



An
Bord
Pleanála

Inspector's Report ABP-310212-21

Development	Demolition of structures, 17 houses and three serviced site
Location	Cois Cuain, Cullenagh, Courtmacsherry, County Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	20/6232
Applicant(s)	Cuan Developments Ltd.
Type of Application	
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Mary O'Brien & Others
Date of Site Inspection	16 th June, 2021
Inspector	Kevin Moore

1.0 Site Location and Description

- 1.1. The 2.58 hectare site is located at the western end of the village of Courtmacsherry in County Cork. It is accessible from Regional Road R601 to the north via the access road serving Cois Cuain, a residential estate of semi-detached houses and townhouses. Local roads bound the site to the west and south. With the exception of the housing estate to the north of the site, lands in the immediate vicinity comprise main agricultural lands. There is a derelict dwelling and farm building on the west side of the site and a former pump house at the north-east end of the site. The site slopes steeply from south to north. There is dense hedgerow and scrub running east / west across the middle of the site. There are a number of detached houses to the south of the site accessed from a local road.

2.0 Proposed Development

- 2.1. The proposed development would comprise the demolition of a partially collapsed house, farm building and water pump house, the construction of 17 houses, and the provision of three residential serviced sites, and all ancillary works. Access to the houses would be via the existing Cois Cuan estate to the north, while the serviced sites would have individual accesses onto the local road L-8111-0 to the south. The scheme would be developed in two phases, the first phase being the development of 10 houses to the south of Cois Cuan and the second phase of 7 houses being those along the western side of the site. There would be 14 semi-detached and 3 detached houses in the scheme. The principal open space serving the development would be along the northern section of the site adjoining Cois Cuan estate. The development would be served by a mains water supply and public sewer.
- 2.2. Details submitted with the application included a Cover Report, a Design Brief, and an Architectural Design Statement.

3.0 Planning Authority Decision

3.1. Decision

On 15th April, 2021, Cork County Council decided to grant permission for the proposed development subject to 40 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted the site's and adjoining land's planning history, reports received, third party submissions, and development plan and policy provisions. It was considered that residential development for full time occupation is acceptable in principle. It was noted that the density of development would be 7.8 dwellings per hectare and it was acknowledged that the LAP indicates that the normal recommended scale of individual schemes in Courtmacsherry is 12 units. The applicant's proposed phasing is also noted. It was considered that the provision of 17 dwellings was acceptable having regard to the development being within the development boundary for Courtmacsherry, the LAP target of providing 155 dwellings during the plan period and given there is a new wastewater treatment system serving the area. It was further considered that the three serviced sites should be omitted due to the topography of the site and the resulting visual impact. It was noted that the site is located within a designated High Value Landscape. The retention of trees was seen to be of importance to provide a backdrop to the development. The proposed mix of house types was seen as acceptable. It was submitted that no significant adverse impacts on adjoining residential amenity in terms of overlooking, overshadowing and loss of light. Clarity on the boundary wall proposed along the northern end of the site was seen to be required. A request for further information was recommended in accordance with the reports received, and seeking the omission of the proposed serviced sites and clarity on the northern boundary wall.

The Senior Executive Planner concurred with the Planner's recommendation.

3.2.2. Other Technical Reports

The Public Lighting Section sought further information relating to the provision of lighting.

The Environment report relating to waste management had no objection to the proposal subject to conditions.

The Housing Officer was satisfied with the proposed units for social housing purposes.

The Estates Primary report submitted that the proposal would effectively be phase 2 of the Cois Cuain estate development. It was also noted that the existing estate would be taken in charge shortly by the Council. It was stated that flood risk is not an issue as the site is not within Flood Zones A or B. Reference was made to the need for the turning head at the cul-de-sac end needs to be increased in size. It was noted that the foul sewer and water network in the existing estate is not yet in charge by Irish Water. There was no objection to the proposal subject to the attachment of a schedule of conditions.

The Ecologist recommended that the applicant be requested to submit a Natura Impact Statement due to the surface water upgrade works proposed within the Courtmacsherry Estuary SAC and SPA and the potential for silt and other pollutants at the construction stage to discharge into the SAC and SPA. The Ecologist was not in favour of tree felling in the woodland area of the site. An updated tree survey report was requested and an Ecological Impact Assessment Report.

The Area Engineer sought clarity on areas proposed to be taken in charge, the servicing of the serviced sites, sightlines at the R601 and for the serviced sites, entrance details for the serviced sites, and provision of a construction management plan.

3.3. Prescribed Bodies

Inland Fisheries Ireland requested that Irish Water signified that there is sufficient capacity in existence so that the proposed development would not overload the existing treatment facilities or result in polluting matters entering waters.

Irish Water had no objection to the proposed development.

3.4. **Third Party Observations**

Third party submissions were received from Cian Buckley, Fiona Hanly, Mary O'Brien and Simon Van Cauwenbergh, Brian Welton, Nikki Tait, Timothy Singleton, Conor and Olivia Lordan, Diarmuid and Noreen Brickley, Bobby and Regina Brickley, Neil Sexton, and Rita Ó Cléirigh. The issues raised included use of the local road for the construction stage, loss of trees, problems with the wastewater treatment facility, water supply sufficiency, impact on the character of the area, flooding of local roads, lack of amenities and services, traffic impact, impact on residential amenity, density, impact on wildlife, non-compatibility with development plan provisions, and loss of a public right of way.

- 3.5. A request for further information was issued by the planning authority on 4th December, 2020. A response to this request was received on 19th February, 2021 and included an NIS, an ecological impact assessment report, the omission of the serviced sites, a tree condition survey report and tree survey plan, and a construction management plan.
- 3.6. Further third party submissions were received from Nikki Tait and Bobby and Regina Brickley which reflected previous concerns raised by third parties.
- 3.7. The reports to the planning authority were as follows:
- The Public Lighting Section had no objection subject to conditions.
- The Estates Section had no objection to the proposal subject to a schedule of conditions.
- The Environment Section had no objection.
- The Area Engineer had no objection to the proposal subject to a schedule of conditions.
- The Ecologist was satisfied with the further information response and was satisfied that the development would not give rise to impacts on the integrity of the

Courtmacsherry Estuary SAC and SPA. There was no objection subject to the attachment of two conditions.

The Planner noted the reports received and the third party submissions and considered the further information to be satisfactory. A grant of permission was recommended subject to conditions.

The Senior Executive Planner concurred with the Planner's recommendation.

4.0 **Planning History**

I note from the Planner's report the following history relating to lands in the vicinity:

P.A. Ref. 98/1923

Permission was granted for the construction of 42 houses for sale or letting as holiday homes on lands to the north-east.

P.A. Ref. 05/6879

Permission was granted for a residential scheme of 37 houses associated with the site and the Cois Cuain estate to the north.

5.0 **Policy Context**

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

Courtmacsherry is designated a 'Key Village'. The site lies within the village's development boundary at the western edge of the village.

The Plan states that the strategic aims for the village are to encourage the consolidation of the village, preserve the architectural character and landscape setting and to promote sympathetic development in tandem with the provision of services. A key consideration for future development is make provision for permanent housing occupancy.

Local Area Plan Objectives include:

DB-01

Within the development boundary encourage the development of up to 155 additional dwelling units for full time occupancy during the plan period.

The Plan notes in Table 4.1 that the normal recommended scale of any individual housing scheme within the village is 12 units. Individual schemes in excess of this scale may be considered where it is demonstrated that the overall scheme layout reinforces the existing character of the village and the scheme is laid out, phased and delivered, so as not to reflect a residential housing estate more suited to a larger settlement.

DB-02

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

A band of woodland extending eastwards immediately beyond the site is subject to a Specific Development Objective (Objective O-01) - "Open space preserved for visual amenity and tree preservation."

5.2. EIA Screening

Having regard to the nature, size and location of the proposed development, the fully serviced nature of the development, and its location within an urban settlement adjoining an established residential estate and on lands on which residential development was previously permitted, it is considered that 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 synthesised as follows:

- The proposed development does not conform to the standards and objectives of the Cork County Development Plan and the conditions attached with the permission are insufficient to raise the proposal to the required level. Reference is made to the deficiency in services and facilities in the village, the burden placed on the local road network, the likelihood of the houses

becoming holiday homes, the lost opportunity to provide more 'age-friendly' units, and the protection of amenity features.

- The conditions of the Council's decision do not sufficiently address the adverse environmental impact the development will have in a designated 'High Value Area' and on an adjoining Special Protection Area. Reference is made to removal of mature trees along the southern and western boundaries, adverse implications by the upgrading of the local road to the west of the site, the impact on birds and on the nearby SPA, and the need to enhance Condition 5 of the planning authority's decision relating to tree protection.
- The conditions of the permission fail to sufficiently consider and protect against the adverse impact on existing residents and the serious loss of amenity to them and the local community. Reference is made to the impact on residents on the southern side of Cois Cuain estate by way of loss of privacy, loss of light, the need to level out that part of the site in the north-west corner, the loss of trees on the western boundary, the need to resolve issues with the new wastewater treatment plant, the need to maintain the height of the proposed wall along the northern boundary at a height of 1.8m, and the need to maintain the adjoining local road, L-8111, in its current state as it is used as a popular walking route.

6.2. Applicant Response

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

- The proposed development is consistent with the objectives of the Cork County Development Plan 2014 and the West Cork Municipal District Local Area Plan 2017. The entire appeal is based on the Draft 2022 County Development Plan which is not adopted. The proposal comprises a sequential extension to an existing estate. An extensive range of services are provided within the parish area, within the village, or within the neighbouring village of Timoleague. Courtmacsherry also has a new wastewater treatment plant. The proposed housing mix complies with development Plan requirements. The removal of trees will be minimised to reduce the impact on the area of high landscape value.

- The proposed development will not have a negative environmental impact on the area. Wholesale felling of trees is not proposed. 12 mature trees are to be removed on health and safety grounds. All other trees and hedgerow are to be retained.
- The proposed development will not injure the residential amenities of properties in the vicinity and will enhance Courtmacsherry as a whole by providing additional residential units in the area and ensuring the development of a brownfield/vacant site. Due to the level difference between the site and the existing Cois Cuain development, the applicant has taken great care to design the development in a way to minimise the impacts on existing dwellings. Boundary treatment will be provided in accordance with the planning authority's requirements. Existing trees and vegetation are to be retained and supplemented with additional planting.
- The planning application was accompanied by a comprehensive list of supporting material which was prepared to a very high standard and contains all the information required/sought by the planning authority.

Noting the Board will be assessing the proposal *de novo*, the applicant asks that the proposed three serviced sites be retained, having regard to the limited impact on trees arising from the footpath and infrastructure provision, the screening to be retained and the limited loss of trees, supplementary planting, and the houses providing an alternative to one-off housing in the hinterland.

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 appeal are compliance with development plan provisions, impact on residential amenity, traffic impact, and loss of trees and hedgerow. I also note the issues raised relating to the nature and extent of the development and servicing provision. I further note the applicant's

reference to the consideration of the three serviced sites that were omitted by the planning authority, which will be addressed first, and I will also address appropriate assessment.

7.2. **The Three Serviced Sites**

- 7.2.1. The three serviced sites proposed to be located at the southern end of the site were requested to be omitted by the planning authority through its further information request. This was requested due to perceived adverse visual impact.
- 7.2.2. The site of the proposed development is located within the development boundary of the village of Courtmacsherry. This is a coastal location that is designated a High Value Landscape in the current Cork County Development Plan 2014. Such landscapes are considered to be the county's most valuable landscapes. The Plan requires care to be taken to successfully locate large scale developments without them becoming unduly obtrusive. Objective GI 6-1 of the Plan relating to landscape requires the protection of the visual and scenic amenities of the built and natural environment of the county, maintaining respect for the environment, and ensuring that new development meets high standards of siting and design.
- 7.2.3. The context for the development of serviced sites for detached houses independent of the proposed housing scheme must first be understood. The location for the proposed serviced sites is on elevated, exposed land and this development would seek independent accesses onto a minor local road to the south. There is a distinctive band of native hedgerow running along a ridge east/west to the north of the serviced site location and this links with a deep band of woodland to the east to form a most important backdrop to the village of Courtmacsherry, notably when viewed from Regional Road R600. The historic and continued development of the settlement of Courtmacsherry clearly respected this as somewhat of a defining feature of the settlement, with most buildings and other structures developed north of this woodland. Furthermore, it is evident that much of the newer estate development of the village has sought to maintain and not break through this important feature of the village's setting. I accept that there have been sporadic one-off houses

developed with frontage onto the local road in the vicinity of the location for the serviced sites. These, indeed, are good reference points and they ably demonstrate the incoherence of such development in such a sensitive location, presenting as prominent, intrusive and incompatible development with the more contained nature of the expansion of the village by more in-depth development.

- 7.2.4. It is my submission to the Board that the development of the proposed serviced sites, resulting in the provision of detached houses south of the hedgerow, on higher ground, in a prominent and exposed location would constitute development that would be visually injurious to this high value landscape, would be incongruous with the setting of the village of Courtmacsherry, would add further to incoherent one-off development at this village perimeter location, and would set a most undesirable precedent for further development of this nature in the vicinity. I do not consider that such development could be perceived as sustainable.

7.3. **Compliance with Development Plan Provisions**

- 7.3.1. Courtmacsherry is designated a 'Key Village' in the West Cork Municipal District Local Area Plan 2017. The site lies within the village's development boundary and is at the western edge of the village. The Plan seeks to consolidate the village, while preserving the landscape setting and promoting sympathetic development. The Plan seeks to encourage the development of up to 155 additional dwelling units during the plan period in accordance with Objective DB-01. It also notes that the normal recommended scale of any individual housing scheme within the village is 12 units. Individual schemes in excess of this scale may be considered where it is demonstrated that the overall scheme layout reinforces the existing character of the village and the scheme is laid out, phased and delivered, so as not to reflect a residential housing estate more suited to a larger settlement. Further to my consideration on the three serviced sites above, I note that the band of woodland to the east is subject to an objective which is to preserve this woodland as open space (Objective O-01). I also note that it is an objective to protect and enhance the attractive coastal setting and landscape character of the village (Objective DB-02).

7.3.2. It is my submission to the Board that the proposed development of the 17 houses would form a coherent addition to the established estate of Cois Cuain. This is a fully serviced site and utilisation of existing infrastructure will allow the proposal to successfully integrate with the established housing. Further housing development of this nature is consistent with the form, character, scale, design and density of development which prevails in this part of the village. Such development would contribute to the achievement of Objective DB-01, while restriction of development further south on the site would support Objective DB-02. With regard to the easing of limits on the number of houses within any individual housing scheme, I submit to the Board that the proposed development, within the development boundary of the village, would present as a natural extension to the existing Cois Cuain estate. I again submit that the scale, height, density and form of the development is compatible with the adjoining estate development. This is consistent with the provisions of the Local Area Plan for Courtmacsherry and I consider this to be sustainable.

7.3.3. With regard to the current Cork County Development Plan, I acknowledge that the site is within a designated High Value Landscape at a sensitive coastal location. I submit that the proposed 17 houses would constitute a natural extension of the established Cois Cuain estate and I further consider that it would present to the public realm as an understandable extension of this estate. The intent is clear with regard to preservation of the integral natural amenities of the site, with extensive hedgerow and tree line retention and further supplementary planting. In my opinion, the housing development within this village could not reasonably be seen to be contrary to the Development Plan provisions as they relate to High Value Landscapes.

7.4. **Services Provision**

7.4.1. I note the appellant's concerns as they relate to the limited nature of services and facilities serving Courtmacsherry. I further note the applicant's response identifying the wide range of services in the vicinity. Due regard must also be had to the Local

Area Plan provisions for the further provision of housing in Courtmacsherry during the plan's lifetime, which the proposed development would contribute to.

- 7.4.2. I note from the Local Area Plan that the village has a range of community facilities including two churches, a community hall, a playground, a tennis court, a shop, several pubs, guest houses and a community shop. There are primary schools in nearby Timoleague and Barryroe and there is also a range of sporting pitches and amenities in the village area. I am satisfied to conclude that the proposed small-scale residential development, similar to other residential development in this village, can be serviced by facilities within the village, by the neighbouring village of Timoleague, and by other services and facilities in the immediate area. There are no concerns about the need for travel along the R600 to provide for additional servicing needs.
- 7.4.3. I further note concerns raised about the new wastewater treatment plant relating to odour. These are concerns beyond the scope of the proposed development. It is clear that there are no water services-related deficiency concerns arising from the proposed development. Irish Water had no objection to this proposal.

7.5. **Nature and Extent of the Proposed Development**

- 7.5.1. I note the third party concerns about the likelihood of the proposed houses becoming holiday homes. I accept that this is a reasonable concern. The high volumes of holiday home development in coastal locations in the West Cork area in villages such as Courtmacsherry must at this stage raise very serious sustainability concerns. Such development gravely impacts on the ability to provide affordable housing to meet genuine local housing needs, while leaving good housing stock unoccupied for most of the year. I note from the Local Area Plan provisions relating to Courtmacsherry that it is stated that any new housing should be more orientated to local permanent housing. I submit to the Board that the occupancy of the proposed housing should be restricted and it should not provide for holiday home development without a prior grant of planning permission being received.

7.5.2. I also note the appellants' issue that the proposal constitutes a lost opportunity to provide more 'age-friendly' units. I submit to the Board that the scheme provides a significant variation of house types which meet with standards to accommodate all population cohorts. It is also seen to be consistent with established residential development in the immediate vicinity and could not reasonably be regarded as incompatible.

7.5.3. I further note the appellants concerns that the conditions attached with the planning authority's decision are insufficient. In response I note that the Board would be assessing this proposed development *de novo* and would be attaching its own conditions in the event of a grant of planning permission.

7.6. **Impact on Residential Amenity**

7.6.1. I first acknowledge that the site of the proposed housing development is on more elevated ground behind established houses within Cois Cuain. However, the Board will clearly understand the layout of the proposed development which distinctly provides for significant separation distances between existing and proposed housing. It is particularly noted that the provision of the primary open space in the scheme is between most of the proposed houses and the established houses at the southern end of the existing estate. Most of these houses have separation distances of between 50 and 60 metres from existing houses. It is noted that the house at the western end of the proposed scheme to the nearest established house in Cois Cuain would have a finished floor area that would be some 6.7 metres above the finished floor area of the nearest house in Cois Cuain. However, I note that it would have its gable facing northwards, it would have no first floor gable windows on its northern elevation, and would be at a distance of almost 35 metres from this nearest established house. In addition, it is noted that the proposed easternmost house would have a finished floor area that would be some 6.28 metres above the finished floor area of its nearest house in Cois Cuain, would be separated by over 30 metres to the gable of this nearest existing house, would have its gable which facing northwards, and would have no first floor windows on its northern elevation. Further to this, it is acknowledged that it is proposed to provide a high boundary wall

between the site and the adjoining housing to the north and the scheme also provides for backplanting of treelines as an additional form of screening.

7.6.2. I submit to the Board that the layout of the proposed scheme has had due regard to the established neighbouring houses. The separation distances and proposed screening is such that there could be no possibility of impact on light from the development of these houses, there would be no concern relating to overlooking of the established dwellings, and there could be no potential for overshadowing of the established houses from the proposed houses. It cannot reasonably be concluded that there would be significant adverse impacts on the amenities of established residents. This proposed scheme is wholly in keeping with the provisions of Cork County Development Plan as they relate to residential development.

7.7. **Traffic Impact**

7.7.1. The proposed development would utilise the existing infrastructure of Cois Cuain estate, inclusive of its internal access road and footpath network. It effectively would form an extension of the existing estate. No particular concerns arise in terms of the use of this established service road to serve the new development. The proposed development would not add substantially to the volume of traffic utilising it and there would be no capacity concerns.

7.7.2. I note that concerns have been raised about the use of the local road to the west of the site during the construction phase of the development. I submit to the Board that the use of the local road providing access at the construction phase is logical, such that there would be no undermining of the established estate internal road network and there would be an avoidance of safety concerns which would arise by bringing construction-related vehicles through a residential estate. There is an established access from the local road into the site and this location can safely accommodate construction traffic at a location which will not directly impact on existing houses. It is noted that there is likely to be some inconvenience for established road users, including a very short part of the road affecting the road as a walking route.

However, this would be very much short term given the nature and scale of development proposed.

- 7.7.3. I do not consider that there would be any serious traffic concerns arising from the proposed development.

7.8. **Loss of Trees and Hedgerow**

- 7.8.1. From the site layout permitted by the planning authority it can be ascertained that the clear intent of the developer's approach to the proposed development is to retain the dense hedgerows and treelines which form the eastern and western boundaries of this site. Furthermore, I note that it is intended to retain the hedgerow between the site of the housing and the proposed serviced sites. I acknowledge the loss of 12 mature trees identified by the applicant and it is understood that this arises from safety concerns and the health of the trees proposed to be removed. In addition, the applicant proposes to supplement the established hedgerows where considered necessary. I have acknowledged earlier the importance of hedgerow retention in terms of the protection of the wider amenity of the area. It is evident that this is proposed as part of the proposed development.

- 7.8.2. I submit to the Board that the concerns of the appellants on the loss of vegetation and the consequent impact on bird life and the ecology of this location cannot reasonably be supported based on adhering to what is proposed within the housing scheme.

7.9. **Appropriate Assessment**

- 7.9.1. **Screening for Appropriate Assessment**

Background

The applicant submitted a Natura Impact Statement in response to a request for further information from the planning authority. This was prepared in line with current

best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development. The applicant's NIS concluded that, with the application of mitigation measures where relevant, no significant effects arising from the proposed development are likely to occur in relation to the Natura 2000 sites Courtmacsherry Estuary SAC, Courtmacsherry Bay SPA, Seven Heads SPA, Clonakilty Bay SPA, Clonakilty Bay SAC, Galley Head to Duneen Point SPA and Old Head of Kinsale SPA.

Having reviewed the documents and submissions, I am satisfied that the 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 applicant provides a description of the project in Section 2.3 of the NIS. In summary, the development comprises the demolition of a partially collapsed house, farm building and water pump house, the construction of 17 houses, and the provision of three residential serviced sites, and all ancillary works.

European Sites

Section 3 of the applicant's NIS identifies the relevant European sites. These include the overlapping Courtmacsherry Estuary SAC and Courtmacsherry Bay SPA immediately to the north of the entrance to the access road into Cois Cuain, which is proposed to be used as the entrance to the proposed development.

Special Areas of Conservation	Distance to Site
Courtmacsherry Estuary SAC	c.0.00km
Clonakilty Bay SAC	c.8.91km

Special Protection Areas	Location
Courtmacsherry Bay SPA	c.0.00km
Seven Heads SPA	c.3.33km
Clonakilty Bay SPA	c.8.91km
Galley Head to Duneen Point SPA	c.11.76km
Old Head of Kinsale SPA	c.11.98km

Identification of Likely Effects

General Observations

- The proposed development is not directly connected with or necessary to the management of any European site.
- No qualifying interests of any Natura 2000 site were recorded at the site for the houses during the studies undertaken by the applicant.
- The site of the proposed housing development is not located in any European site. The northern site boundary overlaps with Courtmacsherry Estuary. Water-related infrastructure works would be within the public road and no works would be within the foreshore area.
- The strip of shoreline which includes the surface water outlet pipe from the existing Cois Cuain estate and which is proposed to be used by the development contains no qualifying habitats of Courtmacsherry Estuary SAC in the vicinity of the site.
- No invasive species of high risk have been recorded within the site.
- There are no known pathways between the proposed site and Seven Head, SPA, Clonakilty Bay SPA, Galley Head to Duneen Point SPA, Old Head of Kinsale and Clonakilty Bay SAC.

Courtmacsherry Estuary SAC

The qualifying Interests of this SAC are:

Estuaries [1130]

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

Annual vegetation of drift lines [1210]

Perennial vegetation of stony banks [1220]

Salicornia and other annuals colonising mud and sand [1310]

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

Mediterranean salt meadows (Juncetalia maritimi) [1410]

Embryonic shifting dunes [2110]

Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120]

Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]

Courtmacsherry Bay SPA

The qualifying Interests of this SAC are:

Great Northern Diver (Gavia immer) [A003]

Shelduck (Tadorna tadorna) [A048]

Wigeon (Anas penelope) [A050]

Red-breasted Merganser (Mergus serrator) [A069]

Golden Plover (Pluvialis apricaria) [A140]

Lapwing (Vanellus vanellus) [A142]

Dunlin (Calidris alpina) [A149]

Black-tailed Godwit (Limosa limosa) [A156]

Bar-tailed Godwit (Limosa lapponica) [A157]

Curlew (Numenius arquata) [A160]

Black-headed Gull (Chroicocephalus ridibundus) [A179]

Common Gull (Larus canus) [A182]

Wetland and Waterbirds [A999]

Potential Likely Effects

- The shoreline comprises extensive areas of mudflats and sandflats of known importance to a range of qualifying species associated within Courtmaicsherry Bay SPA.
- A small stream runs along part of the western boundary of the site near the proposed temporary construction access. Runoff from construction works near this stream could have negative indirect effects on Courtmacsherry Estuary SAC and Courtmacsherry Bay SPA by loss of and damage to habitats used by qualifying species.
- Direct runoff from the northern part of the site beside the designated sites, where upgrade works are proposed, could effect the adjacent European sites.
- The construction works could also cause disturbance to qualifying species, namely waterbirds, for which the SPA is designated.
- Surface water runoff at the operational stage would be collected by a new surface water sewer network which would link to the existing Cois Cuain estate and would ultimately discharge to Courtmacsherry Estuary.
- Wastewater would be treated at the newly constructed Courtmacsherry / Timoleague WWTP, with treated wastewater discharged to Courtmacsherry Estuary just west of Courtmacsherry Pier.

In-combination Effects

I am not aware of other developments requiring consideration for in-combination effects. I note the established nature of adjoining development.

Mitigation Measures

No measures designed or intended to avoid or reduce any harmful effects of the proposed alterations 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 Courtmacsherry Estuary SAC (Site Code: 001230) and Courtmacsherry Bay SPA (Site Code: 004219), in view of their Conservation Objectives, and Appropriate Assessment is therefore required.

This determination is based on the following:

- The nature and extent of the proposed works associated with the proposed development and the water-related provisions at the operational phase,
- The proximity to the European sites, and
- The known pathways between the site and the SAC and SPA.

7.9.2. Appropriate Assessment

Background

The proposed development is not directly connected to or necessary for the management of any European site. It is therefore subject to the provisions of Article 6(3) of the EU Habitats Directive. Following the screening process above, it has been determined that appropriate assessment is required as it cannot be excluded on the basis of objective information that the proposed development individually or in-combination with other plans or projects will have a significant effect on Courtmacsherry Estuary SAC (Site Code: 001230) and Courtmacsherry Bay SPA

(Site Code: 004219). The possibility of significant effects on other European sites has been excluded on the basis of objective information. Measures intended to reduce or avoid significant effects were not considered in the screening process.

Natura Impact Statement

The applicant submitted a Natura Impact Statement as part of the application to the planning authority. The NIS gives a description of the project, identifies the relevant Natura 2000 sites and assesses the potential significant effects thereon, and details mitigation. Potential adverse effects of the proposed development on Courtmacsherry Estuary SAC and Courtmacsherry Bay SPA were examined and assessed. The NIS was prepared in line with current best practice and provides an assessment of all potential effects on the SAC arising from the proposed development.

The NIS concluded that, with the application of mitigation measures where relevant, no significant effects arising from the proposed development are likely to occur in relation to the Natura 2000 sites Courtmacsherry Estuary SAC, Courtmacsherry Bay SPA, Seven Heads SPA, Clonakilty Bay SPA, Clonakilty Bay SAC, Galley Head to Duneen Point SPA and Old Head of Kinsale SPA.

I note the submissions received from Inland Fisheries Ireland and Irish Water on this application and the considerations of the planning authority's Ecologist, as well as the further information received from the applicant.

Having reviewed the documents, submissions, reports and consultations, I am satisfied that the information allows for a complete assessment of any adverse effects of the development on the conservation objectives of Courtmacsherry Estuary SAC and Courtmacsherry Bay SPA.

Appropriate Assessment

Introduction

This assessment considers all aspects of the proposal which could result in significant effects. Mitigation measures designed to avoid or reduce any adverse effects are considered and assessed. The assessment has had due regard to the

applicant's submitted Natura Impact Statement and the reports received by the planning authority and the Board.

The following guidance is adhered to in the assessment:

DoEHLG (2009) Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities.

EC (2002) Assessment of plans and projects significantly affecting Natura 2002 sites. Methodological guidance on the provisions of Articles 6(3) and 6(4) of the Habitats Directive 92/43/EC.

EC (2018) Managing Natura 2000 sites.

Observations on Land Use

I note the following:

- The site of the proposed development consists of fields sited to the rear of an established residential estate within the development boundary of the urban settlement of Courtmacsherry.
- The habitats that would be directly affected by the proposed development comprise mainly improved agricultural grassland and hedgerows and are of limited ecological value.

European Sites

The European sites subject to appropriate assessment are Courtmacsherry Estuary SAC and Courtmacsherry Bay SPA. Details of their location and a schedule of their Qualifying Interests are set out in the Screening undertaken earlier in this report.

Relevant Aspects of the Proposed Development

Section 2 of the applicant's NIS describes the site and proposed project, detailing site surveys and habitats. Section 3.1 of the NIS details the potential impact-receptor pathways from the proposed development, with reference to direct habitat loss, surface water run-off at the construction phase, surface water

discharge at the operational phase, wastewater disposal, disturbance and displacement, and invasive species. Section 4 addresses elements of the project that may potentially impact on Qualifying Interests of the European sites.

The potential effects of the proposed development that could adversely affect the conservation objectives of the European site include:

- Surface water drainage effects on the shoreline which comprise mudflats and sandflats of known importance to a range of qualifying species associated within Courtmaicsherry Bay SPA.
- Run-off from construction works entering a small stream along part of the western boundary of the site near the proposed temporary construction access and indirectly effecting Courtmacsherry Estuary SAC and Courtmacsherry Bay SPA by way of loss of and damage to habitats used by qualifying species.
- Direct runoff from the northern part of the site beside the designated sites, where upgrade works are proposed, effecting the adjacent European sites.
- Construction works causing disturbance to qualifying species, namely waterbirds, for which the SPA is designated.
- Surface water runoff at the operational stage, collected by a new surface water sewer network and linked to the existing Cois Cuain estate, discharging to Courtmacsherry Estuary.
- Wastewater treated at the newly constructed Courtmacsherry / Timoleague WWTP being discharged to Courtmacsherry Estuary west of Courtmacsherry Pier.

I note the following:

- The proposed development is not directly connected with or necessary to the management of any European site.
- No qualifying interests of any Natura 2000 site were recorded at the site for the houses during the studies undertaken by the applicant.

- The site of the proposed housing development is not located in any European site. The northern site boundary overlaps with Courtmacsherry Estuary and water-related infrastructure works would be within the public road. No works would be within the foreshore area.
- The strip of shoreline which includes the surface water outlet pipe from the existing Cois Cuain estate and which is proposed to be used by the development contains no qualifying habitats of Courtmacsherry Estuary SAC in the vicinity of the site.
- No invasive species of high risk have been recorded within the site.
- There is a recently constructed wastewater treatment plant serving Timoleague/Courtmacsherry which can accommodate the load generated by the proposed development.

My considerations on potential impacts are as follows:

- Standard environmental controls would be implemented as part of the project to ensure appropriate management and control of construction phase surface water runoff to prevent the release of silt and other contamination into Courtmacsherry Bay. This would result in no indirect habitat loss or deterioration of the European sites from construction-related surface water.
- The proposed new surface water drainage system for the operational stage would include a hydrocarbon bypass interceptor and there are specific operational management proposals for surface water. With such mitigation in place there would be no indirect habitat loss or deterioration of the European sites from the operational phase surface water.
- The new wastewater treatment plant for Courtmacsherry was commissioned in 2019 and is adequately sized and developed to accommodate new development, inclusive of development of the nature and scale proposed in this planning application. I note that a pre-connection enquiry was made with Irish Water and the applicant has submitted that confirmation of feasibility has been confirmed. There is no indication that the new treatment plant is failing

to meet any discharge standards. There is no reason to determine that the foul waste generated by the proposed development would have significant effects on the Qualifying Interests of the SAC and SPA.

- The proposed housing would be constructed to the rear of an existing housing estate. The established estate would be between this proposed development and Courtmacsherry Bay. The construction works in proximity to the bay would be within the road and would comprise surface water and wastewater upgrade works only, which is an area subject to traffic noise and other activities. These works would not affect the foreshore. It is considered that there would be no significant disturbance or displacement of Qualifying Interests at the construction phase.
- It is again noted that the proposed housing would be sited to the rear of an existing housing estate which itself is served by drainage infrastructure, lighting, vehicular access, etc. There would be no new lighting or vehicular access into Cois Cuain. There would be no additional disturbance or displacement arising.

Potentially Significant Cumulative Effects

I do not consider that there are other plans or projects with which the proposed development could have significant cumulative effects. Reference has been made earlier to the association of the proposed development with the established estate of Cois Cuain and no significant cumulative effects are seen to arise.

Mitigation

Section 4.2 of the applicant's NIS details the range of mitigation measures intended to be employed as part of the proposed development. In my opinion, these constitute suitable, practical, robust, and comprehensive measures to avoid any adverse impacts on the integrity of Courtmacsherry Estuary SAC and Courtmacsherry Bay SPA.

Residual Impacts

If the proposed mitigation measures are implemented in full, it is expected that significant effects would not result for the qualifying features of Courtmacsherry Estuary SAC and Courtmacsherry Bay SPA.

Following my appropriate assessment of the proposed development and, with due regard to consideration of the proposed mitigation measures, I am able to ascertain with confidence that the proposed development would not adversely effect the integrity of Courtmacsherry Estuary SAC and Courtmacsherry Bay SPA in view of the Conservation Objectives of these sites. This conclusion is drawn on a complete assessment of all implications of the proposed development alone and in combination with other plans and projects.

Appropriate Assessment Conclusion

The proposed development has been considered in light of the assessment requirements of the Planning and Development Act 2000 as amended.

Having carried out screening for appropriate assessment of the project, it was concluded that it may have a significant effect on Courtmacsherry Estuary SAC and Courtmacsherry Bay SPA. Consequently, an appropriate assessment was required of the implications of the project on the qualifying features of these sites in light of their conservation objectives.

Following an appropriate assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects, would not adversely effect the integrity of Courtmacsherry Estuary SAC and Courtmacsherry Bay SPA or any other European site, in view of the sites' Conservation Objectives.

This conclusion is determined by a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the Conservation Objectives of Courtmacsherry Estuary SAC and Courtmacsherry Bay SPA.

- Detailed assessment of in-combination effects with other plans and projects.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Courtmacsherry Estuary SAC and Courtmacsherry Bay SPA.

8.0 Recommendation

- 8.1. I recommend that permission is granted subject to the following reasons, considerations and conditions.

9.0 Reasons and Considerations

Having regard to the siting of the proposed development within the development boundary of the designated 'Key Village' of Courtmacsherry, to the established residential development in the immediate vicinity, and to the density, design, character, layout and servicing of the proposed development, it is considered that the proposed development would not adversely impact on the residential amenities of adjoining properties or the visual amenities of the area, would not endanger public safety by reason of traffic hazard, and would otherwise be in accordance with the provisions of Cork County Development Plan 2014 and West Cork Municipal District Local Area Plan 2017. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further drawings and details submitted to the planning authority on the 19th February, 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the

planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The 3 no. residential serviced sites shall be omitted from the overall scheme.

Reason: In the interest of protecting the visual amenity of the area.

3. The proposed dwellings shall be occupied as places of permanent residence and shall not be used as holiday home development without the prior grant of planning permission.

Reason: To ensure compliance with the provisions of the West Cork Municipal District Local Area Plan as they relate to Courtmacsherry and in the interest of providing for local permanent housing need within the village.

4. Details of the materials, colours and textures of all the external finishes to the proposed residential units shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development

Reason: In the interest of visual amenity

5. The site shall be landscaped and all site boundary treatment shall be in accordance with the drawings submitted to the planning authority on 19th February 2021, with the exception of the proposed boundary wall along the northern boundary which shall be provided at a height of 1.8 metres over ground level. The existing eastern and western flank hedgerows and the southern hedgerows between the housing site and the proposed serviced sites shall be retained and supplemented in accordance with the site layout plan submitted.

Reason: In the interest of residential and visual amenity.

6. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

7. The applicant or developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

8. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including the demolition of the existing structures on the site, the retention of boundary walls, and the provision of the retaining wall along the southern site boundary.

Reason: In the interests of public safety and residential amenity.

9. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

10. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of amenity and public safety.

11. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

12. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space, landscaping and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

13. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area

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

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Kevin Moore
Senior Planning Inspector

3rd August 2021