



An  
Bord  
Pleanála

## Inspector's Report ABP-312004-21.

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|-------------------------------------|--------------------------------------|
| <b>Development</b>                  | House.                               |
| <b>Location</b>                     | Ballybraher, Ballycotton, Co Cork.   |
| <b>Planning Authority</b>           | Cork County Council.                 |
| <b>Planning Authority Reg. Ref.</b> | 21/5597.                             |
| <b>Applicant(s)</b>                 | Stephanie Cooke & Mr. Ronan Costine. |
| <b>Type of Application</b>          | Permission.                          |
| <b>Planning Authority Decision</b>  | Grant.                               |
| <b>Type of Appeal</b>               | Third Party                          |
| <b>Appellant(s)</b>                 | James Furlong.                       |
| <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 Ballybraher, Ballycotton, Co Cork, under 1km to the south-west of the village of Ballycotton. The subject site is accessed off a local road, the L3633-79 (also known as Church Road) and via an existing gated entrance which serves the applicants family home. There are a small number of one-off houses in the immediate vicinity with the two closest houses being located immediately to the west and to the north of the site. The house to the north is set back from the public road and the proposed house, if permitted will be located to the front of this house. The site is irregular in shape and wraps around the southern and eastern boundary of the existing house to the north. The second closest house lies close to the public road to the west. To the east of the existing entrance, there is an existing farm building and a traditional cottage which lies perpendicular to the road.
- 1.2. The subject site has a stated area of 0.333 hectares and is currently greenfield and under grass. The site slopes down from the public road in a south to north direction. The applicants' parents are living in the house located at the end of the extensive driveway to the north of the subject site, and I note that the access driveway also provides access to the family horse farmyard.

## 2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for the construction of a two-storey detached dwelling with attached single storey garage, wastewater treatment system and polishing filter and including all associated site development works. The dwelling will be single storey facing the main road and two storey to the rear, all at Ballybraher, Ballycotton, Co. Cork.
- 2.2. The application included the following documents:
  - Plans and particulars
  - Completed planning application form
  - Letter of consent from the landowner
  - Information of the applicants schooling and addresses in the local area
  - Site Characterisation Report

While it is indicated that a Supplementary Planning Application form was also submitted but the Board will note that this was not initially on the file. The document was emailed to the Board following a request on the 8<sup>th</sup> of March 2022.

- 2.3. The proposed house comprises a two-storey building which is to be located to the centre of the overall site and between the two existing houses to the north and to the west. The house will rise to an overall height of approximately 7.812m and finished with a mix of painted render and grey stone cladding, with a black fibre cement slate to the roof. The material of the windows and doors is not clearly detailed. In order to accommodate the proposed house, the development will include cutting into the sloping site in order to provide the finished floor level of the upper floor at the current site level (approx. +99.0m) while the ground floor level will have a ffl of +96.15m.
- 2.4. The house will provide accommodate over two floors with a large open plan kitchen / living / dining room, with a pantry and boot room, as well as a separate TV room, office and WC at ground floor level and 3 double bedrooms, including a master with ensuite, and a family bathroom and laundry room at first floor level. The development includes a garage which has a direct internal access to the boot room at ground floor level. The proposed house will have a stated floor area of 215.5m<sup>2</sup> and the garage will have a floor area of 37m<sup>2</sup>. The house will be serviced via a private well and an on-site treatment system.
- 2.5. The Board will note that following the request for further information, a number of small amendments were made to the design of the proposed house which include the relocation of the garage forward in order to reduce the length of the overall building and amendments to windows. Details of the proposed landscaping plan for the site is also provided as well as sections depicting the potential sight lines into the adjacent house. The submission also includes photomontages.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The Planning Authority decided to grant planning permission for the proposed development subject to 12 conditions.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The initial 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 County Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening assessment.

The Board will note that the report makes reference to the Supplementary Planning Form and summarises the content of same with regard to the applicants' compliance with the settlement location policy. The planning report concludes that the proposed development is acceptable in terms of principle and no concerns are raised in terms of the design and layout of the development. While acknowledging the refusals of permission for similar developments in the vicinity, the report considers that the proposed development has a 'type of infill character within the overall cluster of development'. It is further noted that the family does not appear to have provided sites for sale to 3<sup>rd</sup> parties. In terms of visual impacts, it is concluded that it is difficult to argue that an additional dwelling will cause any significant additional visual impact relative to the existing pattern of surrounding development.

In terms of impacts on adjoining houses, the report considers that boundary landscaping should be sufficient to mitigate any overlooking threat. Overall, it is concluded that the applicant should be requested to consider an alternative site within the landholding. No issues in relation to the servicing of the site are noted subject to comments of the Area Engineer.

The initial report concludes that further information is required with regard to the consideration of an alternative site within the landholding and should the applicant wish to pursue the current site, modifications to address the third-party concerns are required to be submitted. A cross section and photomontages are also required.

Following receipt of the response to the FI request, the final Planning Officers report concludes that the proposed development is acceptable. 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 that sight distances of 90m are achievable in both directions from the existing entrance.

With regard to water services, the report notes that while a well is proposed, there is a mains supply passing the site. In terms of wastewater treatment, the report accepts the site suitability assessment and the proposal to install a WWTP. Minimum separation distances have been complied with.

Overall, the report raises no objection subject to compliance with conditions.

### 3.2.3. Prescribed Bodies

**Irish Water:** No objection subject to compliance with conditions.

### 3.2.4. Third Party Submissions

There is 1 no. third party objection/submission noted on the planning authority file, submitted by Cunnane Stratton Reynolds on behalf of Mr. James Furlong. The submission sets out the development plan provisions relevant to the area as well as the relevant planning history of similar applications in the area, which have been refused. The issues raised are summarised as follows:

- The development will have a negative visual impact and impact on High Value Landscape and the location of the site on a scenic route is highlighted. A landscape and visual impact assessment should have been undertaken in respect of the proposed development.
- The development will have an unacceptable impact on the residential amenity of the objector through overlooking and loss of privacy.
- The proposed development would contribute to an excessive density in an unserviced rural area and there have been a number of applications for houses which have been refused in the area. The development would contribute to ribbon development, contrary to Objective RCI 6-3 of the CDP.

- The dwelling has a large footprint and with the attached garage, the façade is overly long resulting in a building which is incongruous with the prevailing character of the area.
- Concerns are raised regarding environmental impacts due to the concentration of septic tanks and treatment units in the area. The applicant has not identified the location of existing septic tanks in the area.
- Potential vehicle / pedestrian conflicts arise due to an increase in traffic volumes to the site. It is not clear if adequate sight lines are achievable.

It is requested that the PA refuse permission for the proposed development.

## 4.0 Planning History

There is no specific planning history pertaining the subject site. The following is the planning history associated with the family landholding:

**PA ref: 03/3806:** Permission granted to Mr. Stephen Cooke for the construction of a dwelling house and 10 stables and a WWTP on the northern area of the landholding.

**PA ref: 06/11572:** Permission refused to Mr. Stephen Cooke for the construction of 3 no. dwellinghouses for short-term letting on a site to the north of the current site within the family landholding.

### Adjacent Sites:

**PA ref: 12/6278:** Permission granted to Ms. Una Butler for alterations, including revisions to internal layout and front elevation and construction of extension to side of dwelling to the immediate north of the current appeal site.

**PA ref: 08/9773:** Permission refused to Tim and Nuala Cummins for the construction of a two-storey dwelling house and WWTP on lands to the north-east of the current appeal site (and to the west of the family landholding, south of family home of current applicant).

**PA ref: 13/4231:** Permission granted to Tim and Nuala Cummins for the Demolition of existing dwelling and outhouses attached and construction of new two-storey dwelling house, alterations to existing entrances, a new entrance,

decommissioning of existing septic tank and installation of new septic tank and ancillary works on lands to the east of the current appeal site.

**PA ref: 17/6283:** Permission granted to Tim and Nuala Cummins to extend the duration of permission granted under PA ref: 13/4231 for the demolition of existing dwelling and outhouses attached and construction of new two-storey dwelling house, alterations to existing entrances, a new entrance, decommissioning of existing septic tank and installation of new septic tank and ancillary works on lands to the east of the current appeal site, up to April 2023.

## **5.0 Policy and Context**

### **5.1. National Planning Framework – Project Ireland 2040, DoHP&LG 2018**

- 5.1.1. The National Planning Framework – Project Ireland 2040 is a high-level strategic plan for shaping the future growth and development of Ireland to 2040. A key objective of the Framework is to ensure balanced regional growth, the promotion of compact development and the prevention of urban sprawl. It is a target of the NPF that 40% of all new housing is to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites with the remaining houses to be delivered at the edge of settlements and in rural areas.
- 5.1.2. National Policy Objective 19 refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence, ie. the commuter catchment of cities and large towns and centres of employment. This will also be subject to siting and design considerations. In rural areas elsewhere, it refers to the need to facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

### **5.2. Sustainable Rural Housing Development Guidelines 2005**

- 5.2.1. The Rural Housing Guidelines seek to provide for the housing needs of people who are part of the rural community in all rural areas and makes a distinction between 'Urban Generated' and 'Rural Generated' housing need. Chapter 4 of the guidelines relates to rural housing and planning applications and states that in areas under

significant urban influence, applicants should outline how their proposals are consistent with the rural settlement policy in the development plan. Examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply, including 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.

- 5.2.2. The Guidelines further require that new houses in rural areas be sited and designed in a manner so as to integrate well with their physical surroundings and generally be compatible with water protection, roads, traffic and public safety as well as protecting the conservation of sensitive areas.

### 5.3. Development Plan

- 5.3.1. The Cork County Development Plan, 2014 is the relevant planning policy document. The subject site is located within the Greater Cork Ring Strategic Planning Area, in an area of Co. Cork which has been identified as being a Rural Area under Strong Urban Influence. In terms of the designations afforded to the subject site, the following policy objectives are considered relevant:

- 5.3.2. RCI 2-2: Rural Generated Housing: Sustain and renew established rural communities, by facilitating those with a rural generated housing need to live within their rural community.

- 5.3.3. RCI 4-2: Rural Area under Strong Urban Influence and Town Greenbelts (GB 1-1): The rural areas of the Greater Cork Area (outside Metropolitan Cork) and the Town Greenbelt areas are under significant urban pressure for rural housing. Therefore, applicants must satisfy the Planning Authority that their proposal constitutes a genuine rural generated housing need based on their social and / or economic links to a particular local rural area, and in this regard, must demonstrate that they comply with one of the following categories of housing need:

a) Farmers, their sons and daughters who wish to build a first home for their permanent occupation on the family farm.

d) Persons who have spent a substantial period of their lives (i.e. over seven years), living in the local rural area in which they propose to build a first home for their permanent occupation.



5.3.4. In addition, the subject site is located within the Greater Cork Ring Strategic Planning Area. In terms of settlement strategy, the CDP at CS 3-2 deals with the 'Network of Settlements: Lower Order Settlements' and identifies that Other Location settlements are to be identified in the Local Area Plans. The CDP provides that it is the strategic aim to 'recognise other locations, as areas which may not form a significant part of the settlement network, but do perform important functions with regard to tourism, heritage, recreation and other uses'. CS 4-1 deals with the Greater Cork Ring Strategic Planning Area.

5.3.5. Section 4.6 of the Plan deals with General Planning Considerations, where the following policy objectives are considered relevant:

- RCI 6-1: Design and Landscaping of New Dwelling Houses in Rural Areas
- RCI 6-3: Ribbon Development
- RCI 6-4: Occupancy Conditions

5.3.6. Chapter 13 of the Plan deals with Green Infrastructure and Environment and identifies that the site is located within a High Value Landscape, which are considered to be the county's most valuable landscape. The plan states that 'within these High Value Landscapes considerable care will be needed to successfully locate large scale developments without them becoming unduly obtrusive. Therefore, the location, siting and design of large-scale developments within these areas will need careful consideration and any such developments should generally be supported by an assessment including a visual impact assessment which would involve an evaluation of visibility and prominence of the proposed development in its immediate environs and in the wider landscape.'

5.3.7. In this regard, CDP Policy GI 6-1 is relevant as it relates to landscape, and states as follows:

- a) Protect the visual and scenic amenities of County Cork's built and natural environment.
- b) Landscape issues will be an important factor in all land-use proposals, ensuring that a proactive view of development is undertaken while maintaining respect for the environment and heritage generally in line with the principle of sustainability.

- c) Ensure that new development meets high standards of siting and design.
- d) Protect skylines and ridgelines from development.
- e) Discourage proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments.

5.3.8. Section 13.7 of the CDP deals with Landscape Views and Prospects where the matter of scenic routes is addressed. The site fronts onto a designated scenic route, No. S49 – road between Inch and Ballycotton via Ballybranagan, and as such, the following policies, which seek to protect the character of views and prospects from scenic routes and requires those seeking to carry out development in the environs of a scenic route to demonstrate that there will be no adverse obstruction or degradation of the views towards and from vulnerable landscape features, are relevant:

- GI 7-2: Scenic Routes.
- GI 7-3: Development on Scenic Routes

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

5.4.1. The subject site is also located within the East Cork Municipal District LAP area. The site lies within the rural area under 1km to the west of the village of Ballycotton.

#### **5.5. Natural Heritage Designations**

The site is not located within any Natura 2000 site. The closest Natura 2000 site is the Ballycotton Bay SPA (Site Code: 004022) lies approximately 1km to the north-east of the subject site. The Ballymacoda (Clonpriest and Pillmore) SAC (Site Code: 000077) lies approximately 10km and the Ballymacoda Bay SPA (Site Code 004023) lies approximately 11.3km to the north-east. Cork Harbour SPA (Site Code: 004030) which lies approximately 10km to the west of the site and the Great Island Channel SAC (Site Code 001058) lies approximately 11.5km to the north-west.

## 5.6. EIA Screening

- 5.6.1. Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) sets out the class of developments which provide that mandatory EIA is required. The proposed development comprises the construction of house in rural Co. Cork, on a site of 0.333ha and is not of a scale or nature which would trigger the need for a statutory EIAR. It is therefore considered that the development does not fall within any cited class of development in the P&D Regulations and does not require mandatory EIA.
- 5.6.2. In accordance with section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.
- 5.6.3. Having regard to:
- (a) the nature and scale of the development, and
  - (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**

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

- Impact of the development on the surrounding high value landscape. The appellant does not agree with the PA assessment in this regard. It is submitted that the orientation of the house has been implemented to take advantage of the views towards Ballycotton Bay.
- The orientation of the development will significantly diminish the privacy enjoyed by the appellant for the past 30 years. Views will be available to the occupants of the new house into the living areas of the existing house. It is also noted that the PA sought the relocation of the proposed house within the landholding which would be more suitable. Given the size of the family landholding, it is submitted that there are a number of alternative locations available to the applicant.
- The development will lead to an over-excessive density of development in the surrounding rural area. There have been a number of planning applications sought in the area which have been refused on the grounds of excessive density, visual impacts on a designated scenic route within a high value landscape etc. The development would contribute to ribbon development and the photomontages submitted by the applicant display how prominent the proposed dwelling will be from the road.

There are a number of enclosures with the appeal document, and it is requested that the Board refuse permission for the proposed development.

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

6.2.1. Coakley O'Neill Town Planners & Development Consultants, on behalf of the applicant has responded to the third-party appeal. The document presents an

overview of the proposed development, including details of the planning history and planning policy context. The document considers each element of the Planning Authority's report and the decision to grant permission.

6.2.2. The response to the grounds of appeal, as set out in Sections 3.0 and 4.0 of the document is summarised as follows:

- The applicant is happy with the decision of the PA to grant permission and will comply with conditions attached.
- The development is justified based on the requirement for good quality accommodation within rural areas for those who meet the specific housing need criteria set out in the statutory plan, which the applicants do.
- The site is located within an established almost exclusively residential area and the development is therefore in keeping with the area.
- The site was chosen as it is subject to high winds, has no shelter and can rarely be used for grazing by the horses. It is also at a distance from the stables and other animal amenities on the farm.
- The pattern of development in the area comprises one-off dwellings on substantial sites.
- The design can be found to respect and reflect the heights, materials and roof profiles of surrounding buildings and can be successfully assimilated into its immediate site context.
- The site complies with the CDP.
- The site is not restricted, and the construction of a single dwelling will not put any appreciable strain on public services.
- The house has been designed to address the concerns of neighbours.
- The applicant, Stephanie, fully complies with the local housing need and policy objective RCI 4-1, as agreed by the PA, and the applicant has local and personal connections to the area.
- The landholding is a functional horse farm and is at times home to other animals and livestock.

- The applicants' father, and landowner, has a job that means he works abroad for substantial periods and his wife depends on the applicants to carry out the day-to-day care of the horses.
- The applicant works from home full time.
- The applicant also has a medical condition which requires the support of her parents.
- The concerns of the third-party are often exaggerated and seek to present a misleading context to the Board, in particular the accuracy of the drawings and photos.
- The Ballycotton Cliff Walk route does not include the road passing the site.
- All issues of privacy and overlooking concerns have been addressed.
- The issue of the proposed development having a negative impact on tourism cannot be sustained given the particular location within a cluster of existing dwellings and the site being located c3.4km away from the start of the Ballycotton Cliff walk.
- Notwithstanding the inaccurate photos submitted by the third-party, it cannot be found that the development will have a negative impact on the landscape value of the area.
- In terms of the issue of density raised by the appellant, it is submitted that the development does not give rise to ribbon development and is an infill site.

It is concluded that there are no site-specific planning issues arising to suggest that a refusal of permission is merited. It is requested that the Board uphold the decision of the PA to grant permission. There are a number of enclosures with the response to the third-party appeal, including photographs.

### **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 Impacts
3. Residential Amenity Issues
4. Roads & Traffic
5. Water Services & Site Suitability Issues
6. Other Issues
7. Appropriate Assessment

### 7.1. Principle of the Development:

- 7.1.1. The proposed development seeks to construct a house with services on this rural site within the townland of Ballybraher, Ballycotton, Co. Cork, approximately 0.8km to the west of Ballycotton. I note that this area of the county is identified as a rural area under strong urban influence in the County Development Plan, 2014. The Plan, together with the Sustainable Rural Housing Guidelines, provide clear guidance that there is a presumption against the development of one-off houses except where the proposal constitutes a genuine rural generated housing need based on social and / or economic links to the particular rural area. Should the Board be minded to grant planning permission in this instance it should be satisfied that the appellant adequately complies with the requirements of these stated policies, as well as National Policy Objective 19 of the National Planning Framework.

7.1.2. Objective 19 of the National Planning Framework seeks to ensure that in rural areas under urban influence, the provision of single housing in the countryside will be based on the core consideration of demonstratable economic or social need to live in a rural area..... having regard to the viability of smaller towns and rural settlements. The applicant is required to accord with one of five categories of rural housing need in accordance with Policy Objective RCI 4-2 of the Cork County Development Plan.

7.1.3. With regard to the above, I would note that family landholding at this location comprises 8 hectares and the applicants parents keep 7 horses on the land. It is indicated that while both applicants assist in the care of the horses, both have full time jobs elsewhere and it is indicated in the supplementary application form that it is not their intention to take over the ownership and running of the landholding / farm on a full-time basis. In addition, neither applicant indicated that they are engaged in agriculture or other such rural activity. It is Ms. Cookes father, who is the principle part-time farmer, although I note that he works away from home for extended periods of time. As such, there is no demonstratable economic need for the applicants to live in this rural area. Therefore, category d) of Policy Objective RCI 4-2 is considered relevant in this instance as follows:

- d) Persons who have spent a substantial period of their lives (i.e. over seven years), living in the local rural area in which they propose to build a first home for their permanent occupation.

7.1.4. With regard to the provisions of Objective RCI 4-2, I note that the first applicant has lived in the family home at this location since it was purchased 19 years ago, with the second applicant living there for the past 2 years. Neither applicant have owned a home in the rural area. I acknowledge and accept the bone fides of the applicant in this instance, and in particular, the social need for Ms. Cooke to reside close to her parents. It might be questioned, however, whether there is a specific or exceptional need to live on the subject site in the rural area, where the housing need might reasonably be met within the settlement boundary of nearby settlements including Ballycotton, approximately 0.8km to the east.

7.1.5. In addition to the above, the subject site is located immediately adjacent to a designated scenic route and within a high value landscape, which are considered to be the county's most valuable landscapes. As such, CDP Policy GI 6-1 is relevant, in



that it seeks to protect the visual and scenic amenities of County Cork, while Section 13.7 of the Plan deals with landscape views and prospects. The site fronts onto a designated scenic route, No. S49 – road between Inch and Ballycotton via Ballybranagan, and as such, the provisions of Policies GI 7-2, Scenic Routes and GI 7-3 Development on Scenic Routes are also relevant.

- 7.1.6. I note that the matter of site selection within the landholding for the proposed development was raised as part of the Planning Authority's assessment of the proposed development. The applicant has presented an argument for the proposed development site, noting the distance from the stables and farmyard and the fact that as the site is exposed to winds, it is not suitable for the horses to graze.
- 7.1.7. As such and given the location of the site within a rural area under strong urban influence, I am satisfied that the proposed development appears to comply with the principle of the policy objectives of the County Development Plan as they relate to rural housing, Objective 19 of the National Planning Framework and the guidance provided within the Sustainable Rural Housing Guidelines. I propose to address the visual impacts associated with the proposed development, and compliance with the relevant CDP policy objectives, further in section 7.2 of this report below.

## **7.2. Visual Amenity Issues**

- 7.2.1. The subject site is located immediately adjacent to a designated scenic route and within a high value landscape, considered to be the county's most valuable landscapes. As such, CDP Policy GI 6-1 is relevant, in that it seeks to protect the visual and scenic amenities of County Cork, while Section 13.7 of the Plan deals with landscape views and prospects. The site fronts onto a designated scenic route, No. S49 – road between Inch and Ballycotton via Ballybranagan, and as such, the provisions of Policies GI 7-2, Scenic Routes and GI 7-3 Development on Scenic Routes are relevant. It is a requirement that those seeking to carry out development in the environs of a scenic route and / or an area with important views and prospects, to demonstrate that there will be no adverse obstruction or degradation of the views towards and from vulnerable landscape features.
- 7.2.2. I would note that proximate to the subject site, and from the designated scenic route, the views towards Ballycotton Bay are somewhat intermittent. The construction of

the house will have an impact in these views. I also note the planning history of the adjacent site, where a current planning permission exists for the construction of a dwelling. Cumulatively, the construction of that dwelling will also likely result in an impact on the views from the public road towards Ballycotton Bay. Given the nature of the existing and permitted development in the vicinity of the subject site, including the existing roadside boundary and access which serves the applicants family home, I consider that the proposed development will represent a visual impact on the landscape, and will impact on important views and prospects from the scenic route.

- 7.2.3. In the context of the proposed house, I note that the split-level design which will be constructed on the site. In achieving the split level, substantial cutting into the existing site will be required to provide for the two-storey elevation to the east while presenting a single storey scale to the south and west. The existing site slopes down towards the north, with a level difference of approximately 8m across the full length of the site (135m approx.). Such interventions are likely to exacerbate the visual impacts associated with the proposed development, particularly when viewed from the east and while I note the proposed works to the site in terms of landscaping, overall, I am not satisfied that the site can accommodate the house without undue visual impacts arising.
- 7.2.4. In terms of the overall proposed design of the house, and noting the amendments made following the PAs request for further information, I have no objection in principle. However, given the location of the site in a highly vulnerable landscape and adjacent to a designated scenic route, I do not accept that roof finish, being a cement fibre slate, is appropriate. Should the Board be minded to grant planning permission in this instance, a natural slate finish should be conditioned.
- 7.2.5. While I accept the submission of the applicant with regard to the selection of the subject site, the proposed development is unacceptable in my opinion. I consider that the visual impacts associated with the proposed development are unacceptable in this high value landscape adjacent to a designated scenic route, and as such, a grant of planning permission would be contrary to the CDP Policy GI 6-1 and Policies GI 7-2, Scenic Routes and GI 7-3 Development on Scenic Routes, as it has not been demonstrated that there will be no adverse obstruction or degradation of the views towards and from vulnerable landscape features, including Ballycotton Bay to the east.

### **7.3. Residential Amenity Issues**

- 7.3.1. The Board will note that the third-party appellant has raised concerns in terms of impacts on existing residential amenity. I note the concerns that the proposed development will give rise to overlooking of the living areas of the existing house. Having regard to the proposed layout of the site, I note that the closest window would be located approximately 40m from the existing house. The south-west elevation presents as the front of the house, with the main living areas of the house, together with large windows and the proposed outdoor terrace, located to the north-east, offering views over Ballycotton Bay. The north-east elevation presents as a two-storey building.
- 7.3.2. In terms of the potential for overlooking of the existing adjacent properties, I do not consider that the impact will be significant. I arrive at this conclusion given the existing and proposed site levels of the application site. I also note that there is an existing driveway to the house to the north of the subject site between the site and the appellants property.
- 7.3.3. I would accept that the proposed development, if permitted, will impact on the existing available long-range views towards Ballycotton Bay from the existing house. There is, however, no right to such views in planning law.
- 7.3.4. In this regard, should the Board consider that the principle of the proposed development is acceptable and in compliance with local and national policy, I do not consider it reasonable to refuse permission on the basis of impact on residential amenity.

### **7.4. Other Issues**

#### **7.4.1. Ribbon Development**

Having regard to the identification of this area of Co. Cork as being under urban pressure for one-off housing and having undertaken a site inspection of the wider area, the pressure for such rural housing is evident on the ground. That said, having undertaken a planning history search of the wider area, I did not note any significant number of planning applications in the past 10 years in the vicinity of the site. The subject site lies within an area where there are 5 existing houses, with 1 set back

from the public road approximately 95m. The only road frontage associated with this house extends to the 10m wide entrance. As the proposed house will use the existing entrance to the applicants' family home, a grant of permission will not result in any increase in access points onto the public road.

In terms of the definition of ribbon development and having regard to the proposed set back of the house in the site, the narrow road frontage and the proposed orientation of the building, I am generally satisfied that ribbon development does not arise. I note the comments of the PA that the subject site might reasonably be considered an infill site and given the planning history of the adjacent site, this is a logical conclusion.

#### **7.4.2. Roads & Traffic**

The proposed development is to be accessed via the local road network in the area, and an existing farm and residential access. The established gated entrance is set back from the public road and was locked on the date of my site inspection. I do not consider that the proposed development will give rise to a significant increase in the volume of vehicular traffic as to warrant a refusal of planning permission and I note that the applicants currently use the entrance on a daily basis. I also note that the Cork County Council Area Engineer raised no concerns in terms of roads and traffic. I have no objections to the proposed development in terms of roads and traffic.

#### **7.4.3. Water Services & Site Suitability Issues**

In terms of site suitability, the Board will note that the application advises that the proposed house is to be served by a private well and a proposed proprietary treatment system. However, I note that there is a mains water supply in the area. should the Board be minded to grant planning permission in this instance, a condition requiring the development to connect to the public mains should be included. Notwithstanding the proximity of the site to Ballycotton, where public water services are available, all houses in the immediate vicinity have private WWTP systems.

Having considered the information provided on the planning authority file with regard to the proposed development, it is clear that the sites suitability with regard to the treatment and disposal of wastewater has been considered. The applicant submitted

a completed site suitability assessment regarding the suitability of the proposed site in terms of the treatment and disposal of wastewater generated on the site.

The site characterisation assessment, submitted as part of the planning application, notes that no bedrock or ground were identified in the trial pit, which was dug to 2m bgl. The assessment identifies that the site is located in an area where there is no Groundwater Protection Scheme but categorises the site as being a locally important aquifer (LI) with extreme vulnerability. A Groundwater Protection Repeal of R2<sup>1</sup> is indicated. The bedrock type is described as 'Purple Mudstone and Sandstone' while the soil and subsoil type is identified as till derived chiefly from Devonian sandstones.

\*T tests were carried out on the site at a level of 0.8-0.58m bgl at the base of the hole, yielded a value of 33.08. No \*P tests were carried out. The report concludes recommending a packaged wastewater treatment system and polishing filter which will have a trench invert level of 0.7m bgl and an area of 35m<sup>2</sup>. The system will discharge to groundwater with a hydraulic loading rate of 20l/m<sup>2</sup>.

I am satisfied that overall, if permitted, the development is acceptable in terms of site suitability for the treatment and disposal of wastewater arising from the development.

#### **7.4.4. 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. Introduction**

8.1.1. The EU Habitats Directive 92/43/EEC provides legal protection for habitats and species of European importance through the establishment of a network of designated conservation areas collectively referred to as Natura 2000 (or 'European') sites.

8.1.2. 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 and the development the subject of this retention application and appeal is not directly connected with or necessary to the management of a European site. The applicant did not submit an AA Screening or Natura Impact Statement.

8.1.3. Guidance on Appropriate Assessment is provided by the EU and the NPWS in the following documents:

- Assessment of plans and projects significantly affecting Natura 2000 sites – methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (EC, 2001).
- Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (DoEHLG), 2009.

8.1.4. Both documents provide guidance on Screening for Appropriate Assessment and the process of Appropriate Assessment itself.

## 8.2. Consultations

8.2.1. With regard to consultations, the Board will note that no issues relating to AA were raised by any party. I also note that the third-party appellant does not raise concerns in terms of AA.

## 8.3. Screening for Appropriate Assessment

8.3.1. The applicant did not prepare an Appropriate Assessment Screening Report as part of the subject application. The site is not located within any Natura 2000 site. The closest Natura 2000 site is the Ballycotton Bay SPA (Site Code: 004022) lies approximately 1km to the north-east of the subject site. The Ballymacoda (Clonpriest and Pillmore) SAC (Site Code: 000077) lies approximately 10km and the Ballymacoda Bay SPA (Site Code 004023) lies approximately 11.3km to the north-east. Cork Harbour SPA (Site Code: 004030) which lies approximately 10km to the west of the site and the Great Island Channel SAC (Site Code 001058) lies approximately 11.5km to the north-west.

8.3.2. 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 5 Natura 2000 Sites occurring within a 15km radius of the site.

- Ballycotton Bay SPA (Site Code: 004022) lies approximately 1km to the north-east of the subject site.
- Ballymacoda (Clonpriest and Pillmore) SAC (Site Code: 000077) lies approximately 10km to the north-east.
- Ballymacoda Bay SPA (Site Code 004023) lies approximately 11.3km to the north-east.
- Cork Harbour SPA (Site Code: 004030) which lies approximately 10km to the west of the site.
- Great Island Channel SAC (Site Code 001058) lies approximately 11.5km to the north-west.

8.3.3. I am satisfied that the of the above sites, the following Natura 2000 sites can be screened out in the first instance, as although located within the zone of significant impact influence, 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 site to the development site and therefore, I conclude that no significant impacts on the identified site is reasonably foreseeable. I am satisfied that the potential for impacts on the following Natura 2000 site can be excluded at the preliminary stage:

| Site Name                                 | Site Code | Assessment   |
|---|-----------|--|
| Ballymacoda (Clonpriest and Pillmore) SAC | 000077    | Site is located entirely outside the EU site and therefore there is no potential for direct effects.<br>No habitat loss arising from the proposed development. |
| Ballymacoda Bay SPA                       | 004023    |  |
| Cork Harbour SPA                          | 004030    | No disturbance to species.   |
| Great Island Channel SAC                  | 001058    | No pathways for direct or indirect effects.<br><b>Screened Out</b>   |

8.3.4. Given the proximity of the site to the Ballycotton bay SPA, I consider it appropriate to consider the following Natura 2000 site as being within the zone of influence of the proposed development, for the purposes of AA Screening:

- Ballycotton Bay SPA (Site Code: 004022).

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

- 8.4.1. The subject development site located within a rural environment and is not located within any designated site and does not appear to contain any of the habitats or species associated with any Natura 2000 site. There is no potential pathway to Ballycotton Bay or to the Ballycotton bay SPA (Site Code: 004022).
- 8.4.2. The following table sets out the qualifying interests for the identified Natura site:

| European Site  | Qualifying Interests  |
|--|---|
| <p><b>Ballycotton Bay SPA (Site Code: 004022)</b></p> <p>Located approx. 1km to the north-east of the site</p> | <ul style="list-style-type: none"> <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>• 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>• Turnstone (<i>Arenaria interpres</i>) [A169]</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> |

#### **Ballycotton Bay SPA (Site Code: 004022)**

- 8.4.3. Situated on the south coast of Co. Cork, Ballycotton Bay is an east-facing coastal complex, which stretches northwards from Ballycotton to Ballynamona, a distance of c. 2 km. The site comprises two sheltered inlets which receive the flows of several small rivers. The southern inlet had formerly been lagoonal (Ballycotton Lake) but breaching of the shingle barrier in recent times has resulted in the area reverting to an estuarine system.
- 8.4.4. The principal habitat within the site is inter-tidal sand and mudflats. These are mostly well-exposed and the sediments are predominantly firm sands. In the more sheltered conditions of the inlets, sediments contain a higher silt fraction. The inter-tidal flats



provide the main feeding habitat for the wintering birds. Sandy beaches are well represented. Salt marshes fringe the flats in the sheltered inlets and these provide high tides roosts. A small area of shallow marine water is also included.

8.4.5. Ballycotton Bay supports an excellent diversity of wintering waterbird species. The site was formerly utilised by Bewick’s Swan but the birds have abandoned the site since the reversion of the lagoonal habitat to estuarine conditions. The site is a well-known location for passage waders, especially in autumn. Species such as Ruff, Little Stint, Curlew Sandpiper, Green Sandpiper and Spotted Redshank occur annually though in variable numbers. Small numbers of Ruff may also be seen in late winter and spring. Rarer waders, such as Wood Sandpiper and Pectoral Sandpiper, have also been recorded.

8.4.6. While relatively small in area, Ballycotton Bay supports an excellent diversity of wintering waterbirds and has nationally important populations of eleven species, of which two, Golden Plover and Bar-tailed Godwit, are listed on Annex I of the E.U. Birds Directive. Ballycotton Bay is also a Ramsar Convention site and part of the Ballycotton Bay SPA is a Wildfowl Sanctuary.

8.5. **Conservation Objectives:**

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

| European Site   | Conservation Objectives   |
|---|---|
| <p><b>Ballycotton Bay SPA</b><br/><b>(Site Code: 004022)</b></p> <p>Located approx. 1km to the north-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 following Annex I habitat listed as a Qualifying Interest, as defined by a list of attributes and targets:               <ul style="list-style-type: none"> <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>○ 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>○ Turnstone (<i>Arenaria interpres</i>) [A169]</li> </ul> </li> </ul> |

|  |   |
|--|---|
|  | <ul style="list-style-type: none"> <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> |
|--|---|

**8.6. Potential Significant Effects**

8.6.1. In terms of an assessment of Significance of Effects of the proposed development on qualifying features of Natura 2000 site, 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 1km from the boundary of the designated site. 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 rural environment, but within an area which has experienced pressure for on-off housing. The site itself comprises improved agricultural land and no qualifying species or habitats of interest, for which the designated site is 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 proposed, 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 construction of a two-storey house on a rural site. The development includes a proposal to a proprietary wastewater treatment system to serve the house. Having regard to the nominal scale of the proposed development, together with the separation distances between the site and the boundary of the SPA, I am generally satisfied that the development, if permitted, is unlikely to impact on the overall water quality of the Ballycotton Bay SPA (Site Code: 004022).

I am generally satisfied that the potential for likely significant effects on the qualifying interests of the Ballycotton Bay SPA can be excluded given the distance to the sites, the nature and scale of the development and the lack of a hydrological connection.

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

- 8.7.1. Given the nature of the proposed development, being the construction of a house, I consider that any potential for in-combination effects on water quality in the Ballycotton Bay SPA can be excluded. In addition, I would note that all other projects within the wider area which may influence conditions in the Ballycotton Bay SPA via rivers and other surface water features are also subject to AA.

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

- 8.8.1. 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 the appeal, together with all other matters and details on the file, I am generally satisfied that the applicant appears to comply with both local and national policy as it relates to rural housing. Having regard to the site selection however, and given the location of the site within a High Value Landscape and on a designated scenic route, I recommend that permission be refused for the development for the following reason:

## 10.0 Reasons and Considerations

1. The site of the proposed development is located in an open and exposed coastal area designated as high value landscape as identified in figure 13.2 in the current County Cork Development Plan 2014. It is an objective of the planning authority, as expressed in the current Development Plan Objective GI 6-1 as it relates to landscapes, to protect the visual and scenic amenities of County Corks natural environment. The subject site is also located on a designates scenic route, No. S49 – road between Inch and Ballycotton via Ballybranagan, and Policy Objectives GI 7-2 Scenic Routes and GI 7-3 Development on Scenic Routes, seek to protect the character of views and prospects from scenic routes and requires those seeking to carry out development in the environs of a scenic route to demonstrate that there will be no adverse obstruction or degradation of the views towards and from vulnerable landscape features.

Having regard to the nature and scale of the proposed development together with works required to accommodate the proposed development on the site, including extensive cutting to accommodate the lower ground floor level, it is considered that the development would not comply with the above requirements and would, if permitted result in adverse obstruction and degradation of views both to and from vulnerable landscape features, including from Ballycotton Bay. The proposed development would, therefore, be visually obtrusive and visually detract from the scenic and visual quality of the area, contrary to the policy objectives of the Cork County Development Plan and would, therefore, be contrary to the proper planning and sustainable development of the area.

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A. Considine  
Planning Inspector  
26/02/2022