



An  
Bord  
Pleanála

## Inspector's Report ABP-311951-21.

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<b>Development</b>	Retain of existing single storey dwelling, garden shed, internal retaining wall, site entrance and all associated site works as constructed.
<b>Location</b>	Dromdihy, Killeagh, Co Cork.
<b>Planning Authority</b>	Cork County Council.
<b>Planning Authority Reg. Ref.</b>	21/6351.
<b>Applicant(s)</b>	Louise Keniry.
<b>Type of Application</b>	Retention permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Jacek & Aneta Iwinska.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	26/01/2022.
<b>Inspector</b>	A. Considine.

## 1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Dromdihy, Killeagh, Co. Cork, and to the north-east of the village. The site lies within the settlement boundary of Killeagh, which is identified as a Key Village in the East Cork MD LAP. Access to the site is via the local road and ultimately over a private cul-de-sac road which provides access for a small number of detached houses and a farmyard. The elevation of the site slopes from the private road down towards the rear of the site, and towards the rear of the houses at Lawrence Kelly Terrace to the south and south-west of the site.
- 1.2. The finished floor level of the house on the site is approximately 3.8m higher than the ffl of the residential properties to the south and south-east. The subject site has a stated area of 0.102 hectares and is currently occupied by a detached, single storey house which was granted planning permission 2017. The house has a stated floor area of 117.5m<sup>2</sup> and is located at an angle to the road which ensures that the rear of the house has a full southern elevation. The house is located closer to the road and the boundaries comprise a block plastered wall.
- 1.3. A single storey shed has been constructed to the western corner of the site. The shed has a stated floor area of 17.5m<sup>2</sup> and has a flat roof design, rising to 3.03m in height. A retaining boundary wall has been constructed along the south-western and south-eastern boundaries which ranges in height from between 1.5m and 3.1m. A hedge has been planted on the third-party side of the boundaries.

## 2.0 Proposed Development

- 2.1.1. Permission is sought, as per the public notices for retention of existing single storey dwelling, garden shed, internal retaining wall, site entrance and all associated site works as constructed, all at Dromdihy, Killeagh, Co. Cork.
- 2.2. The application included the relevant plans and particulars and a completed planning application form. A cover letter was submitted with the application which set out the details of the documents and plans submitted.
- 2.3. The Board will note that the plans submitted to the Board as part of the appeal are not to scale.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The Planning Authority decided to grant planning permission for the proposed development subject to 9 conditions.

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

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

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, third party submission, planning history and the principle of the development in terms of East Cork MD LAP policies and objectives, residential amenity and site servicing. The report also includes an Appropriate Assessment Screening and EIA.

The Planning Report notes that the differences between the permitted development on the site and the current proposal the subject of retention are an increase of 5.5m<sup>2</sup> in floor area and that it is now marginally closer to the north-east and south-east boundary. Given the planning history of the site, there is no objection in principle to the development.

In terms of impact on residential amenity, it is noted that the subject site is approximately 2m above the level of the adjacent properties to the south, including the third-party objectors home. Given that the subject property is a bungalow, with a separation distance of 9m minimum to the boundary, and 25m to the nearest house, it is not considered that the development will have a significant impact on neighbouring properties in terms of overshadowing or overbearing impacts. With regard to the wall, it is accepted that the proposal seeks to retain a retaining wall. There is no objection in this regard.

The report concludes that the proposed development is acceptable in terms of principle. The Planning Officer recommends that permission be granted for the proposed development and this recommendation formed the basis of the Planning Authority's decision to grant planning permission.

### 3.2.2. Other Technical Reports

**Area Engineer:** The report notes the entrance to the site is located on a private unsurfaced road. It is noted that the application indicates that the surface water goes into a sewer in the road before it joins the local road, however it is noted that there is no sewer in this road. Surface water should be directed to a soakaway within the site.

The report also notes that the development will connect to public services in terms of water and sewer.

There are no objections to the proposed development subject to compliance with conditions.

### 3.2.3. Prescribed Bodies

None.

### 3.2.4. Third Party Submissions

There is 1 no. third party objection/submission noted on the planning authority file. The issues raised are summarised as follows:

- Amenity issues and loss of light
- The structure is not a retaining wall and soil retained will cause it to fail and fall into third party property.
- The wall has resulted in the flooding of the third-party garden.

## 4.0 Planning History

The following is the relevant planning history pertaining to the subject site:

4.1.1. **PA ref: 17/6432:** Permission granted for the construction of a detached bungalow and site entrance and all associated works, all at Dromdihy, Killeagh, Co. Cork.

**PA ref: 04/8959:** Permission refused for the construction of a Montessori School on the current site due to restricted sight distances at the entrance to the access road.

## **Enforcement:**

**EF21/042:** Enforcement file opened relating to the alleged unauthorised construction of a wall in excess of 3.25m.

Adjacent Sites:

- 4.1.2. **PA ref: 14/6472:** Permission granted for the construction of a single storey sun lounge to the side of a dwelling house, at No. 8 Lawrence Kelly Terrace, Dromdihy, Killeagh, Co. Cork. (appellants property)

## **5.0 Policy and Context**

### **5.1. Development Plan**

- 5.1.1. Cork County Development Plan 2014 is the relevant policy document pertaining to the subject site.

### **5.2. East Cork Municipal District Local Area Plan 2017**

- 5.2.1. The site lies within the settlement boundary of Killeagh which is identified as a key village in the East Cork Municipal District Local Area Plan 2017. It is the stated vision for the village 'to realise the potential and value of its heritage and amenities, to promote regeneration and expansion of the village core and to encourage a more moderate rate of residential development in keeping with its role as a key village located on the Atlantic Corridor.'
- 5.2.2. The subject site is located to the north-east of the village centre and is accessed off a local road, the L3806 and ultimately over Dromdiah Avenue, which is a cul-de-sac road which serves a small number of houses.

### **5.3. Natural Heritage Designations**

The site is not located within any Natura 2000 site. The closest Natura 2000 site is the Ballymacoda (Clonpriest and Pillmore) SAC (Site Code: 000077) and the Ballymacoda Bay SPA (Site Code: 004023) which are located approximately 5.5km to the south-east of the site. The Blackwater River (Cork/Waterford) SAC (Site Code: 002170) and the Blackwater Estuary SPA (Site Code: 004028) are located

approximately 7.5km to the east. The Great Island Channel SAC (Site Code: 001058) and Cork Harbour SPA (Site Code 004030) are located approximately 13.5m to the south-west of the site.

#### 5.4. EIA Screening

- 5.4.1. The application was submitted to the Board after the 1<sup>st</sup> September 2018 and therefore after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018.
- 5.4.2. Item (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:
- Construction of more than 500 dwelling units
  - Urban development which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere.
- 5.4.3. The proposed development comprises the retention of a previously permitted house within the urban settlement boundary of the village of Killeagh. The house is connected to public water services and the site covers an area of 0.102ha. It is therefore considered that the development does not fall within the above classes of development and does not require mandatory EIA. The requirements of section 172(1)(b) of the Planning and Development Act 2000 (as amended), in terms of sub-threshold developments, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.
- 5.4.1. Having regard to:
- (a) the nature and scale of the development,
  - (b) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

It is concluded that 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**

This is a third-party appeal against the decision of the Planning Authority to grant planning permission for the proposed development. The appeal issues raised reflect those raised during the PAs assessment of the proposed development and are summarised as follows:

- Impact of the development the amenity of the house, including loss of light.
- The wall is not constructed as a retaining wall but as a free-standing structure. The retained soil will cause it to fail and fall into the appellants property risking life and damage to property.
- The wall has resulted in ground and stormwater being redirected to the appellants garden causing flooding. The conditions attached to the retention permission do not satisfactorily deal with this problem.

It is requested that the Board refuse permission for the retention application.

### **6.2. First-Party Response to Third-Party Appeal**

The applicants' have not responded to the third-party appeal.

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

The Planning Authority submitted a response to the third-party appeal noting that the relevant issues have been covered in the technical reports already forwarded to the Board. The PA has no further comments to make.

### **6.4. Observations**

None.

## 7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the development the subject of this retention application and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development
2. Visual and Residential Amenity Impacts
3. Other Issues
4. Appropriate Assessment

### 7.1. Principle of the Development:

- 7.1.1. The proposed development seeks to retain a single storey dwelling, a garden shed, internal retaining wall, site entrance and all associated site works as constructed on the site. Planning permission was granted for the construction of the house under PA ref: 17/6432 and I note that the as constructed layout differs slightly from that permitted. The as constructed layout includes a greater area of tarmacadam driveway as well as a pedestrian access from the road. In terms of the site layout, I have no objections to the minor alterations. In addition to the above, the house, as constructed has increased in floor area in the order of approximately 5.5m<sup>2</sup>. I do not consider that this additional floor area constitutes any significant deviation from the permitted house. The development as constructed includes a single storey garden shed to the western corner of the site, which has a stated floor area of 17.5m<sup>2</sup>.
- 7.1.2. I therefore have no objection in principle to the retention of the as constructed house and garden shed on the site, subject to consideration of matters relating to residential amenity and visual impact arising due to the retaining wall, the subject of this retention application, which I will discuss further below.



## 7.2. Visual & Residential Amenity Impacts

- 7.2.1. Having regard to the site levels, the construction of the garden shed required the filling of the rear of the site to accommodate the finished floor levels in line with the house. The permitted scheme at the site, due to the difference in the site levels between the site and the adjacent properties to the south, originally proposed a grading of the rear lawn to slope down towards the south, rather than a sharp drop, as constructed. No retaining wall was proposed or required in that situation. The as constructed scheme filled in the rear of the site to create a level lawned area, and this required the construction of a retaining wall fronting onto the third-party appellants property.
- 7.2.2. Given the site levels across the rear of the site, the height of the retaining wall ranges from 2m at the western side, to 3.1m to the east, in height. The wall itself, is wholly constructed within the subject site with the site boundary comprising a 1.8m high fence. The retaining wall, therefore, rises approximately 1.3m above the boundary fence at the appellants property. While I had some technical issues with my camera on the date of my inspection, the board will note that the wall is substantial when viewed from the public road adjacent to the appellants home, and the property to the east.
- 7.2.3. The third party has raised concerns in terms of loss of light and the impact of the wall on the amenity of their home, as well as raising concerns in terms of the construction of the wall and the impact of surface water being diverted to their garden.
- 7.2.4. With regard to the visual impacts of the wall, I am inclined to agree with the third-party appellant. The height of the wall when viewed from the third-party properties is excessive and has an overbearing impact on the appellants property, as well as the property to the south-east of the site. I note that the retaining wall rises over 1m within the garden of the subject site. I consider that this wall should be reduced with a natural boundary planted in its place in order to enclose the rear garden and reduce the visual impact of the wall on the adjoining properties. This alteration would also improve the residential amenity impacts associated with the wall as constructed on the adjoining home-owners.

- 7.2.5. With regard to the impact on light as stated by the third-party appellant, I note the orientation of the sites. Given that the subject application site is located to the north of the appellants property, I would not consider that the loss of light is significant.
- 7.2.6. Having regard to the planning history of the site, together with the orientation of the site, I do not consider that the minor alterations to the layout of the site have resulted in any significant impact on third party residential amenity. In terms of the retaining wall, I consider that the height of the wall along the sites eastern boundary has the potential to impact on the evening light available to the rear of the adjacent property to the south-east. A reduction in the height of the wall along this boundary as detailed above, would improve this impact.

### **7.3. Other Issues**

#### **7.3.1. Structure of the Retaining Wall**

The Board will note that the third-party appellant has raised concerns in terms of the construction of the retaining wall. It is submitted that it is constructed as a freestanding structure and that the retained soil will cause it to fail and fall into their property, risking life and damage to property. Having undertaken a site inspection, I can confirm that it appears the retaining wall has been constructed as a standard boundary wall. The blocks are used on the narrow edge, rather than on the flat as would be common for a retaining wall structure.

In addition, I note that no engineering report on the retaining wall has been provided to offer some comfort in this regard. As such, I would consider that the nature of the construction of the retaining wall should be clarified, given its intended purpose. The Board will note that I have recommended that the overall height of the wall should be reduced by 1m at minimum. These matters might be dealt with by way of condition, or the Board could seek further information in this instance.

#### **7.3.2. Site Suitability Issues**

- 7.3.3. In terms of site suitability, the Board will note that the third-party appellant has submitted that the wall has resulted in ground and storm water being redirected to their garden, causing flooding. I note that the original permission for the house included the provision of soakaways to accommodate surface water disposal from

the site. I would be satisfied that the matter should be addressed by the applicant and again, the Board could include this issue as a further information request, or by way of an appropriate condition.

#### **7.3.4. Development Contribution**

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission.

### **8.0 Appropriate Assessment**

- 8.1.1. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken for any plan or programme not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site in view of its conservation objectives. The site is not located within any Natura 2000 site. The closest Natura 2000 site is the Ballymacoda (Clonpriest and Pillmore) SAC (Site Code: 000077) and the Ballymacoda Bay SPA (Site Code: 004023) which are located approximately 5.5km to the south-east of the site. The Blackwater River (Cork/Waterford) SAC (Site Code: 002170) and the Blackwater Estuary SPA (Site Code: 004028) are located approximately 7.5km to the east. The Great Island Channel SAC (Site Code: 001058) and Cork Harbour SPA (Site Code 004030) are located approximately 13.5m to the south-west of the site.
- 8.1.2. The applicant did not prepare an Appropriate Assessment Screening Report as part of the subject application and did not submit a Natura Impact Statement. In terms of AA, the Board will note that the development is not directly connected or necessary to the management of a European Site. There are 6 Natura 2000 Sites occurring within a 15km radius of the site. The subject site lies within 200m of the Dissour River, which is a tributary of the Womanagh River which flows into the Ballymacoda (Clonpriest and Pillmore) SAC (Site Code: 000077) and therefore the proposed development has the potential to impact on this site as well as the Ballymacoda Bay SPA (Site Code: 004023).
- 8.1.3. I am satisfied that the following 4 sites can be screened out in the first instance, as they located outside the zone of significant impact influence because the ecology of the species and / or the habitat in question is neither structurally nor functionally

linked to the proposal site. There is no potential impact pathway connecting the designated sites to the development site and therefore, I conclude that no significant impacts on the following sites is reasonably foreseeable. I am satisfied that the potential for impacts on the following Natura 2000 sites can be excluded at the preliminary stage:

Site Name	Site Code	Assessment
Blackwater River (Cork/Waterford) SAC	002170	Site is located entirely outside the EU site and therefore there is no potential for direct effects.
Blackwater Estuary SPA	004028	No habitat loss arising from the proposed development.
Great Island Channel SAC	001058	No disturbance to species.
Cork Harbour SPA	004030	No pathways for direct or indirect effects. <b>Screened Out</b>

8.1.1. I consider that the following Natura 2000 sites, located within 15km of the subject site, can be identified as being within the zone of influence of the project, for the purposes of AA Screening, as follows:

- Ballymacoda (Clonpriest and Pillmore) SAC (Site Code: 000077)
- Ballymacoda Bay SPA (Site Code: 004023)

## 8.2. Qualifying Interests for Natura 2000 Sites within Zone of Influence

8.2.1. The subject development site is to the north of the urban area of the village of Killeagh, Co. Cork in a primarily residential area. The area includes a mix of housing including single storey detached houses and low density two storey semi-detached housing on Lawrence Kelly Terrace. The subject site comprises part of the site which is occupied by a single storey detached house and is to be accessed off the private road, Dromdiah Avenue. The site is not located within any designated site. The site does not appear to contain any of the habitats or species associated with any Natura 2000 site.

8.2.2. The following table sets out the qualifying interests for each of the identified Natura sites:

European Site	Qualifying Interests
<p><b>Ballymacoda (Clonpriest and Pillmore) SAC (Site Code: 000077)</b></p> <p>Located approx. 5.5km to the south-east of the site</p>	<ul style="list-style-type: none"> <li>• Estuaries [1130]</li> <li>• Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>• Salicornia and other annuals colonising mud and sand [1310]</li> <li>• Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</li> <li>• Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</li> </ul>
<p><b>Ballymacoda Bay SPA (Site Code: 004023)</b></p> <p>Located approx. 5.1km to the south-east of the site.</p>	<ul style="list-style-type: none"> <li>• Wigeon (<i>Anas penelope</i>) [A050]</li> <li>• Teal (<i>Anas crecca</i>) [A052]</li> <li>• Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</li> <li>• Golden Plover (<i>Pluvialis apricaria</i>) [A140]</li> <li>• Grey Plover (<i>Pluvialis squatarola</i>) [A141]</li> <li>• Lapwing (<i>Vanellus vanellus</i>) [A142]</li> <li>• Sanderling (<i>Calidris alba</i>) [A144]</li> <li>• Dunlin (<i>Calidris alpina</i>) [A149]</li> <li>• Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</li> <li>• Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</li> <li>• Curlew (<i>Numenius arquata</i>) [A160]</li> <li>• Redshank (<i>Tringa totanus</i>) [A162]</li> <li>• Turnstone (<i>Arenaria interpres</i>) [A169]</li> <li>• Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</li> <li>• Common Gull (<i>Larus canus</i>) [A182]</li> <li>• Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183]</li> <li>• Wetland and Waterbirds [A999]</li> </ul>

**Ballymacoda (Clonpriest and Pillmore) SAC (Site Code: 000077)**

8.2.3. This coastal site stretches north-east from Ballymacoda to within about 6 km of Youghal, Co. Cork. Though moderate in size, it has a good diversity of coastal habitats, including several listed on Annex I of the E.U. Habitats Directive. The site

comprises the estuary of the Womanagh River, a substantial river which drains a large agricultural catchment.

- 8.2.4. The main channel is flanked by saltmarshes and wet fields, much of the latter being improved for agriculture. The saltmarshes are mainly classified as Atlantic salt meadows, and a large area of Mediterranean salt meadows is found on the island at Clonpriest East. This saltmarsh is well-established and has a well-developed topography with a highly representative vegetation cover.
- 8.2.5. Part of the site is also a Special Protection Area (SPA) for birds; the main interest of the area lies in its waterfowl, with flocks of up to 20,000 regularly present during winter (e.g. 5 year mean peak, 1995/96-1999/00 = 24,784). A total of 107 wetland species have been recorded from this site. The most serious threat to the site is water pollution, primarily from slurry spreading.
- 8.2.6. Ballymacoda is a fine example of an estuarine complex, with intertidal flats well represented. The site is of high conservation importance because several of the habitats present are listed on Annex I of the E.U. Habitats Directive. However, there is also considerable ornithological interest.

**Ballymacoda Bay SPA (Site Code: 004023)**

- 8.2.7. Ballymacoda Bay SPA is one of the most important sites in the country for wintering waterfowl. It qualifies for international importance on the basis of regularly exceeding 20,000 wintering birds but also for its Golden Plover and Black-tailed Godwit populations. In addition, it supports nationally important populations of a further fourteen species. Two of the species which occur, Golden Plover and Bartailed Godwit, are listed on Annex I of the E.U. Birds Directive. Ballymacoda Bay is also a Ramsar Convention site.

**8.3. Conservation Objectives:**

- 8.3.1. The Conservation Objectives for the relevant designated sites are as follows:

European Site	Conservation Objectives
<b>Ballymacoda (Clonpriest and Pillmore) SAC (Site Code: 000077)</b>	<ul style="list-style-type: none"> <li>The NPWS has identified a site-specific conservation objective to <b>maintain</b> the favourable conservation condition of the following habitat and species listed as a</li> </ul>

<p>Located approx. 5.5km to the south-east of the site</p>	<p>Qualifying Interest, as defined by a list of attributes and targets:</p> <ul style="list-style-type: none"> <li>○ Estuaries [1130]</li> <li>○ Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>○ Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</li> </ul> <ul style="list-style-type: none"> <li>• The NPWS has identified a site-specific conservation objective to <b>restore</b> the favourable conservation condition of the following habitat and species listed as a Qualifying Interest, as defined by a list of attributes and targets: <ul style="list-style-type: none"> <li>○ <i>Salicornia</i> and other annuals colonising mud and sand [1310]</li> </ul> </li> </ul>
<p><b>Ballymacoda Bay SPA (Site Code: 004023)</b></p> <p>Located approx. 5.1km to the south-east of the site.</p>	<ul style="list-style-type: none"> <li>• The NPWS has identified a site-specific conservation objective to <b>maintain</b> the favourable conservation condition of the habitat and species listed as a Qualifying Interest (detailed above), as defined by a list of attributes and targets.</li> </ul>

#### 8.4. Potential Significant Effects

8.4.1. In terms of an assessment of Significance of Effects of the proposed development on qualifying features of Natura 2000 sites, having regard to the relevant conservation objectives, I would note that in order for an effect to occur, there must be a pathway between the source (the development site) and the receptor (designated sites). As the proposed development site lies outside the boundaries of the European Sites, no direct effects are anticipated. With regard to the consideration of a number of key indications to assess potential effects, the following is relevant:

- Habitat loss / alteration / fragmentation:                   The subject site lies at a remove of some 5.5km from the boundary of any designated site, and within a developed urban area. As such, there shall be no direct loss / alteration or fragmentation of protected habitats within any Natura 2000 site.
- Disturbance and / or displacement of species:                   The site lies within a developed environment, being an urban residential area. No qualifying species or habitats of interest, for which the designated sites are so designated, occur at the site. As the subject site is not located within or

immediately adjacent to any Natura 2000 site and having regard to the nature of the construction works undertaken, there is little or no potential for disturbance or displacement impacts to species or habitats for which the identified Natura 2000 sites have been designated.

- **Water Quality:** The proposed development relates to the retention of amendments to a previously permitted house on an urban site, which connects to public water services. Having regard to the nominal scale of the proposed development, together with the separation distances between the site and the boundary of the SAC, I am generally satisfied that the development, if permitted, is unlikely to impact on the overall water quality of any European designated site.

I am generally satisfied that the potential for likely significant effects on the qualifying interests of all Natura 2000 sites within 15km of the subject site can be excluded given the distance to the sites, the nature and scale of the development and the lack of a hydrological connection.

## **8.5. In Combination / Cumulative Effects**

- 8.5.1. Given the nature of the proposed development, being the retention of amendments to a previously permitted house in an urban area, I consider that any potential for in-combination effects on water quality of any of the Natura 2000 sites can be excluded. In addition, I would note that all other projects within the wider area which may influence conditions in the Ballymacoda (Clonpriest and Pillmore) SAC (Site Code: 000077) and the Ballymacoda Bay SPA (Site Code: 004023) via rivers and other surface water features are also subject to AA.

## **8.6. Conclusion on Stage 1 Screening:**

- 8.6.1. I have considered the NPWS website, aerial and satellite imagery, the scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Qualifying Interests, the separation distances and I have had regard to the source-pathway-receptor model between the proposed works and the European Sites. It is reasonable to conclude that on the basis of the information available, that the proposed development, either individually or in combination with other plans or



projects, would not be likely to have a significant effect on the European Sites identified within the zone of influence of the subject site. As such, and in view of these sites' Conservation Objectives a Stage 2 Appropriate Assessment is not required for these sites.

## 9.0 Recommendation

- 9.1.1. Having regard to the information submitted in support of the appeal and development the subject of retention, together with all other matters and details on the file, I am satisfied that the principle of the development is acceptable. As such, I recommend that permission be granted for the development for the following reasons and considerations and subject to the stated conditions.

## 10.0 Reasons and Considerations

Having regard to the provisions of the Cork County Development Plan 2014, the established residential use and the planning history of the site, the pattern of development in the vicinity and the scale of the development as proposed, it is considered that the works proposed for retention, and subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would not, therefore, be contrary to the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be retained and completed in accordance with the plans and particulars lodged with the application 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 height of the retaining wall shall be reduced by 1m, amounting to the above ground wall as constructed along the rear and eastern boundary of the subject site. The wall shall be replaced by a natural hedge and the works shall be carried out within 3 months of this grant of planning permission.

**Reason:** In the interests of visual and residential amenity and to minimise the overbearing nature of the retaining wall

3. Within 3 months of this grant of planning permission, a full structural report shall be submitted to the Planning Authority, prepared by a suitably qualified person, who shall certify that the retaining wall, reduced in height, is constructed as such and is fit for purpose. The report shall include the relevant engineering drawings and sections of the wall.

**Reason:** In the interests of proper planning and sustainable development.

4. The garden shed hereby permitted shall be used only for purposes incidental to the enjoyment of the dwelling house.

**Reason:** To restrict the use of the shed in the interest of residential amenity.

5. All relevant conditions attached to previous grant of permission for development at the site, Planning Authority reference 17/6432 shall be strictly adhered to.

**Reason:** In the interests of clarity and the proper planning and sustainable development of the area.

6. Within 3 months of this grant of planning permission, the developer shall submit to the Planning Authority full details of the surface water disposal measures within the site. No surface water shall be permitted to flow onto public roads or adjacent private properties.

**Reason:** In the interests of orderly development and to prevent flooding of public roads or private property.

7. 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.

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A. Considine  
Planning Inspector  
07/03/2022