



An
Bord
Pleanála

Inspector's Report ABP-312873-22.

Development	Demolish cottage and construct 2 storey house, WWTP, boundary walls, and entrance.
Location	Ballinluska, Myrtleville, Co Cork.
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	21/6401.
Applicant(s)	Norma O'Sullivan.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellant(s)	Benedict Neff.
Observer(s)	Annabella Lynch Annabella Lynch Bernard Lynch.
Date of Site Inspection	12/04/2022.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The appeal site is located in the area of Ballinluska, Myrtleville, approximately 2km to the south of Crosshaven in Co. Cork. While Crosshaven is identified as a key village within the Metropolitan Cork Strategic Planning Area, the LAP includes the adjoining Bays of Fountainstown, Church Bay, Fennell's Bay and Myrtleville within the context of Crosshaven as a series of satellite nodes which have evolved as small sea-side retreats, and which have their own character. The site lies within the settlement boundary of Crosshaven & Bays in the Bandon Kinsale Municipal District Local Area Plan 2017.
- 1.2. The character of the area comprises one-off detached houses to the south and immediate west of the site, with a small residential development of approximately 30 houses, located to the north, known as Cooney's Field. The site fronts onto the R612 regional road which forms the coast road in this area of County Cork and provides primary access to the sandy beach area of Myrtleville. The regional road is also a designated scenic route - S59.
- 1.3. The site, with a stated area of 0.04537ha, is located on a bend in the road and is currently occupied by a single storey cottage, in a semi-ruinous state. The site has recently been cleared and is very small, with no roadside boundaries present. To the rear of the site, there is a steep bank which rises to approximately 6m at the northern boundary of the proposed development site. This bank wraps around the western boundary of the site also, rising to approximately 4m in height.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for the demolition of existing cottage and for the construction of a new detached two storey replacement dwelling, installation of a domestic wastewater treatment system and polishing filter, new boundary walls including improved site entrance and all associated site works, all at Ballinluska, Myrtleville, Co Cork.
- 2.2. The application included the following documents:
 - Plans and particulars
 - Completed planning application form

- Proposed 3D Visuals
- Site Assessment
- Invasive Species Validation Report

2.2.1. The proposed development comprises the demolition of an existing single storey cottage, with a stated floor area of 48.3m², and its replacement with a two-storey house, with a stated floor area of 169.1m². The house will comprise 3 bedrooms, bathroom and utility at ground floor level with the main open plan living space located at first floor level. The first-floor level will also include an office and WC, as well as an eastern facing terrace which will offer views over Myrtleville beach. The building will rise to an overall height of 7.487m in height and I note that the first-floor level will include vaulted ceilings.

2.2.2. The building will be finished in stone at ground floor level with select timber at first floor level. The roof will be finished in blue/black slates and the windows and doors will be charcoal grey Alu-Clad. The form of the proposed building will be a simple A-gabled structure, with a flat roofed rear projection over two floors.

2.2.3. In terms of servicing the proposed development, the Board will note the intention to install a private Euro-Bio WWTP system on the site. It is noted that the site failed the site suitability assessment, but as there is an existing house on the site which is currently served by an old 'holding pit', it is necessary to improve the current situation through the installation of secondary treatment with a Circle 7 filter after site improvement works have been carried out.

2.2.4. Following a request for further information, the applicant submitted the following document:

- Land Registry Folio
- Updated drawings showing the omission of the courtyard wall and provision of carparking.
- Revised site characterisation report which includes the *T and *P test results.
- Issues to address the concerns raised regarding potential for overlooking.

The submission also advises commitment to maintaining the hedgerow boundaries.

The applicant also advises that an additional piece of land to the east has been acquired and is now outlined in blue on enclosed drawings.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant planning permission for the proposed development subject to 16 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 submissions, the planning history of the area, the County Development Plan, and local area plan policies and objectives. The report also includes an Appropriate Assessment Screening and EIA assessment.

The Planning Report concludes that as the house is not within a rural area, being within the settlement boundary of Crosshaven and the Bays, the rural housing policy does not apply. The principle, therefore, is acceptable. The residential use of the site is also accepted. In terms of servicing, the report notes the requirements of the AE, and notes the issues raised regarding the ownership of the site raised by third parties.

In terms of the proposed design, the report considers that the development may be accommodated but that further information is required in terms of sections and clear details of the entire extent of the site. Concerns are also noted with regard to the level of work proposed to the embankment along the north of the site and the potential damage to the hedgerow which runs along the north and west of the site. Further information is required with regard to a number of issues.

Following the submission of the response to the FI request, the PA report accepts that the land boundary issue has been addressed. In terms of parking, the proposed courtyard is to be omitted to enable increased car parking and turning space. While

the site failed the site suitability assessment, the AE advises no objections. The drawings have been amended to address the concerns in terms of windows to prevent the potential for overlooking and it is noted that the top of the boundary hedge extends from 53.15m to 53.8m. The report considers that a 1.8m high opaque screen should be placed on the western side of the terrace to prevent views west which can be dealt with by condition. All other matters relating to landscaping are also considered to be fully addressed.

The final planning officers report concludes advising that permission be granted subject to conditions. The planning report 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 while sight lines are acceptable, the proposal to provide parking outside the boundary wall of the property is not. Revised proposals are required.

No issues arise in relation to surface water proposals or water supply. Confirmation of gradient of existing ground in terms of EPA CoP 2021 is required.

Further information required.

Following the submission of a response to the FI request, the AE advises that the information submitted satisfies the concerns raised regarding onsite treatment, boundary treatment and parking. There is no objection to the proposed development.

3.2.3. Prescribed Bodies

Irish Water: Advises no objection.

3.2.4. Third Party Submissions

There are 5 third-party submissions noted on the PAs file. The issues raised are summarised as follows:

- The proposed 2 storey structure is not in keeping with the area.
- Issues in terms of the red line boundary which is indicated as extending into the adjacent property.

- The scale of the building is too large for the size of the site.
- Issues in relation to the provision of a WWTP and car parking due to the small area of the site.
- The height of the proposed house will impact on the skyline, overlook adjacent property and will impact the light from the east on adjacent property.
- The roof elevations will impact the Myrtleville skyline and be obtrusive in the sensitive coastal seaside area.
- Any development should not exceed the existing roof profile height.
- Roads and traffic impacts including potential impacts on pedestrians.
- The site is located in a High Value landscape and on a designated scenic route.
- Potential ribbon development.
- No local housing need established.
- An approved biodiversity plan for the site should be sought.
- Surface water management should be addressed.

4.0 Planning History

There is no relevant planning history pertaining to the subject site.

Adjacent sites:

East:

ABP ref: PL 04.233746 (PA ref. 08/9527): Permission Refused on appeal (overturning the draft decision to grant) for demolition of house no's 1 & 2 Hillside, Myrtleville and to construct a 65-unit residential scheme on three sites. Reasons for refusal related to traffic hazard and drainage.

ABP ref: PL04.238635 (PA ref. 10/08248): Permission refused on appeal for demolition of 2 houses and construction of 58 houses. The sole reason for refusal was as follows:

'It is considered that the proposed development constitutes a significant expansion of the settlement of Myrtleville, which currently has no public wastewater treatment system. Having regard to the proposal to drain the proposed development by sewer to rising mains and to pump that effluent uphill and over land a considerable distance in perpetuity, the Board is not satisfied that the drainage proposal, which constitutes a partial solution to the drainage of Myrtleville, represents a sustainable approach to servicing the proposed development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area'.

West:

PA ref: 05/7091: Permission granted for the retention of detached store, lean-to store and greenhouse to rear of garage and alterations and extension to house.

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. The site is located within the settlement boundary of Crosshaven & Bays as identified in the Bandon Kinsale Municipal District Local Area Plan 2017. The following policy objectives are considered relevant in the context of the proposed development:

- Policy Objective ZU 2-1 – Development and Land Use Zoning
- Policy Objective ZU 2-2 – Development Boundaries:
It is a general objective to locate new development within the development boundary identified in the relevant LAP that defines the extent to which the settlement may grow during the lifetime of the plan.
- Policy Objective ZU 3-2 – Appropriate Uses in Residential Areas
- Policy Objective HOU 3-2 – Urban Design
- Policy Objective SC 5-8 – Private Open Space Provision.

5.1.2. The site is also located within an area identified as Indented Estuarine Coast. Such locations are designated as area of very high landscape value, very high landscape

sensitivity and are of national importance. Section 13.6 – Landscape Character Assessment of County Cork states that ‘very high sensitivity landscapes (e.g. seascape area with national importance) which are likely to be fragile and susceptible to change.’ The following policy objectives, as they relate to the protection of the landscape and ensure that new developments meet high standards in terms of siting and design, are considered relevant:

- Policy Objective GI 6-1- Landscape
- Policy Objective GI 6-2 - Draft Landscape Strategy.

5.1.3. The site is located on a scenic route (ref. S59), which is the road between Crosshaven and Myrtleville, Church Bay, Camden, Weavers Point and Fountainstown. As such the following policy objectives, as they relate to the protection of the character of scenic routes, are considered relevant:

- Policy Objective GI 7-2 - Scenic Routes
- Policy Objective GI 7-3 - Development on Scenic Routes.

5.2. Bandon Kinsale Municipal District Local Area Plan 2017

5.2.1. The subject site is located within the existing ‘built up’ area of Crosshaven & Bays, which is identified as a Key Village in the LAP. It is a strategic aim of the Cork County Development Plan, 2014 to establish key villages as the primary focus for development in rural areas in the lower order settlement network and allow for the provision of local services by encouraging and facilitating population growth at a scale, layout and design that reflects the character of each village. The LAP further seeks to support the retention and improvement of key social and community facilities.

5.3. Draft Cork County Development Plan 2022

5.3.1. The Board will note that the Elected Members of Cork County Council adopted the Cork County Development Plan 2022-2028 at a full Council Meeting on the 25th of April 2022. The Plan will come into effect on the 6th of June 2022.

5.3.2. The 2022 CDP identifies the subject site as being within the settlement boundary of Crosshaven and Bays and puts the key village of Crosshaven & Bays within Volume

4 of the Plan which covers the South Cork area. The South Cork area includes the Carrigaline and Cobh MDs. The subject site lies within Myrtleville, which comprises one of the 'Bays'.

5.3.3. The subject site is located on lands part zoned Existing Residential/Mixed Residential and Other Uses. The site is zoned Existing Residential / Mixed Residential and Other Uses and remains within a high value landscape and on a designated scenic route S59.

5.4. **Code of Practice Domestic Waste Water Treatment Systems (p.e. ≤ 10) 2021**

The Code of Practice (CoP) sets out guidance on the design, operation and maintenance of on-site wastewater treatment systems for single houses. The EPA CoP 2021 replaces the previous Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10) issued in 2009. As stated in the preface of the revised CoP, the revised CoP 'applies to site assessments and subsequent installations carried out on or after 7th June 2021'. As such, the subject application and appeal shall be considered against the provisions of the 2021 EPA CoP 2009.

5.5. **Natural Heritage Designations**

The site is not located within any Natura 2000 site. The closest Natura 2000 site is the Cork Harbour SPA (Site Code: 004030) which lies approximately 1km to the south-west of the site.

5.6. **EIA Screening**

5.6.1. The application was submitted to the Board after the 1st September 2018 and therefore after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018.

5.6.2. 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.

5.6.3. The proposed development comprises the demolition of an existing rural house and the construction of a replacement house in Myrtleville, Co. Cork, on a site of 0.04537ha. It is therefore considered that the development does not fall within the above classes of development and does not require mandatory EIA.

5.6.4. 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.

5.6.5. Having regard to:

- (a) the nature and scale of the development,
- (b) the location of the site within the settlement boundaries of Myrtleville as part of the Crosshaven and Bays settlement,
- (c) 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 in the appeal reflect those issues raised during the PAs assessment of the proposed development.

6.1.2. The grounds of appeal are summarised as follows:

- It is considered that the issues raised in the original observation to the PA remain unresolved.
- Bulk and scale of the development –
 - The existing house is a single storey while the proposed replacement is two storey with first floor terrace and balcony. It does not reflect the history of the existing dwelling or those in the surrounding area
 - The site is too small to accommodate the dwelling.
 - The site failed a site suitability test due to the restricted size.
 - The development is contrary to CDP objectives DB-01 and DB-02 in relation to sewage disposal arrangements and should be refused.
 - The root systems of the mature hedgerows on the northern and western boundaries will be extensive and may be impacted by the percolation area.
 - Planning history of adjoining site indicates that houses were refused on appeal.
- Impact on residential amenity and visual amenity of the area –
 - The development will result in a significant change to the existing landscape and enjoyment of views towards Myrtleville Beach for the existing community.
 - Conditions requiring the erection of a 1.8m high non transparent screen on the western side of the first-floor terrace does not ensure the protection of privacy for neighbouring residents.
 - The balcony and terrace are out of character for the area.

- The site is located within a high value landscape and on a designated scenic route.
- Roads and traffic issues –
 - No assessment of traffic implications of the development has been submitted.
 - The site is located on a regional road on an acute right-hand bend where the speed limit of 50kph is set.
 - Egress from existing properties to the south is already particularly difficult given the nature of the bend.
- Other issues –
 - A tree and hedgerow survey has not been carried out and the site may be home to sensitive flora and fauna species.
 - A tree and hedgerow survey would determine the extent of the root network of existing hedgerows.
 - No outline construction management report has been submitted and it is unclear how construction, given the small-scale nature of the development site and demolition proposed, will be managed.
 - Construction traffic will cause disruption to local residents and road users.
 - Historic issues of ground water runoff breaching boundary walls in the area.

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

6.2. Planning Authority Response

The Planning Authority submitted a response to the third-party appeal noting the concerns raised. The PA report advises as follows:

- With regard to the issue of WWTP, ultimately it was considered that if a residential use was re-established the system presented would alleviate the initial concerns of the AE, albeit not EPA 2021 compliant.

- In terms of traffic safety, the AE was satisfied with the sightlines demonstrated.
- In terms of residential and visual impacts, it is noted that the site is prominent, but that the house has been architecturally designed to address the sensitive nature of the landscape.
- The Council has no objection to the attachment of a Construction Management Plan by condition if considered appropriate by ABP.

6.3. Observations

There are three observations noted in relation to the subject appeal. All 3 observations request that permission be refused for the proposed development and the issues raised are summarised as follows:

- The bulk and scale of the proposed development and the impact on existing properties in terms of overlooking, privacy, light and overshadowing.
- The roof profile should not exceed the existing roof profile height of the existing cottage.
- Hedgerow heights should not be used as they are cut seasonally.
- Issues relating to the space available for sewage and water treatment given the size of the house proposed.
- The proposed terrace is at the same level as the adjoining garden and will overlook and severely impact the amenity of the adjoining property.
- The development will impact views towards Myrtleville Beach.
- Issues in terms of roads and traffic safety.
- Proposals to protect the existing hedgerows is not provided.
- Any removal of the hedgerows would be a health and safety issue as they are a security barrier and protect against fall risk.

It is requested that permission be refused.

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

7.1. Principle of the Development:

7.1.1. The Cork County Development Plan 2014 is the relevant policy document pertaining to the subject site. The site is located within the 'existing built-up' area of Myrtleville which is identified as part of the key village of Crosshaven & Bays. The Board will note that the location of the site within the settlement boundaries has not been amended in the draft CDP, which is due to come into effect on the 6th of June 2022.

The site has a stated area of 0.04537ha and is currently occupied by a single storey cottage, with a stated floor area of 48.3m², which is in an uninhabitable state. The proposed development seeks to demolish this existing house and replace it with a new two storey house and new WWTP system. The subject site is essentially cut into the hill, with the existing finished floor levels of the house at road level and the building encircled by high banks on the north and western sides.

7.1.2. In terms of the principle of the development, I would note that under the provisions of the current Cork County Development Plan 2014, development within 'existing built-up area' zoned lands is supported above greenfield development. I also note that Section 14.4 of the Plan, which deals with Brownfield sites, supports the

redevelopment of such sites as it is inherently more sustainable than the development of greenfield sites. In addition to the CDP, the relevant LAP, the Bandon Kinsale MD LAP 2017, provides that 'any new development in the Bays area will be restricted to low density, infill development or the appropriate redevelopment or refurbishment of existing dwellings and brownfield sites, subject to satisfactory sewage disposal arrangements.' In terms of the draft CDP, I am satisfied that the principles of the current LAP objectives will be carried through in the new CDP.

- 7.1.3. In terms of the above and having regard to the nature of the development proposed, I am satisfied that the principle can be considered acceptable. While I would have no real objection to the replacement of the current house on the site, I will address wastewater treatment and disposal matters further in this report. While I acknowledge the small area associated with the site, the Board will note that an additional area of land has been acquired by the applicant which amounts to approximately 210m². Overall, I am satisfied that the principle of the proposed development can be considered acceptable at this site subject to normal planning and sustainable development considerations.

7.2. Visual & Residential Amenity Impacts

- 7.2.1. The subject site is located within a high value landscape and on a designated scenic route S59. The proposed development seeks to construct new two-storey house, with an overall ridge height of approximately 7.5m. The Board will note that the third-party appellant has raised concerns in terms of the overall design, scale and bulk of the proposed house on the site. In particular the third-party appellant considers it inappropriate that the existing single storey cottage is replaced with the proposed two storey house.
- 7.2.2. While I acknowledge that the proposed house is larger than the house to be replaced, I would agree with the Planning Authority, and the architect, that the design has been influenced by the existing cottage, given its narrow floor plan and pitched roof and the fact that it will continue to sit into the surrounding banks. In addition, I note the pallet of materials to be employed in the build, which include stone, timber cladding and a natural slate roof. I also note that the finished floor level of the house will be substantially below that of the closest adjacent house, which lies approximately 31m to the west of the site boundary.

- 7.2.3. While I acknowledge that the existing homes in the area are generally single storey in height, given the context of the subject site, I am generally satisfied that the proposed house can be accommodated without undue impacts on the visual amenity of the surrounding high value landscape. I have no objection in principle to the overall design and finishes of the buildings proposed.
- 7.2.4. In terms of the concerns raised by the appellant with regard to impacts on existing residential amenity, I again note the separation distance, and differing site levels between the two sites. I also note that the windows proposed in the western elevation have been altered to high level window so as to remove any potential for overlooking of the adjacent private amenity space. Having regard to the existing site boundaries, together with the proposals for the treatment of the proposed balcony to the north of the building as provided for in Condition 4 of the PAs recommended grant of permission, I am generally satisfied that the development, if permitted, will not give rise to any undue overlooking of existing adjacent properties.
- 7.2.5. Due to the orientation of the site, together with the existing embankments which will envelop the proposed new house, I am satisfied that there are no issues arising in relation to overshadowing of adjacent properties, either buildings or private amenity spaces.
- 7.2.6. The Board will note the location of the site in a prominent location on an identified Scenic Route S59 and within a high value landscape. In this regard, it is a particular objective of the planning authority to preserve the visual and scenic amenities of those areas of natural beauty identified as scenic routes. Having regard to my consideration of the proposed development, together with all of the submissions and concerns raised by third parties, I consider that the proposed development appropriately addresses the nature of this brownfield site and subject to compliance with conditions in relation to boundary treatments, a grant of permission in this instance, would not adversely affect the character of the designated Scenic Route S59, would not seriously injure the visual amenities of the area and would not contravene the policies of the said development plan for the protection of the Scenic Routes, which policies are considered reasonable. The proposed development would, therefore, be acceptable in terms of the proper planning and sustainable development of the area.

7.3. Roads & Traffic

- 7.3.1. The Board will note that the third party has raised concerns in terms of the proposed traffic impacts associated with the proposed development. I also note that the PA, further to the Area Engineers comments and following the submission of the response to the FI request, were satisfied that roads and traffic issues were adequately addressed. The subject site is located on a regional road where the speed limit is 50kph. While there is a sharp bend in the road, the site lies on the outside of the bend and sight distances of 70m are achievable in both directions. The layout of the site proposes no front boundary in order to ensure the provision of 2 car parking spaces to serve the house.
- 7.3.2. Policy Objective TM3-3 of the County Development Plan seeks to ensure all new vehicular accesses are designed to appropriate standards of visibility to ensure safety of other road users and would therefore, by itself and by precedent, endanger public safety by reason of traffic hazard. I am satisfied that the proposed development is acceptable in this regard.

7.4. Water Services & Site Suitability Issues

- 7.4.1. In terms of site suitability, the Board will note that the existing cottage on the site has been served by an existing WWTP system comprising an 'old holding pit' and it is proposed to replace this system as part of the overall redevelopment of the site. The submitted information advises that as the site is very small, the required separation distances cannot be achieved. It is proposed that the development will be served by a 'Euro-Bio' Treatment system and a Circle 7 polishing filter with final discharge to groundwater. I note that the subject site has failed the site suitability assessment and that no *T value was achieved. In acknowledging the appellants concerns in terms of the servicing of the proposed development, I am satisfied that the suitability of the site with regard to the treatment and disposal of wastewater has been fully considered by the applicant.
- 7.4.2. The site characterisation assessment, submitted as part of the planning application, and further information submitted following the request for further information, notes that no bedrock was identified in the trial pit, which was dug to 0.9m bgl. Neither was the water table noted at this level. The assessment identifies that the site is located

in an area where there is a Groundwater Protection Scheme and categorises the site as being a locally important aquifer (LI) with extreme vulnerability. A Groundwater Protection Reuse of R2¹ is indicated. The bedrock type is described as 'Green sandstone, siltstone & mudstone' while the soil and subsoil type is described as made ground due to the brownfield nature of the site.

7.4.3. No *T tests were carried out on the site. *P tests were carried out at a level of 0.4m bgl, yielding a value of 0.25. The report concludes that the site has failed the assessment but as there is an existing house on the site, it is recommended that a secondary treatment system with a Circle 7 filter may be suitable, after site improvement works are carried out. Full details of the required works are set out in the site characterisation report.

7.4.4. While I acknowledge the difficulties with the site size, 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. I also note that the PA have accepted the proposals for the treatment and disposal of wastewater arising from the development.

7.5. Other Issues

7.5.1. 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.

7.6. Appropriate Assessment

Introduction:

7.6.1. 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 designated site. The closest Natura 2000 site is the Cork Harbour SPA (Site Code: 004030), approximately 1km to the south-west of the site.

7.6.2. 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.

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

Consultations:

7.6.4. With regard to consultations, the Board will note that no issues relating to AA were raised by any party. I note that the third party has considered that an approved biodiversity plan for the site should be sought, together with a plan for the management and protection of hedgerows.

Screening for Appropriate Assessment

7.6.5. The proposed development will connect to the public water supply and will install private WWTP on the small site, with discharge to groundwater.

7.6.6. 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 2 Natura 2000 Sites occurring within a 15km radius of the site, the closest one being the Cork Harbour SPA (Site Code: 004030), approximately 1km to the south-west of the site. In addition to the above, the Great Island Channel SAC (Site Code: 001058) lies approximately 10.8km to the north of the site. The 15km area also includes a number of NHAs and pNHAs.

7.6.7. I am satisfied that the following site can be screened out in the first instance, as it 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. The brownfield nature of the site is also noted. There is no potential impact pathway connecting the designated site to the development site and

therefore, I conclude that no significant impacts on the following 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
Great Island Channel SAC	001058	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p>Screened Out</p>

7.6.8. I consider that the following Natura 2000 site, 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:

- The Cork Harbour SPA (Site Code: 004030)

Qualifying Interests for Natura 2000 Sites within Zone of Influence

7.6.9. The subject development site is located within the settlement boundaries of Myrtleville, Co. Cork, which is included within the boundaries of Crosshaven and the Bays settlement, and on lands zoned Existing Built Up Area. The brownfield 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.

7.6.10. The following table sets out the qualifying interests for the identified Natura site:

European Site	Qualifying Interests
<p>Cork Harbour SPA (Site Code: 004030)</p> <p>Located approx. 1km to the south-west of the site</p>	<ul style="list-style-type: none"> • Little Grebe (<i>Tachybaptus ruficollis</i>) [A004] • Great Crested Grebe (<i>Podiceps cristatus</i>) [A005] • Cormorant (<i>Phalacrocorax carbo</i>) [A017] • Grey Heron (<i>Ardea cinerea</i>) [A028] • Shelduck (<i>Tadorna tadorna</i>) [A048] • Wigeon (<i>Anas penelope</i>) [A050] • Teal (<i>Anas crecca</i>) [A052]

	<ul style="list-style-type: none"> • Pintail (<i>Anas acuta</i>) [A054] • Shoveler (<i>Anas clypeata</i>) [A056] • Red-breasted Merganser (<i>Mergus serrator</i>) [A069] • Oystercatcher (<i>Haematopus ostralegus</i>) [A130] • Golden Plover (<i>Pluvialis apricaria</i>) [A140] • Grey Plover (<i>Pluvialis squatarola</i>) [A141] • Lapwing (<i>Vanellus vanellus</i>) [A142] • Dunlin (<i>Calidris alpina</i>) [A149] • Black-tailed Godwit (<i>Limosa limosa</i>) [A156] • Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] • Curlew (<i>Numenius arquata</i>) [A160] • Redshank (<i>Tringa totanus</i>) [A162] • Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] • Common Gull (<i>Larus canus</i>) [A182] • Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183] • Common Tern (<i>Sterna hirundo</i>) [A193] • Wetland and Waterbirds [A999]
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Cork Harbour SPA (Site Code: 004030)

- 7.6.11. Cork Harbour is a large, sheltered bay system, with several river estuaries - principally those of the Rivers Lee, Douglas, Owenboy and Owennacurra. The SPA site comprises most of the main intertidal areas of Cork Harbour, including all of the North Channel, the Douglas River Estuary, inner Lough Mahon, Monkstown Creek, Lough Beg, the Owenboy River Estuary, Whitegate Bay, Ringabella Creek and the Rostellan and Poul nabibe inlets.
- 7.6.12. The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for the species listed above, and is also of special conservation interest for holding an assemblage of over 20,000 wintering waterbirds. The E.U. Birds Directive pays particular attention to wetlands and, as these form part of this SPA, the site and its associated waterbirds are of special conservation interest for Wetland & Waterbirds. Cork Harbour is an internationally important wetland site,

regularly supporting in excess of 20,000 wintering waterfowl. Cork Harbour has a nationally important breeding colony of Common Tern (102 pairs in 1995).

7.6.13. Cork Harbour is of major ornithological significance, being of international importance both for the total numbers of wintering birds (i.e. > 20,000) and also for its populations of Black-tailed Godwit and Redshank. In addition, it supports nationally important wintering populations of 22 species, as well as a nationally important breeding colony of Common Tern. Several of the species which occur regularly are listed on Annex I of the E.U. Birds Directive, i.e. Whooper Swan, Little Egret, Golden Plover, Bar-tailed Godwit, Ruff, Mediterranean Gull and Common Tern. The site provides both feeding and roosting sites for the various bird species that use it. Cork Harbour is also a Ramsar Convention site and part of Cork Harbour SPA is a Wildfowl Sanctuary

Conservation Objectives:

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

European Site	Conservation Objectives
<p>Cork Harbour SPA (Site Code: 004030)</p> <p>Located approx. 1km to the south-west of the site</p>	<ul style="list-style-type: none"> The NPWS has identified a site-specific conservation objective to maintain the favourable conservation condition of the species listed as a Qualifying Interest (detailed above), as defined by a list of attributes and targets.

Potential Significant Effects

7.6.15. 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 any designated site, and within an established settlement area. The site is also a brownfield site and is currently occupied by a house, and is primarily made ground. 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 low-density, developed environment. 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 demolition of an existing house and the construction of a new house in its place. The development also seeks to install a new WWTP to replace the existing 'old holding pit' which served the old cottage on the site. The brownfield site lies within the settlement boundary of Crosshaven and the Bays at Myrtleville. In acknowledging the small site area and having regard to the 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 Cork Harbour SPA (Site Code: 004030).

I am generally satisfied that the potential for likely significant effects on the qualifying interests of the Cork Harbour SPA (Site Code: 004030) can be excluded given the distance to the sites, the nature and scale of the development and the lack of a hydrological connection.

In Combination / Cumulative Effects

7.6.16. Given the nature of the proposed development, being demolition of an existing house and the construction of new house in its place with a new WWTP system to replace the old holding pit currently on the site, and the location of the site within a

designated settlement, 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 Cork Harbour SPA via rivers and other surface water features are also subject to AA.

Conclusion on Stage 1 Screening:

7.6.17. 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.

8.0 Recommendation

I recommend that planning permission be granted for the proposed development for the following stated reason and subject to the following stated conditions.

9.0 Reasons and Considerations

Having regard to the Objectives of the National Planning Framework, the pattern of permitted development in the area, to the provisions of the Cork County Development Plan 2014, the Bandon Kinsale Municipal District Local Area Plan 2017 and the provisions of the Cork County Development Plan 2022 which will come into effect on the 6th of June 2022, and to the layout and design as submitted with the application, the Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of adjoining properties, would not seriously injure the residential amenities of future occupants and would be acceptable in terms of traffic safety and convenience, subject to compliance with the following conditions.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 22nd day of December 2021 and 26th day of January 2022, 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. External finishes and the balcony boundary treatments, including all materials, colours and textures shall be in accordance with the details submitted to, the planning authority, unless otherwise agreed prior to commencement of development.

Reason: In the interest of visual amenity.

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

Reason: In the interest of public health.

4. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority and in accordance with the requirements of the document entitled "Code of Practice Domestic Waste Water Treatment Systems (p.e. ≤ 10)" – Environmental Protection Agency, 2021. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.

(b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.

(c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwelling house and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.

(d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.

(e) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

5. All trees and hedgerows within and on the boundaries of the site shall be retained in full, save where their removal is authorised by this planning permission. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of residential and visual amenity.

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

7. Site development and building works shall be carried out only between the hours of 0800 and 1800 from Mondays to Fridays inclusive, between the hours of 0800 and 1300 on Saturdays, and not at all on Sundays or public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In the interest of protecting the residential amenities.

8. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of clarity, orderly development and amenity.

9. A construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic and parking during the construction phase, the location of the compound for storage of plant and machinery and for storage of deliveries to the site.

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

10. 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.

A. Considine

Planning Inspector

30/05/2022