestrians.
- The landholding outside of the development boundary for Baltimore is nearly one-third of the holding belonging to the applicant. This will establish a precedent for future development creeping up along the elevated and some of the most scenic areas of Baltimore. The response to the issue of future development is incomplete.
- There is concern relating to rezoning of the remainder of the site.
- The proposed access road works will be very visible from the scenic walk proposed in the Local Area Plan and will be visually damaging. The development will also have an impact on a designated scenic route which is incorporated into the scenic walkway.
- The increase in holiday homes is a concern given the provision of adequate numbers elsewhere in the locality. Objective DB-01 of the Local Area Plan seeks housing for fulltime occupancy. The applicants already have second / holiday homes at Cove Hill.
- The houses would be sited in an area of very high landscape value and sensitivity

### 6.2. Applicant Response

The applicant’s response to the appeal may be summarised as follows:

- The proposed dwellings are located within the Baltimore village development boundary where there is a presumption in favour of development. The proposal would not threaten the vitality or integrity of the prevailing primary land use. The houses are sited and designed in accordance with the Council's Design Guidelines.
- In relation to the issue of full-time occupation of the houses, it is agreed with the Council that this would not be possible to enforce. The Board is asked to consider the view of the Inspector in ABP Ref. PL 88.303745 and Cork County Council Refs. 19/22 and 20/60. Locating holiday homes within settlement boundaries is a sustainable alternative to urban sprawl. The role of well-located holiday homes is recognised in the Rural Housing Guidelines.
- In relation to traffic, the applicants are proposing two passing bays on lands in family ownership. Two additional houses will result in a very minor increase in traffic movements. The existing gateway to the site has been used by farm traffic for a number of years.
- The proposed access road will be effectively screened, addressing concerns about visibility from the scenic route.
- There are no further developments proposed on the site. Any future development of the applicant's lands would require planning permission and each planning application must be assessed solely on its merits.
- The random stone wall to be removed at one of the passing bays is of no conservation significance and is in poor condition.
- The part of the applicant's site that is outside Baltimore development boundary could not automatically be rezoned as a consequence of the grant of permission.
- It is agreed with the Council that the proposed dwellings, because of where they are sited to the north of the applicant's site, will not obstruct views from this scenic route. The development will sit within the context of established residential development on Cove Hill.

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

I have no record of any response to the appeal from the planning authority.

## 7.0 **Assessment**

### 7.1. Introduction

- 7.1.1. I consider that the principal planning issues relating to the proposed development are the proposal in the context of development plan provisions, traffic impact, impact on residential amenity, and screening for appropriate assessment.

### 7.2. The Proposal in the Context of Development Plan Provisions

Baltimore is a designated 'Key Village' in the West Cork Municipal District Local Area Plan and the location for the proposed houses lies within the village's settlement boundary. The location for the driveway, the remainder of the site and laneway providing access to the houses lie outside of the settlement boundary. This presents somewhat of an anomaly as the location for the proposed houses, set immediately to the rear of existing houses, is landlocked from the north and the area within Baltimore's development boundary. The way of providing access to this location, other than between existing houses to the north, is from the circuitous access proposed in this application. Why the development boundary is extended at this location to take in this plot, which presents as backland, is unknown.

I note that the strategic aim for the village is to encourage the consolidation of the village within its rural setting, protect the unique architectural character and coastal landscape setting of the settlement and to promote sympathetic development in tandem with the provision of services. It is acknowledged that the proposed houses are serviceable. However, I repeat that this is backland development, sited immediately to the rear of detached houses. The proposed houses would be on elevated land immediately behind these established houses. The site lies immediately east of the Sheep's Head to Toe Head SPA (Site Code: 004156), an



issue that will be addressed later in this assessment, but a location that can reasonably be deemed to be sensitive. I submit to the Board that the development of these houses at such a location, in terms of the siting and proximity to housing to the north, the proximity to a European site, their disorderly backland nature, and their prominent siting, could not reasonably be seen to be “sympathetic development”. Furthermore, the outcome of the development of this proposal would, in my opinion, run contrary to Development Boundary Objective DB-02 of the village plan which seeks to protect and enhance the attractive coastal setting and landscape character of the village due to its prominent and sensitive location and, indeed, the granting of planning permission for development of this nature would set a most undesirable precedent for further development in the vicinity.

It is also apparent from the Plan provisions that there is a significant issue with holiday home development in Baltimore. The Plan notes that the majority of housing development since 2005 has occurred in the form of holiday homes to the east of the village core. Development Boundary Objective DB-01 seeks to encourage up to 85 houses for full time occupation during the plan period within the development boundary, while Objective DB-04 states that limited provision may be made for managed holiday home accommodation within the village where a need has been demonstrated, subject to normal proper planning and sustainable development considerations. There have been no details provided in this application as to whether the proposed houses would form part of any managed holiday home accommodation. It is my submission that random holiday home development is required to be discouraged in order to meet with the express plan objectives and to ensure local permanent housing needs are met within Baltimore.

Finally, I note the village plan’s Specific Development Objectives. These include Objective U-03 which relates to the provision of a scenic walk through the upper reaches of Baltimore and proposes to use part of a roadway to the north of the site. I do not consider that the development of the proposed houses would have any direct impact on the provision of this route. It is my opinion, however, that the encroachment of housing development on the more elevated lands at this location

would erode the natural visual qualities that would otherwise be appreciated from such scenic walking routes on the upper reaches of Baltimore.

### 7.3. Traffic Impact

The proposed development would be accessed via a very narrow local road and a laneway which is overgrown at present. These proposed access arrangements are seriously inadequate. The Board should note that the local road from the village out to this site is a minor rural road that is less than 3 metres in width, incapable of accommodating two-way vehicular traffic or indeed accommodating a vehicle with a pedestrian or cyclist coming in the opposite direction for extensive parts of the road. The road is defined frequently by banks and fencing to the carriageway edges. It is very poorly aligned and is very poorly surfaced along many sections. This local road should not be utilised as access to residential development of the nature proposed. The additional traffic that would be generated would undoubtedly interfere with the flow of traffic on this road and would adversely impact on road users associated with farming in this location. Furthermore, a serious concern I would have for permitting development at this location as proposed is the likely pressure that would arise for further development of this nature with access onto this deficient road and, indeed, on the remainder of the applicant's landholding. Dotting laybys along this public road is no solution to the serious nuisance and traffic hazard that would result from permitting this development.

In conclusion, the access arrangements to serve the proposed development will be a traffic hazard.

### 7.4. Impact on Residential Amenity

It is intended to site the two houses on elevated land immediately to the rear of established detached houses. Dwelling A would be located less than 18 metres from rear elevation of an existing house to the north and Dwelling B would be just over 15 metres from rear elevation of another house. The proposed houses are designed to gain panoramic views northwards to Baltimore Harbour, with expansive openings on

each of their northern elevations to serve living rooms and bedrooms. This development will result in nuisance, disturbance and a significant undermining of the amenity of the neighbouring dwellings to the north of this site. There will be significant interference with privacy by way of substantial overlooking of neighbouring residential properties.

The proposed development would constitute haphazard, disorderly, backland development and could not reasonably be considered to be sustainable development.

## 7.5. Appropriate Assessment - Screening

### *Background*

There is no record of the applicant having submitted any appropriate assessment screening report. I acknowledge that the Planner made reference to such a report in the first report to the planning authority. Notwithstanding the lack of any report from the applicant, I am satisfied that the available information allows for a complete examination and identification of any potential significant effects of the development, alone or in combination with other plans and projects, on European sites.

### *Description of Development*

The proposal comprises the development of two detached houses. It would also include the construction of a service road and the provision of underground and overground services.

### *European Sites*

The development site is not located in a European site. However, it adjoins the Sheep's Head to Toe Head Special Protection Area (Site Code: 004156), the nearest part of which is immediately west of the site for the proposed houses. One other European site in the vicinity is Roaringwater Bay and Islands Special Area of

Conservation (Site Code: 000101), the nearest part of which is located approximately 200 metres to the north. There are no other European sites in the general area in which the development is proposed.

#### **Sheep's Head to Toe Head Special Protection Area**

Peregrine falcon and chough are the Qualifying Interests of this European site. According to the NPWS Site Synopsis for this SPA, the site is one of the most important sites in the country for chough, with a breeding population of international importance. It also supports a nationally important peregrine population.

The Conservation Objective for the site is to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.

#### **Roaringwater Bay and Islands Special Area of Conservation**

The Qualifying Interests of this site are:

Large shallow inlets and bays [1160]

Reefs [1170]

Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]

European dry heaths [4030]

Submerged or partially submerged sea caves [8330]

*Phocoena phocoena* (Harbour Porpoise) [1351]

*Lutra lutra* (Otter) [1355]

*Halichoerus grypus* (Grey Seal) [1364]

The Conservation Objectives for each of the Qualifying Interests are to maintain the favourable conservation condition of the habitats and species in the SAC, with the objective for otter being to restore its favourable conservation condition.

### *Identification of Likely Effects*

The proposed development would comprise the construction of two detached houses, the construction of a service road, and the provision of underground and overground services. This would occur on marginal agricultural lands and across coarse grassland. This would be a location where there would be low intensity livestock farming and would be a location where there is little man-made disturbance.

Having regard to the nature and extent of the works associated with the proposed development and its immediate proximity to the Sheep's Head to Toe Head SPA, there is a risk that the construction-related activities would cause disturbance to the species for which this site is designated. There is also a risk that the occupation and use of this site would cause disturbance to the species for which this site is designated. It is also acknowledged that the nature of the habitat on the site is similar to that which is within the SPA immediately to the west and there is a risk that this could affect the use of the site by the species for which this site is designated.

The proposed development would be located some 200 metres south of the nearest part of Roaringwater Bay and Islands SAC. There is extensive residential development and associated infrastructure between the site of the proposed development and the SAC. The proposed development is intended to be serviced by public wastewater treatment facilities and by a mains water supply. The proposed development would not have any direct or indirect effects on the qualifying interests of this European site.

### *In-combination Effects*

There are no known projects for which consideration of in-combination effects could occur. It is reasonable to conclude that there is no potential for in-combination effects.

### *Mitigation Measures*

No measures designed or intended to avoid or reduce any harmful effects of the proposed development on a European site have been relied upon in this screening exercise.

### *Screening Determination*

The proposed development has been considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would be likely to give rise to significant effects on the Sheep's Head to Toe Head SPA, in view of its Conservation Objectives, and Appropriate Assessment is therefore required.

This determination is based on the following:

- The nature and extent of the proposed development, inclusive of the construction-related activities and the occupation and use of the dwellings,
- The immediate proximity to the Sheep's Head to Toe Head SPA,
- The nature of the habitat associated with this site, and
- The likely disturbance to the species for which this site is designated.

## **8.0 Recommendation**

- 8.1. I recommend that per mission is refused in accordance with the following reasons and considerations.

## 9.0 Reasons and Considerations

1. The proposed development would be located to the rear of established housing on a prominent hillside overlooking Roaringwater Bay in Baltimore. The strategic aim for the village of Baltimore, as set out in the West Cork Municipal District Local Area Plan, is to encourage the consolidation of the village within its rural setting, protect the unique architectural character and coastal landscape setting of the settlement and to promote sympathetic development in tandem with the provision of services. Furthermore, it is an objective of the Plan to protect and enhance the attractive coastal setting and landscape character of the village (Objective DB-02). It is considered that the proposed development would constitute a highly prominent development that would be visually obtrusive and which would conflict with the strategic aim and Objective DB-02 of the Plan, would seriously injure the visual amenities of the area, and would establish an undesirable precedent for further development on the uplands in this rural location. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the pattern of existing residential development in the immediate vicinity of the site and to the siting of the proposed houses on elevated land immediately to the rear of established residential properties, it is considered that the proposed development would constitute a piecemeal, disorderly, haphazard form of backland development that would be likely to seriously injure the residential amenities and depreciate the value of adjoining residential property, and would create an undesirable precedent for development of a similar nature in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. The proposed development would access a minor rural local road which is seriously substandard in width, alignment and structure. Having regard to the additional traffic turning movements that would be generated on this substandard road, it is considered that the proposed development would

endanger public safety by reason of traffic hazard and obstruction of road users.

4. On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects, would not result in adverse effects on the integrity of the Sheep's Head to Toe Head Special Protection Area (Site Code: 004156), in view of the site's Conservation Objectives due to the nature and extent of the proposed development, inclusive of the construction-related activities and the occupation and use of the dwellings, the immediate proximity to the Special Protection Area, the nature of the habitat associated with this site, and the likely disturbance to the species for which this site is designated. In such circumstances the Board is precluded from granting permission.

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Kevin Moore  
Senior Planning Inspector

16<sup>th</sup> December 2020