

# Inspector's Report ABP-308629-20

**Development** Construction of a new vehicular

entrance from the public road of a private common roadway and 3

serviced residential sites.

**Location** Currabally, Ballymore, Cobh.

Planning Authority Cork County Council

Planning Authority Reg. Ref. 19/6853

Applicant(s) Deirdre Higgins & Mary Higgins

Type of Application Permission

Planning Authority Decision Refusal

Type of Appeal First Party -v- Decision

Appellant(s) Deirdre Higgins & Mary Higgins

Observer(s) John & Eileen Morgan

**Date of Site Inspection** 17<sup>th</sup> February 2021

**Inspector** Hugh D. Morrison

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# 1.0 Site Location and Description

- 1.1. The site is located in the village of Ballymore/Walterstown, in a position 2.2km to the east north-east of the outskirts of Cobh. This site lies on the southern side of the local road (LP-2991), which passes through the village on an east/west axis and which is subject to a 50 kmph speed limit. It is presently accessed directly off this local road by means of an agricultural gate.
- 1.2. The site is kite shaped and it extends over an area of 1.1 hectares. This site is the subject of moderate/steep gradients which fall from the north north-east to the south south-west. It is presently down to grass and it forms the northern portion of an agricultural field.
- 1.3. The site is bound to the north by a narrow 20m frontage onto the LP-2991. To the north east and the west, it is bound by the residential curtilages of adjacent dwelling houses, to the east, the boundary is undefined "on the ground", and, to the southwest, by a tree-lined stream. Boundary treatments comprise stone and sod and stock-proof fencing and the site is traversed by two lines of overhead cables.

# 2.0 **Proposed Development**

- 2.1. The proposal is for the construction of both a new vehicular entrance from the public road and a private common roadway, which would provide a means of access to 3 serviced residential sites. Indicative plans of a split-level two storey dwelling house for each of these sites have been prepared. Each dwelling house would be served by its own private well, septic tank, and soakaway.
- 2.2. Under further information, the more easterly of the 3 serviced residential sites was omitted and the indicative siting of the dwelling houses on the 2 remaining sites was revised to be slightly more informally.

# 3.0 Planning Authority Decision

#### 3.1. Decision

Following receipt of further information, permission refused for the following reason:

The proposed vehicular access to the site joins a busy road that is poorly aligned, at a point where sightlines are restricted in both directions and the restricted road frontage would preclude the provision of satisfactory sightlines at this location. The Planning Authority is not satisfied on the basis of the submissions made on the application, that the traffic likely to be generated by the proposed development would not endanger public safety by reason of traffic hazard and would therefore be contrary to objective TM 3-3(d) of the County Cork Development Plan 2014 – 2020.

## 3.2. Planning Authority Reports

## 3.2.1. Planning Reports

Further information was sought with respect to the following items:

- Concern was expressed over the proposed density in an unserviced rural area. Concern was also expressed that, whereas the LAP envisages an additional 5 dwelling houses and 4 have been granted permission, the proposal is for a further 3. A reduction in density was thus requested, along with a less formal site layout,
- Sightlines at the site entrance to be 70m x 2.4m and corner radii at this entrance to be a minimum of 10m, and
- Landscaping and boundary treatment proposals.

#### 3.2.2. Other Technical Reports

- Inland Fisheries Ireland: No objection, subject to prohibitive condition concerning interference with adjacent stream.
- Cork County Council:
  - Area Engineer: Following receipt of further information, objection raised for the reason cited in the refusal.

# 4.0 Planning History

Site (and adjoining land to the south):

• 98/4176: Outline: 12 dwelling houses with proprietary treatment plant: Refused at appeal PL04.112072.

Pre-planning enquiry 19/518 occurred on 20<sup>th</sup> August 2019.

# 5.0 **Policy and Context**

#### 5.1. **Development Plan**

Under the Cobh Municipal District Local Area Plan 2017 (LAP), Ballymore/ Walterstown is identified as a village nuclei and the site is shown as a lying within the development boundary and in an existing built up area. Paragraph 5.3.21 states that expansion within this boundary for residential is "subject to investment in public waste water treatment facilities" and Paragraph 5.3.22 states that "Given the existing pattern of housing development in the area commanding sea views, the prospect of there being capacity for any significant housing development on the lands on the seaward side of the village is extremely limited."

## 5.2. Natural Heritage Designations

- Cork Harbour SPA (004030)
- Great Island Channel SAC (001028)

# 6.0 The Appeal

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

The principle of development

- Ballymore/Walterstown lies within the Metropolitan Cork Green Belt. Under the LAP it is identified as a village nuclei and so well placed to provide sites to those who want to live within a rural setting.
- The site is located centrally within the development boundary around Ballymore, which has a range of community facilities.
- Under Table 5.3.1 and Paragraph 5.3.9 of the LAP, Ballymore is envisaged as having an additional 5 dwelling houses during the life of the Plan, a figure that is described as "guidance".

- Under General Objective GO-01, attention is drawn to items (b), (c), (g), and
   (I): The principles outlined in these items would be upheld by the proposal, as
   originally submitted. Thus, it would reflect the scale and character of the
   village nuclei, it would be served by individual waste water treatment systems,
   it would provide serviced sites possibly for self-build, and it would ensure that
   the potential of the site is realised.
- The proposal would be consistent with other recent permissions granted to 19/6150, 18/4647, 18/6462, and 18/6281.

#### The proposed entrance

- Attention is drawn to drawing no. 16.15.PL.004C, which was submitted at the
  appeal stage, and which shows that, if roadside vegetation is omitted, an
  easterly y distance of 120m is available and a westerly y distance of 100m.
  The associated visibility splays are available without requiring neighbours to
  adjust/remove their site boundaries.
- The following detailed points are made:
  - The site frontage within the applicants' control would be kept vegetation free,
  - An existing telephone pole would be capable of being re-sited outside the western visibility splay,
  - Relevant roadside boundaries to neighbouring residential properties have consistently been set back from the edge of the carriageway,
  - The Planning Authority has consistently attended to the set back of roadside boundaries, as is evident from conditions attached to historic outline/full permissions granted to 76/3578, 78/1072, and 84/1541,
  - Historically, the site was the subject of an outline application 98/4176 for 12 dwelling houses, which was refused at appeal by the Board on rural settlement grounds only, i.e. the proposed access was not the subject of a reason for refusal, and

 The applicants should neither be penalised for the failure of neighbours to abide by roadside planning conditions nor cast in the role of the enforcer of these conditions.

# Existing residential amenity

- The proposal would not interfere with existing residential amenities, and
- While the development of the site would lead to the loss of its pastoral character, the small scale of the proposal and the families that may be housed therein would support the local primary school, which has been extended in recent years.

# 6.2. Planning Authority Response

None

#### 6.3. Observations

John & Eileen Morgan of Currabally, Ballymore

The observers reside in the bungalow to the north-east of the site. They make the following observations:

- The northern ditch to the site has recently been removed and filled with stone,
   i.e. works that require planning permission have been undertaken.
- The site's 20m frontage is narrower than any of the existing residential properties in the area and yet it would serve 3 proposed dwelling houses. The required 10m radii cannot be accommodated at the site entrance and the proposed on-site road would fall away steeply.
- The x distance should be measured from the set back line of any new boundary rather than the edge of the carriageway. If this is done, then the requisite sightlines are unachievable.
- The proposal would result in a loss of privacy at and views from existing residential properties.
- The LAP states that new residential development should occur on the northern side of the LP-2991.

• The proposal would lead to the provision of bored wells and septic tanks, all of which would be of concern, especially as there is a stream nearby.

## 6.4. Further Responses

None

#### 7.0 Assessment

- 7.1. I have reviewed the proposal in the light of the Cork County Development Plan 2014 2020 (CDP), Background Document No. 7 to the Review of the CDP, entitled "Water Services", Cobh Municipal District Local Area Plan 2017 (LAP), the submissions of the parties and the observers, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:
  - (i) Land use,
  - (ii) Amenity,
  - (iii) Traffic and access,
  - (iv) Water, and
  - (v) Screening for Stage 1 Appropriate Assessment.

#### (i) Land use

- 7.2. The Planning Authority is presently reviewing its CDP. Background Document No. 7 to this review is entitled "Water Services" and it confirms that, as of August 2019, Ballymore/Walterstown had no public water and waste water facilities. No Irish Water projects are listed in these respects.
- 7.3. Under the LAP, Ballymore/Walterstown is identified as a village nuclei. Table 5.3.1 states that this village nuclei has 102 dwelling houses, 11 of which were constructed recently, i.e. between 2005 2015. Five additional dwelling houses are envisaged over the life time of the LAP with any individual scheme having a recommended scale of 3 dwelling houses. As no public waste water facilities are available, Objective GO-01(c) states that "only the development of individual dwelling units served by individual treatments systems will be considered".

- 7.4. Under the LAP, the site is shown as lying within the development boundary around the Ballymore/Walterstown, along with adjoining land to the south that is within the applicant's ownership. This site lies on the southern seaward side of the local road through the village nuclei. The observers draw attention to Paragraph 5.3.22 of the LAP, which states that "Given the existing pattern of housing development in the area commanding sea views, the prospect of there being capacity for any significant housing development on the lands on the seaward side of the village is extremely limited. Housing development can be more readily accommodated on the lands to the north of the village."
- 7.5. The proposal, as originally submitted, was for 3 serviced residential sites and, under further information, it was revised to 2 such sites. The applicant requests that the Board consider their original submission. In this respect, they draw attention to the village nuclei's setting within the Metropolitan Cork Green Belt and the potential opportunity that the proposed serviced residential sites would afford to those who perhaps wish to undertake a self-build project close to the countryside.
- 7.6. Under further information, the Planning Authority drew attention to the LAP's "cap" of 5 dwelling houses and the existence of extant permission for 4 dwelling houses. The applicants responded by omitting 1 of the 3 proposed serviced residential sites. Thus, 2 were proposed, i.e. 1 in excess of the "cap".
- 7.7. The applicants have cited an outline application (98/4176) that was made for 12 dwelling houses on the site and adjoining land to the south. This application was refused at appeal (PL04. 112072) on rural settlement grounds. I note that, while the current proposal is for a smaller number of sites than featured in this application, the proposed private common roadway would be capable of being extended southwards. I note, too, that, under Objective GO-01(c) of the LAP, "Any new dwellings with individual waste water treatment must make provision for connection to the public system in the future". I, therefore, consider that the construction of this road should be designed to facilitate such future connection and, until proposals for public waste water facilities for the village nuclei are forthcoming, it would be premature.
- 7.8. In the light of the foregoing considerations, I conclude that, whereas there is no in principle land use objection to the residential use of the site, in the absence of the provision of public waste water facilities, the proposal for multiple serviced residential

sites, as distinct from an individual dwelling house with its own treatment system, would be premature.

#### (ii) Amenity

- 7.9. The local road rises from west to east as it passes the site and the site itself is the subject of moderate/steep gradients, which fall from the north north-east to the south south-west. The envisaged dwelling houses are shown indicatively as being sited in a row that runs from the north-west to the south-east of the upper portion of the site. They would thus step down progressively from the north-west to the south-east. They would also be of split-level form and so they would present to the proposed private common road as being single storey.
- 7.10. The interplay of the aforementioned factors is such that the entirety of the envisaged dwelling houses would be below the finished ground floor levels of the adjacent existing dwelling houses to the north-east of the site. The remaining dwelling house, to the north-west, has a finished ground floor level of 63.250m OD, whereas the finished upper ground level of the nearest envisaged dwelling house would be 61.741m OD. The existing dwelling house is a bungalow with a side/rear extension to the east. The nearest corner of this extension to the nearest corner of the envisaged dwelling house would be, as originally envisaged, 19.5m on a north north-west/south south-east axis or, as revised, 25m on virtually a north/south axis. The existing stone and sod fencing along the common boundary would be retained and augmented by planting on the site side.
- 7.11. The second of the originally envisaged 3 dwelling houses would be closest to the nearest dwelling house to the north-east. The separation distance between these corresponding dwelling houses would be 45m, as originally envisaged, or 47m, as revised, both on virtually a north/south axis. The embankment with a chain link fence on top of it, which denotes the common boundary, would be retained and augmented by an array of planting on the accompanying strip of land on the upper side of the proposed private common road.
- 7.12. The observers express concern that the proposal would result in a loss of privacy at and views from their dwelling house. However, given the above described relationships, I consider that the amenities of this and other existing dwelling houses would not be unduly affected.

7.13. I conclude that the applicant has illustrated how dwelling houses would be capable of being developed on the site in a manner that would be compatible with the visual and residential amenities of the area.

# (iii) Traffic and access

- 7.14. The proposal would generate residential traffic rather than existing agricultural traffic to/from the site. A significant net increase in vehicular movements would thus arise.
- 7.15. The LP-2991 is of relatively straight alignment within the vicinity of the site and it rises at a gentle gradient as it passes this site. The speed limit is 50 kmph and so sightlines at the proposed residential entrance to the site should have x and y distances of 2.4m and 70m, respectively.
- 7.16. Under further information, the applicants were requested to address the question of adequate sightlines. They submitted a site layout plan that shows that the requisite sightline would be available to the east, but for a shrub that continues the line of the common boundary between the site and the residential property to the north-east into the nearside grass verge. This plan also shows that the requisite sightline would be available to the west, provided the centre-line of the road, rather than the nearside edge of the carriageway, is taken as the reference point.
- 7.17. The Planning Authority refused permission on the basis that the available sightlines would be inadequate and that, as the local road is busy, to accede to the proposed access would endanger road safety.
- 7.18. The applicants state that they have been unable to agree with the neighbour on the removal of the shrub cited above. They contend that, insofar as this shrub encroaches on the verge to the carriageway of an adopted road, it falls with the jurisdiction of the Roads Authority, and, insofar as it affects existing as well as proposed sightlines, it should be removed, as it is a hazard to road safety. I agree. They also now propose to re-site a telephone pole, which lies to the west of the proposed access, to a position behind the western sightline. On this basis, the available western sightline would have the nearside edge of the carriageway, rather than the centre-line of the road, as its reference point. The requisite sightline would thereby be achieved.
- 7.19. Under further information, the Planning Authority requested that the design of the proposed access point be altered to show a minimum of 10m circular radii. The

- applicant has sought to comply with this request, but as the Observers point out, there is insufficient scope for the full radii at this dimension to be provided. Relevant TII Guidance (DN-GEO-03060 June 2017) advises that, where 2 dwelling houses are proposed, radii of 6m can be specified. There may be scope for such radii, but this has not been demonstrated by the applicant.
- 7.20. On-site, the proposed private common road would fall from 65.50m OD to 63.85m OD, 60.50m OD, and 59.70m OD at points adjacent to the envisaged drive-ins to the first, second, and third serviced residential sites, respectively, i.e. under the revised and original submissions. The corresponding lengths of this road would be 32m, 85m, and 114m, respectively. Its initial portion would need to be level and straight and only thereafter would significant gradients and a curved alignment be acceptable. The applicants have not submitted any cross sections to enable the acceptability or otherwise of the proposed private common road to be assessed. Thus, while an acceptable form may be achievable, they have not demonstrated as much.
- 7.21. By contrast, the applicants have submitted cross-sections of the envisaged drive-ins to each of the serviced residential sites. These indicate that the provision of drive-ins at useable and safe gradients to the first and third of the envisaged dwelling houses may be achievable. However, the submitted cross-section B-B of the second dwelling house shows a drive-in that would be too steep to be used safely. Consequently, if a drive-in at a similar level to the upper floor level of the envisaged second dwelling house is required, then this dwelling house would need to be constructed at a higher level. The contextual elevation of it and the existing dwelling house to the rear shows that there is some "headroom" before any such raising would cause the height of the envisaged dwelling house to overlap with the height of this existing dwelling house. Nevertheless, the relationship between these two dwelling houses would need to be revisited from an amenity perspective.
- 7.22. Each dwelling house is envisaged as being accompanied by a double garage, which would be constructed with a finished floor level that would be similar to the corresponding dwelling house's finished upper floor level, and a turning circle.
- 7.23. I conclude that, while the proposal would, on the basis of the plans submitted at the appeal stage, be capable of being accompanied by satisfactory sightlines, the radii

specified would be unsatisfactory and insufficient information has been provided to enable the acceptability or otherwise of the horizontal and vertical alignments of the proposed private common road to be established. By extension, the acceptability of the envisaged drive-ins remains outstanding, too, with the second of these clearly needing to be reworked.

#### (iv) Water

- 7.24. Ballymore/Walterstown are not presently served by either a public water mains or a public waste water sewerage system.
- 7.25. Under the proposal, each of the residential sites would be served by a bored well, which would be sited in a position forward of each of the envisaged dwelling houses. No investigations have been reported upon concerning the quantity and quality of water that may be available. The siting of the bored wells would be either comparable with or down gradient of existing septic tanks, as shown on the submitted site plan entitled "Separation as per EPA Guidelines". This plan shows a 25m radius around each siting. However, this dimension on its own would not be sufficient to meet the recommendations set out in Table B.3 of the EPA's Code of Practice. The applicants have therefore submitted insufficient information to demonstrate that their proposals would be satisfactory in this respect.
- 7.26. Under the proposal, too, each of the residential sites would be served by a sceptic tank and a percolation area that would be sited in a position to the rear of each of the envisaged dwelling houses.
- 7.27. The applicants have undertaken a site characterisation exercise for each of the three envisaged residential sites. The findings of these exercises are summarised below.
  - The aquifer is locally important and of extreme vulnerability. The Response Matrix is thus R2<sup>1</sup>.
  - The Ballymore Group Water Supply Scheme lies within 1km of the site.
  - Ground water flow is assumed to be down slope and so in a southerly direction.
  - Trial holes were dug to a depth of 1.8m, 1.6m, and 2.1m in sites numbered 1,
     2, and 3, respectively. In each of these holes, top-soil is composed of sand
     and silt, while the initial and subsequent sub-soils are composed of many

- cobbles and shaley broken rock and cobbles, respectively. Bedrock was not encountered. In site no. 1, water was encountered at a depth of 0.9m and so the requisite depth of 1.2m of suitable, free-draining, unsaturated soil is not available.
- The T-test holes yielded an average result of 24.69 min per 25mm, 19.64 min per 25mm, and 20.53 min per 25mm in sites numbered 1, 2, and 3, respectively. No P-tests were undertaken.
- In the light of these results, the applicant recommends that a septic tank and percolation area be installed in each residential site. The siting of each percolation area would achieve/exceed the necessary EPA Code of Practice clearance distances from the bored wells, site boundaries, and the tree-lined stream to the south-west. The percolation area for site no. 1 would be raised above the existing surface area to enable the necessary 1.2m clearance depth above ground water to be achieved. This is illustrated in the submitted drawing entitled "Percolation Section Details".
- 7.28. The applicants have not sought to explain the discrepancy in the above results between site no. 1, on the one hand, and sites nos. 2 and 3, on the other hand, with respect to the water table. Each of the trial holes was dug on the same day at round about the same time and so seasonal variations in the height of the water table would not account for this discrepancy. I consider that an explanation is needed before the waste water proposals for each site can be confidently supported.
- 7.29. Under the proposal, each of the residential sites would be served by a soakaway for the purposes of handling surface water run-off from hard surfaces. No details in this respect has been submitted.
- 7.30. Under the OPW's flood maps the site is not shown as being the subject of any identified flood risk.
- 7.31. I conclude that the applicants have failed to submit sufficient information to demonstrate that their proposals with respect to water supply and waste water treatment would be satisfactory.

## (v) Screening for Stage 1 Appropriate Assessment

- 7.32. Under Screening for Stage 1 Appropriate Assessment, the question to be addressed is, "Is the project likely to have a significant effect either individually or in combination with other plans and projects on a European Site(s)?"
- 7.33. The project is to construct a road, which would afford access to multiple house plots. Indicative plans show dwelling houses on these plots which would be served by septic tanks and percolation areas.
- 7.34. The Glenmore stream flows along the south-western boundary of the site, in a southerly direction, and on into Cork Harbour at Glenmore Beach. Parts of this Harbour are designated as Cork Harbour SPA (004030) and water ways to the north (far side of Great Island from Glenmore Beach) of Great Island are designated as Great Island SAC (001058). Accordingly, there are source/ pathway/receptor routes between the site and these two European sites via the Glenmore River.
- 7.35. The Qualifying Interests of Cork Harbour SPA are as follows:

Little Grebe (Tachybaptus ruficollis) [A004]

Great Crested Grebe (Podiceps cristatus) [A005]

Cormorant (Phalacrocorax carbo) [A017]

Grey Heron (Ardea cinerea) [A028]

Shelduck (Tadorna tadorna) [A048]

Wigeon (Anas penelope) [A050]

Teal (Anas crecca) [A052]

Pintail (Anas acuta) [A054]

Shoveler (Anas clypeata) [A056]

Red-breasted Merganser (Mergus serrator) [A069]

Oystercatcher (Haematopus ostralegus) [A130]

Golden Plover (Pluvialis apricaria) [A140]

Grey Plover (Pluvialis squatarola) [A141]

Lapwing (Vanellus vanellus) [A142]

Dunlin (Calidris alpina) [A149]

Black-tailed Godwit (Limosa limosa) [A156]

Bar-tailed Godwit (Limosa Iapponica) [A157]

Curlew (Numenius arquata) [A160]

Redshank (Tringa totanus) [A162]

Black-headed Gull (Chroicocephalus ridibundus) [A179]

Common Gull (Larus canus) [A182]

Lesser Black-backed Gull (Larus fuscus) [A183]

Common Tern (Sterna hirundo) [A193]

Wetland and Waterbirds [A999]

The Conservation Objectives for each of these Qualifying Interests is to maintain its favourable conservation condition.

7.36. The Qualifying Interests of Great Island Channel SAC are as follows:

Mudflats and sandflats not covered by seawater at low tide [1140]

Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]

The Conservation Objectives for of these Qualifying Interests is to maintain the former and restore the latter to their favourable conservation condition.

- 7.37. The Conservation Objectives for the above cited SPA and SAC would be potentially effected by a deterioration in water quality, for example, the food chain and habitats for the birds identified as Qualifying Interests could be harmed.
- 7.38. The project would entail the construction of a road within the vicinity of Glenmore Stream, which would in the future afford access to multiple residential sites. The dwelling houses on these sites would be served by septic tanks and percolation areas, which would discharge to ground water. During the construction phase, standard construction management techniques would be designed to ensure that the water quality of the stream is maintained. Likewise, during the operational phase, the future maintenance of the septic tanks and percolation areas would ensure that water quality is maintained. These measures would be undertaken to safeguard water quality regardless of the European Sites cited above.
- 7.39. Given the small scale of the project, the distance between the site and the identified European Sites, and the attendant dilution factor, I do not consider that this project would be likely to have any significant effect, either individually or in combination with other projects, upon the Conservation Objectives of these European Sites.

- 7.40. The proposed development was 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, it has been concluded that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on European Sites Nos. 004030 and 001058, in view of these Sites' Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.
- 7.41. This determination is based on the following: The small scale of the project, the distance between the site and the identified European Sites, and the attendant dilution factor.
- 7.42. In making this screening determination no account has been taken of any measures intended to avoid or reduce potentially harmful effects of the project on a European Site.

#### 8.0 **Recommendation**

8.1. That permission be refused.

#### 9.0 Reasons and Considerations

1. Having regard to the absence of public waste water facilities in Ballymore/ Walterstown and to Objective GO-01(c) the Cobh Municipal District Local Area Plan 2017 that new residential development be capable of being connected to such facilities once they become available, the proposed private common road, which would provide access to multiple residential sites, needs to be designed to provide such connection, but until public waste water facilities are available, such design cannot be undertaken with confidence and so the proposed private common road is premature. In these circumstances, to permit this road would contravene Objective GO-01(c) of the Local Area Plan and so it would be contrary to the proper planning and sustainable development of the area. 2. Having regard to the submitted plans of the proposed private common road, the design of the proposed junction between the local road and this road would be sub-standard and the applicants have failed to submitted sufficient details of the on-site road to establish that its horizontal and vertical alignments would be satisfactory. In these circumstances, to permit this road would, variously, jeopardise road safety and be premature. The proposal would thus be contrary to the proper planning and sustainable development of the area.

Hugh D. Morrison Planning Inspector

30th March 2021