



An  
Bord  
Pleanála

## Inspector's Report ABP-309888-21

### Development

A) Remove existing mobile home. B) Construct new dwelling house in place of it. C). Install a wastewater treatment tank and irrigation area and carry out ancillary siteworks.

### Location

Coast Road, Kilmichael East,  
Fountainstown, Co. Cork

### Planning Authority

Cork County Council

### Planning Authority Reg. Ref.

2104128

### Applicant(s)

Honor Desmond

### Type of Application

Permission

### Planning Authority Decision

Refuse Permission

### Type of Appeal

First Party v. Refusal

### Appellant(s)

Honor Desmond

### Observer(s)

Kathleen Crowley

### Date of Site Inspection

15<sup>th</sup> December 2021

### Inspector

Ian Campbell

## **1.0 Site Location and Description**

- 1.1. The appeal site is located at Coast Road, Kilmichael East, Fountainstown, Co. Cork. The appeal site is situated on the southern side of a narrow local access road which is accessed from Coast Road (R612) and terminates in a cul-de-sac east of the appeal site.
- 1.2. The area is characterised by detached houses of varying design. Ringabella Bay is located c. 130 metres south of the appeal site and Fountainstown Beach is located c. 500 metres west of the appeal site. The appeal site is in a scenic location and has panoramic views across Ringabella Bay.
- 1.3. The appeal site has a stated area of 0.062 ha. and is broadly rectangular in shape. The appeal site slopes significantly from north to south, with a level differential of c. 13 metres between the northernmost part of the site and the southernmost part of the site. This change in levels is most significant across the southern part of the appeal site. A mobile home is sited on the northern part of the site. The southernmost part of the appeal site is overgrown. Site boundaries comprise hedgerow and a concrete post and timber panel fence.
- 1.4. There are detached dwellings on the neighbouring sites to the east, west and south of the appeal site. The dwelling to the south is sited at a lower level than the appeal site. The site/property to the immediate east is indicated as being within the appellant's ownership/control, as depicted by the blue line boundary.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises the removal of the mobile home from the appeal site, the decommissioning of the existing septic tank, and the construction of a split level, detached dwelling and the installation of a waste water treatment tank, irrigation area and ancillary siteworks.
- 2.2. The proposed dwelling is positioned on the northern part of the site and has a stated floor area of c. 196 sqm. Separation distances to adjoining site boundaries are indicated as c. 3 metres to the eastern boundary, c. 2.4 metres to the western boundary and c. 21 metres to the southern boundary.

- 2.3. The proposed dwelling accommodates 3 no. bedrooms, is contemporary in design and presents as a single storey dwelling to the front/north and as a three-storey dwelling to the rear/south. The proposed dwelling has a stated height of c. 5 metres when viewed from the front/north and c. 9 metres when viewed from the rear/south. The proposal appears to entail a degree of cutting and filling to accommodate the dwelling on the site. The mid/ and upper floors have terraces on the rear/south elevation. Screening is indicated to serve the mid-level terrace. The terrace serving the upper floor is recessed into the rear elevation of the dwelling. Finishes to the proposed dwelling comprise sand/cement render and larch cladding for the external walls. A green roof is indicated.
- 2.4. A new vehicular access is proposed to the north of the appeal site.
- 2.5. A proprietary wastewater treatment system is proposed, specifically an Activated Sludge Secondary Treatment Package Wastewater Treatment System (Solido Smart 6 Pumped Wastewater System and a Premier Tech Ecoflo Tertiary Filter with a gravel distribution bed). There is a mains water supply available to serve the development.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The Planning Authority issued a Notification of Decision to Refuse Permission on the 22<sup>nd</sup> March 2021 for a single reason that can be summarised as follows;

The proposed development does not comply with the EPA Code of Practice 2009 having regard to the slope of the site, which is greater than 1:8. As a consequence, the proposed waste water treatment system could give rise to the pollution of neighbouring properties to the south and would be prejudicial to public health.

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

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

The report of the Planning Officer includes the following comments;

- Noted that there is no objection in land-use terms to the proposed development having regard to the location of the site within the settlement boundary of

Crosshaven and Bays, subject to proper planning and sustainable development considerations.

- Noted that the proposed design approach is considered acceptable.
- Noted that the proposed dwelling would not be likely to adversely impact the amenities of the area or neighbouring property, in terms of overlooking, overshadowing etc.
- Noted that the proposed development does not comply with the requirements of the EPA Code of Practice 2009 having regard to the gradient and topography of the site, and that effluent from the proposed development could flow through the slope into the neighbouring site to the south.

The report of the Planning Officer (dated 19<sup>th</sup> March 2021) recommends a refusal of permission consistent with the Notification of Decision which issued.

### 3.2.2. Other Technical Reports

#### **Area Engineer's Report (dated 15<sup>th</sup> March 2021)**

##### Roads and Transport

- It is concluded that the provision of parking and the set-back provided as part of the works is acceptable.

##### Drainage

- It is noted that the site is just suitable for discharge to ground, with a T value above 3.
- It is noted that, in accordance with the EPA Code of Practice 2009, site improvement works will not be sufficient to enable the site to be used for a system incorporating discharge to ground as the slope of the site is between 1:4/1:5, therefore exceeding 1:8.
- It is noted that there is a likelihood of effluent from the proposed development flowing through the slope into the neighbouring site to the south.

- It is concluded that waste water effluent cannot be adequately treated at this location given the topography of the site and the proximity of the site to the foreshore.

### 3.3 Prescribed Bodies

None received.

### 3.4 Third Party Observations

The following is a summary of the main issues raised in the third-party observation received by the Planning Authority;

- Concerns in relation to the impact of the proposed development on the safety of water supply serving the third-party, given that the water pipe serving the third-party traverses the appeal site;
- Concerns regarding the potential for waste water seeping onto the third-party property, noting the steep slope of the site.

## 4.0 Planning History

The following planning history is referenced in the report of the Planning Officer.

### 4.1 Appeal Site

**PA Ref. 20/4607** – permission refused for the removal of a mobile home, the construction of a house, and the installation of a waste water treatment tank and irrigation area and ancillary siteworks.

The refusal reason concerned the non-compliance of the proposed development with the EPA Code of Practice 2009, specifically in relation to the gradient of the site being greater than 1:8, and concerns that the proposed development could result in pollution of neighbouring properties to the south.

**PA Ref. 19/6194** - permission refused for the removal of a mobile home, the construction of a house, and the installation of a waste water treatment tank and irrigation area and ancillary siteworks.

The refusal reasons concerned endangerment of public safety/traffic hazard, arising from the proposed car parking and circulation arrangement and the non-compliance of the proposed development with the EPA Code of Practice 2009, specifically in relation to the gradient of the site being greater than 1:8, and concerns that the proposed development could result in the pollution of neighbouring properties to the south.

I note that the Planning Officer makes no reference under 'planning history' in the planning report to a planning permission having been permitted for the mobile home on the appeal site. Furthermore, no such permission is evident following a planning history search on the Council's website.

## **5.0 Policy and Context**

### **5.1 Bandon Kinsale Municipal Area Plan, 2017**

5.1.1 The appeal site is located within the settlement boundary/existing built-up area of Crosshaven and the Bays, which includes Fountainstown, Church Bay, Graball Bay, Fennell's Bay and Myrtleville. Crosshaven and the Bays is identified as a 'Key Village' within the Local Area Plan.

5.1.2 The LAP notes the limited capacity of the Crosshaven and the Bays area for future development given its sensitive coastal location, poor access and lack of wastewater infrastructure. The LAP also notes that Crosshaven and Bays has limited capacity to accommodate individual houses in significant numbers due to its scenic value. Furthermore, there is no public sewer in Fountainstown and the LAP provides that proposals for houses should comply with the relevant EPA Code of Practice.

5.1.3 Policy DB-01 provides *'within the development boundary of Crosshaven and Bays encourage the development of up to 286 additional dwelling units during the plan period'*.

5.1.4 Policy DB-05 provides *'the boundary of Crosshaven and the Bays overlaps and is adjacent to the Cork Harbour Special Protection Area. Development in the Key Village will only be permitted where it is shown that it is compatible with the requirements of the Habitats Directive and the protection of these sites.'*

## 5.2 Cork County Development Pan 2014 – 2020

5.2.1 The provisions of the Cork County Development Pan 2014 – 2020 relevant to this assessment are as follows:

- Chapter 12 Heritage - Objective HE 4-6: Design and Landscaping of New Buildings.
  
- Chapter 13 Green Infrastructure and Environment
  - Objective GI 6-1: Landscape.
  - Objective GI 10.3: Groundwater Protection.
  - Objective GI 10.5: Discharges in Unsewered Areas.

5.2.2 The appeal site is located in an area identified as an 'Indented Estuarine Coast' in Appendix E of the Development Plan. These locations are considered to have a very high landscape value, a very high landscape sensitivity and are of national importance. The appeal site is indicated as being located within a 'High Value Landscape.'

## 5.3 Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10) 2009

The Code of Practice (CoP) sets out guidance on the design, operation and maintenance of on-site wastewater treatment systems for single houses. The EPA CoP 2009 was revised in March 2021, replacing the previous Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10) issued in 2009. As stated in the preface of the revised CoP, the revised CoP '*applies to site assessments and subsequent installations carried out on or after 7th June 2021. The 2009 CoP may continue to be used for site assessments and subsequent installations commenced before 7th June 2021 or where planning permission has been applied for before that date*'. Based on the forgoing the EPA CoP 2009 is considered to be the relevant CoP for the purpose of this appeal.

## **5.4 Natural Heritage Designations**

- Cork Harbour SPA (Site Code 004030) is located c 130 metres south of the appeal site.
- Great Island Chanell SAC (Site Code 001058) is located c. 12 km north-east of the appeal site.
- Fountainstown Swamp pNHA (Site Code 000371) is located c. 600 metres west of the appeal site.

## **5.5 EIA Screening**

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity of the site 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 at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

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

The grounds of appeal can be summarised as follows:

- The Planning Authority appear to have considered the proposal on the basis that 'site improvement works' are proposed however no ground improvement works are proposed in the development.
- The proposed development entails effluent discharging to a secondary treatment system, tested and certified to I.S. EN 12566-3-2005, discharging to an intermittent filter system, also tested and certified to I.S. EN 12566-3-2005 which has a discharge quality certified by the vendor, greater than the EPA discharge quality guidelines to the underlying soils on the site and subsequently the discharge is in accordance with Chapter 10 of the CoP.



- There is an existing septic tank on the site which is not constructed in accordance with the EPA Code of Practice 2009. The Planning Authority appear to have overlooked Section 6.6 of the EPA Code of Practice 2009, which states *‘variances to the CoP requirements maybe considered by the Local Authority when it is satisfied that the proposed upgrade will provide improved treatment and reduced environmental impact’*. The proposed upgrade will provide improved treatment and reduced environmental impact to the area.
- When the existing holiday home on the site becomes loaded/occupied, it takes on the same discharge loadings as a permanent dwelling.
- The EPA CoP 2009 refers a 1:8 site slope in 4 no. locations, at paragraph 6.5 ‘Ground Improvement Works’; at paragraph 7.2.3 ‘Raised Percolation Areas’; at paragraph 8.4 ‘Mounded Systems’; and in Annex C ‘Laying of Pipework’. The proposed development however does not comprise ground improvement works, a raised percolation area, and there is no pipework involved in the proposed development. The proposed treatment is in compliance with the CoP and since the system is a sealed system with integrated pipework, paragraphs 6.5, 7.2.3, 8.4 and Annex C do not apply.
- The soil infiltration rate indicates that there is no way for effluent to flow out through the slope into the neighbour below. The applicant is aware of the requirements under Section 70 of the Water Services Act 1970.
- The solution proposed is the best solution for the site.

## 6.2 Planning Authority Response

None received.

## 6.3 Observations

An observation has been received from Kathleen Crowley (‘Drishane, Fountainstown, Myrtleville, Co. Cork, the property which adjoins the appeal site to the south). The observation generally reiterates the points raised in the third-party submission to the Planning Authority, specifically;

- That the proposed development could impact the safety and supply of water serving the property to the south, given that the water pipe serving this property traverses the appeal site.
- That the proposed development could potentially result in waste water seeping onto the property to the south, noting the steep slope of the site.

#### **6.4 Further Referrals**

The appeal was circulated to The Heritage Council and the Development Applications Unit (DAU) of the National Parks and Wildlife Service (NPWS) however no responses were received.

### **7.0 Assessment**

- 7.1. The site is located within the settlement boundary for Crosshaven and the Bays. I consider that the design and scale of the proposed development would not be out of character with the surrounding area or negatively impact on existing residential amenities in terms of overlooking, overshadowing or have an overbearing impact.
- 7.2. The appeal site is indicated as being located within a 'High Value Landscape.' To the north and west of the appeal site is Scenic Route S59 (roads between Crosshaven and Myrtleville, Church Bay, Camden, Weavers Point and Fountainstown). I do not consider that the design of the proposed dwelling would negatively affect the character of the landscape or the scenic route. Additionally, the appeal site is within a settlement and will be nestled within a group of existing dwellings. Accordingly, I do not anticipate any negative impacts on the visual amenities of the area rising from the proposed dwelling.
- 7.3. A new vehicular access is proposed to serve the dwelling. The cul-de-sac onto which access is proposed is narrow and as a result vehicles using it travel at a low speed. Having regard to the available sightlines at the proposed entrance (i.e. c.42 metres to the east and c. 33 metres to the west) and to the low-speed environment in the vicinity of the site, I consider that the proposal is acceptable in terms of traffic safety.
- 7.4. The main issue in this appeal relates to the reason for refusal, in this regard the site gradient and the ability of the site to treat the foul effluent in accordance with the EPA

Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10), 2009. The impact of the proposal on the water supply serving a neighbouring property and issue of Appropriate Assessment are also addressed. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

## **7.5 Wastewater Treatment**

- 7.5.1 The applicant's Site Characterisation Report identifies that the subject site is located in an area with a Locally Important Aquifer where the bedrock vulnerability is extreme. A Ground Protection Response of R2<sup>1</sup> is noted. Accordingly, I note that Table B.2 'Response Matrix for On-Site Treatment Systems' of the EPA CoP 2009 indicates the suitability of the site for a treatment system or a septic tank (subject to normal good practice). Groundwater flow direction has been stated as being in southerly direction.
- 7.5.2 The trail hole depth observed in the Site Characterisation Report was 1.7 metres and bedrock was at 1.5 metres. No water was in the trail hole. The soil conditions found in the trail hole are described as comprising shales and gravels, with topsoil comprising clay. Percolation test holes were dug and pre-soaked. A T value of 3 was recorded, and the EPA CoP 2009 (Table 6.3) confirms that the site is suitable for a septic tank system or a secondary treatment system discharging to groundwater. The CoP 2009 states that a P-test should be carried out at ground level where there are limiting factors, such as high-water table or shallow bedrock. A P-Test is not required under EPA CoP 2009 given the findings from the trail hole explorations. I did not observe any open trail hole or percolation test holes at the time of my site visit to verify the results of the Site Characterisation Report. I am satisfied that the proposal complies with the required separation distances set out in Table 6.1 of the CoP 2009. Additionally, I note that the soakaway is located down gradient of the treatment system. The Site Characterisation Report states that the area is served by a public water supply and that the site is not affected by circular separation zones for private wells. There are no private wells or sources of potable water extraction points down slope of the proposed percolation area.
- 7.5.3 The Site Characterisation Report submitted with the application concludes that given that Ground Water Response and the average T-Test result, that the site is suitable for a septic tank or a treatment plant however, due to the shallow subsoil and the steep

gradient, a septic tank would not be acceptable on this terrain and a proprietary treatment system is proposed. It is stated that proprietary treatment systems are designed to be self-treating and are not reliant on the underlying soils as part of the design filter, as such the underlying soils are only used for the disposal of treated waters. It is proposed to install an Activated Sludge Secondary Treatment Package Wastewater Treatment System (Solido Smart 6 Pumped Wastewater System and a Premier Tech Ecoflo Tertiary Filter with a gravel distribution bed) to the south of the proposed dwelling.

7.5.4 The refusal issued by the Planning Authority primarily concerns the steep gradient/topography of the appeal site. The Planning Authority states that as the slope of the site exceeds 1:8, it would not accord with the EPA CoP 2009. The appellant contends that as per the EPA CoP 2009, the slope of the site is only relevant in specific circumstances, and that none of these apply to the proposed development.

7.5.5 I note that the EPA CoP 2009 makes specific reference to the slope of a site in the context of 'Site Improvement Works' (see paragraph 6.5), 'Raised Percolation Areas' (see paragraph 7.2.3), 'Mounded Systems' (see paragraph 8.4) and the 'Laying of Pipework' (see Annex C). The Site Characterisation Report submitted by the applicant (see Note 13) refers to 'Site Improvement Works', and states an area of the appeal site was recently '*partially levelled and the site contours adjusted to provide an area that may be considered for the percolation area*'. The applicant however states in their appeal submission that site improvement works are not proposed.

7.5.6 I note Section 6.5 of the EPA CoP 2009 which states that '*a constructed soil filter system (raised mound) is not considered to be site improvement works as it is itself a treatment system*'. I also note the description provided for 'site improvement works' in Annex F of the EPA CoP 2009. Annex F states that '*some sites may have a high-water table, may have insufficient subsoil depth, or may have unsuitable subsoil for the purposes of treatment and percolation of the pre-treated waste water*'... and '*it may be possible in some cases to render the site suitable for development after carrying out specific engineering works on the site, known as 'site improvement works*'. A level area has been created (c. 10 metres in length, c. 2 metres in width and c. 0.5 metres in depth) at the southern part of the site, on the steepest part of the slope, close to the percolation area. Having regard to the works carried out on the site, specifically the levelling and contouring of part of the site, I consider that these works constitute 'site

improvement works' as they have been carried out with the objective of improving the characteristics of the site. Accordingly, I consider that the proposal does not accord with the requirements of the EPA CoP 2009, specifically Section 6.5. Additionally, while not directly applicable given the date of the submission of the subject application, I note that the new EPA CoP 2021, paragraph 6.2, states that *'domestic waste water treatment systems are not permitted to be constructed on slope angles in excess of 1:8'*. The proposed development is not therefore consistent with the requirements of the new CoP.

- 7.5.7 The dwellings in the vicinity of the appeal site would appear to be served by individual septic tanks and/or wastewater treatment systems. It is not apparent from the details submitted the precise location of the septic tanks and percolation areas/soak holes serving the neighbouring dwellings. It is likely that adequate separation distances in accordance with the EPA Code of Practice 2009/2021 for individual wastewater treatment systems would be achieved given the generous plot sizes in the area. However, the issue of proliferation of individual treatment systems is of concern, particularly given the results of the site assessment (specifically the recorded T value of 3, which is at the limit of the acceptable range and the site contours) and I consider that given the existence of approximately 30 dwellings on individual treatment systems/septic tanks within a 250-metre distance of the appeal site, that the proposed development would exacerbate the existing proliferation of individual treatment systems in a limited area with the potential for negative implications for public health.
- 7.5.8 The attention of the Board is referred to Circular PSSP1/10 'Implementation of New EPA Code of Practice on Wastewater Treatment and Disposal Systems Serving Single Houses', 5<sup>th</sup> January 2010, DoHLGH, which states that a precautionary approach should be adopted, and approval not given to a development where concerns have not been adequately addressed.
- 7.5.9 In conclusion, based on my site inspection, and information on the file, and noting the steep gradient on the site, the direction of groundwater flow (southwards), the density of septic tanks/treatment systems in the area, the works undertaken which comprise levelling and contouring, the high level of permeability of the site, with a stated T value of 3 and the proximity of the proposed development to adjoining property, which is located down slope of the appeal site, on balance and having regard to the precautionary principle, I do not consider that the site is appropriate to cater for an on-

site waste water treatment system without detriment to the environment or adjoining properties.

7.5.10 The documentation submitted by the appellant states that a septic tank has been in situ on the appeal site for c. 30 years. The appellant contends that the proposed upgrade will provide improved treatment and reduced environmental impact to the area when compared to the existing situation and that, in accordance with Section 6.6 of the EPA CoP 2009, which states *'variances to the CoP requirements maybe considered by the Local Authority when it is satisfied that the proposed upgrade will provide improved treatment and reduced environmental impact'* that the proposal should be deemed acceptable. Having reviewed the planning history for the appeal site, I cannot identify the planning permission which authorised either the mobile home or the septic tank on the site. Accordingly, I do not consider that a clear case has been presented that the provisions contained in Section 6.6 of the EPA CoP 2009 would apply in this instance. Furthermore, and for the reasons set out in Paragraph 7.5.6 (above), I do not consider that it has been clearly demonstrated that the proposal would represent an improvement on the existing situation.

## **7.6 Impact on Water Supply of Neighbouring Property**

7.6.1 The observer to the appeal, who resides at 'Drishane', Fountainstown, which adjoins the appeal site to the south raises concerns in relation to the potential impact of the proposed development on the safety and supply of water serving her property, given that the water pipe serving this property traverses the appeal site. From reviewing the particulars submitted with the appeal I note the location of the water pipe, which is to be diverted along the western boundary of the appeal site. I do not consider this issue to be a planning issue and I note the provisions of Section 34 (13) of the Planning and Development Act 2000, as amended, i.e. a person shall not be entitled solely by reason of a permission under this section to carry out any development. The issue raised is therefore considered to a civil issue between the parties to the appeal.

## 7.7 Appropriate Assessment – Screening

### Compliance with Article 6 (3) of the Habitats Directive

7.7.1 The requirements of Article 6(3) of the Habitats Directive as related to screening the need for appropriate assessment of a project under Part XAB, Section 177U of the Planning and Development Act 2000, as amended, are considered fully in this section.

### Background on the Application

7.7.2 The proposed development was not screened for Appropriate Assessment by the Planning Authority having regard to the issues concerning foul sewer treatment on the site and based on the recommendation of the Area Engineer, which was that permission should be refused. Furthermore, a screening report for Appropriate Assessment has not been submitted with this appeal. Therefore, this screening assessment has been carried out *de-novo*.

### Screening for Appropriate Assessment – Test of likely significant effects

7.7.3 The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European Site(s). The proposed development is examined in relation to any possible interaction with European Sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

### Brief description of development

7.7.4 In summary, the proposed development comprises;

- The removal of a mobile home from the site.
- The decommissioning of a septic tank on the site.
- The construction of a split-level dwelling.
- A waste water treatment system.
- Ancillary site works.

7.7.5 Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of the implications for likely significant effects on European Sites:

- Pollutants or sedimentation to ground or surface water (e.g. run-off, silt, fuel, oils, wastewater effluent) at construction and operational phases of the proposed development and disturbance to birds during the construction phase of the proposed development.

#### Submissions and Observations

7.7.6 No submissions have been received from prescribed bodies or third parties relevant to this assessment.

#### European Sites

7.7.7 The appeal site is not located in or immediately adjacent to a European Site. The closest European Site is Cork Harbour SPA (Site Code 004030), c. 130 metres south of the appeal site. Cork Harbour SPA (Site Code 004030) is a sheltered bay system and comprises several river estuaries. There is one other European Site within 15 km/possible zone of influence of the proposed development, the Great Island Channel SAC (site Code 001058), located c. 12 km north-west of the appeal site. Table 7.1 (overleaf) indicates the European Sites within the zone of influence of the appeal site. Where a possible connection between the proposed development and a European Site has been identified, these sites are examined in more detail.



**Table 7.1 - Summary Table of European Sites within a possible zone of influence of the proposed development.**

European Site (code)	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)	Connections (source, pathway receptor)	Considered further in screening Y/N
Cork Harbour SPA (004030)	Little Grebe ( <i>Tachybaptus ruficollis</i> ) [A004] Great Crested Grebe ( <i>Podiceps cristatus</i> ) [A005] Cormorant ( <i>Phalacrocorax carbo</i> ) [A017] Grey Heron ( <i>Ardea cinerea</i> ) [A028] Shelduck ( <i>Tadorna tadorna</i> ) [A048] Wigeon ( <i>Anas penelope</i> ) [A050] Teal ( <i>Anas crecca</i> ) [A052] Pintail ( <i>Anas acuta</i> ) [A054] Shoveler ( <i>Anas clypeata</i> ) [A056] Red-breasted Merganser ( <i>Mergus serrator</i> ) [A069] Oystercatcher ( <i>Haematopus ostralegus</i> ) [A130] Golden Plover ( <i>Pluvialis apricaria</i> ) [A140] Grey Plover ( <i>Pluvialis squatarola</i> ) [A141] Lapwing ( <i>Vanellus vanellus</i> ) [A142] Dunlin ( <i>Calidris alpina</i> ) [A149] Black-tailed Godwit ( <i>Limosa limosa</i> ) [A156]	c. 130 metres south	No direct connection - Indirect hydrological connection via ground water	Y

	Bar-tailed Godwit ( <i>Limosa lapponica</i> ) [A157] Curlew ( <i>Numenius arquata</i> ) [A160] Redshank ( <i>Tringa totanus</i> ) [A162] Black-headed Gull ( <i>Chroicocephalus ridibundus</i> ) [A179] Common Gull ( <i>Larus canus</i> ) [A182] Lesser Black-backed Gull ( <i>Larus fuscus</i> ) [A183] Common Tern ( <i>Sterna hirundo</i> ) [A193] Wetland and Waterbirds [A999]			
Great Island Channel SAC (001058)	Tidal Mudflats and Sandflats [1140] Atlantic Salt Meadows [1330]	c. 12 km north-east	No direct avenues of connectivity	N (due to separation distance and lack of connectivity)

Identification of likely effects

7.7.8 There is a potential indirect hydrological link from the appeal site to Cork Harbour SPA (Site Code 004030) via groundwater. The Conservation Objective for Cork Harbour SPA (Site Code 004030) is to maintain or restore to favourable conservation status, the species/qualifying interests (including their wetland habitat). Factors which could adversely affect the achievement of the conservation objective for Cork Harbour SPA (Site Code 004030) are habitat modification, anthropogenic disturbance, and ex-situ factors (see *Cork Harbour SPA Conservation Objective Supporting Document, Version 1, NPWS November 2014*). Cork Harbour is referred to in this document as

having a history of problems associated with water pollution and eutrophication, with several locations around the harbour currently having no treatment facilities. According to the South Western River Basin District River Management Plan 2011-2015, the current water quality status of Cork Harbour is 'moderate'.

7.7.9 The main elements of the proposal which may give rise to impacts on Cork Harbour SPA (Site Code 004030) include those as a result of construction activity and operational activity. These are summarised as follows:

#### Construction and Operational Phase

7.7.10 During the construction phase there is potential for surface water runoff from site works to temporarily discharge via groundwater to Cork Harbour SPA (Site Code 004030). The only qualifying interest within Cork Harbour SPA (Site Code 004030) which has the potential to be impacted from potentially polluted surface water is the wetland habitat. However, given nature and scale of the proposed construction works, the separation distance involved and the nature of the intervening terrain, it is not expected that the water quality pertinent to this European Site will be negatively affected by any contaminants, such as silt from site clearance and other construction activities.

Construction activities on the site could also potentially result in disturbance to bird species connected with Cork Harbour SPA (Site Code 004030). Given the existing developed nature of the appeal site, which does not represent a favourable foraging habitat for birds associated with Cork Harbour SPA (Site Code 004030), the nature and scale of the proposed construction works and the separation distance involved, it is not anticipated that the proposed development would result in any disturbance to bird species listed as SCI within Cork Harbour SPA (Site Code 004030).

Therefore, the construction phase is not considered likely to result in any significant environmental impacts that could affect European Sites within the wider catchment/marine area.

Regarding operational phase impacts on Cork Harbour SPA (Site Code 004030), the proposed development does not result in any habitat loss and the main potential impact arises from effluent discharging to the ground. However, the nature of the proposed development is such that subject to the satisfactory installation and maintenance of the proposed treatment system, the potential impact on ground water

should not be significant, with only treated effluent being discharged to the ground. Similar to surface water run-off, the effects of dilution over the distance concerned would ensure that there would not be any likely significant effects on Cork Harbour SPA (Site Code 004030) having regard to its conservation objectives.

In-combination impacts

7.7.11 There are no recent planning applications for the surrounding area that share a direct link with the subject site and that could act in combination with the proposed development.

7.7.12 Fountainstown Beach, which is located c. 500 metres south-west of the appeal site, is used for leisure purposes. However, it is not considered that the proposed developed would have any in-combination impacts with same.

7.7.13 A summary of the outcomes of the screening process is provided in the screening matrix Table 7.2 (overleaf).

Table 7.2 - Summary Screening Matrix				
European Site	Distance to proposed development/ Source, pathway receptor	Possible effect alone	In combination effects	Screening conclusions:
Cork Harbour SPA (004030)	c. 130 metres south	The proposed development entails effluent discharging to a secondary treatment system and therefore only treated effluent will discharge to the ground. Having regard to the distance between the proposed development and on Cork Harbour SPA (Site Code 004030), the effects of dilution on the treated discharge and surface water run-off, and to the distance between the proposed development and Cork Harbour SPA (Site Code	No effect	Screened out for need for AA

		004030), the proposed development is not likely to result in significant effects on Cork Harbour SPA (Site Code 004030).		
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Mitigation measures

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

**Screening Determination**

Finding of no likely significant effect

7.7.15 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 Site No. 004030 or any other European Site, in view of the site’s Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is therefore not required. This determination is based on the following, the installation and maintenance of an on-site waste water treatment system, and the consequent discharge of treated effluent to ground, the effects of dilution on the treated discharge and surface water run-off and the separation distance between the appeal site and Cork Harbour SPA (Site Code 004030), at c. 130 metres.

**8 Recommendation**

8.1 Having regard to the above it is recommended that planning permission be refused for the proposed development based on the following reasons and considerations.

## 9 Reasons and Considerations

1. Having regard to the steeply sloping topography of the site, with a site gradient in the order of 1:4 - 1:5, to the characteristics of the subject site and the contents of the Site Assessment, which indicate a high level of permeability and the density of treatment systems in the vicinity, on the basis of the information available and the submissions made in the planning application and the appeal submission, the Board is not satisfied that the site is capable of treating foul effluent arising from the dwelling in accordance with the standards set out in the Code of Practice for Wastewater Treatment and Disposal Systems serving Single Houses (Environmental Protection Agency 2009) and considers that the method of foul water disposal will render the treatment of the effluent unacceptable and could increase the risk of serious water pollution. Accordingly, the proposed development would be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

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Ian Campbell  
Planning Inspector

21<sup>st</sup> January 2022