



An  
Bord  
Pleanála

## Inspector's Report

### ABP-314452-22

<b>Development</b>	Modification and widening of existing entrance, construction of house, garage, septic tank, associated siteworks, a shared driveway serving house and residual agricultural lands.
<b>Location</b>	Currabally, Ballymore, Cobh, Co Cork.
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	217139
<b>Applicant(s)</b>	Angela Barrett
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	John & Eileen Morgan
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	13/04/2023
<b>Inspector</b>	Adrian Ormsby

## 1.0 Site Location and Description

- 1.1. The site is located at an address known as Corbally, Ballymore approximately 3.7 km north east of Cobh in County Cork. The site has road frontage of c. 16m but is generally c. 35m wide. It extends c.85m southwards and forms part of a larger landholding that extends further south and slightly east. The application site has a stated area of 0.2905 ha
- 1.2. The site can be described as an irregularly shaped infill site located between two single storey style houses on the same side of the road. The site is located in an area with a considerable number of individual one off houses on both sides of the road. This area was described as a 'Settlement' under the provisions of the previous County Development Plan i.e. Ballymore / Walterstown but no longer benefits from this designation in the current County Plan 2022-28 and is therefore located in a rural area.
- 1.3. The site fronts the public road with a grass verge, an existing agricultural style site entrance and a post and rail wooden fence along the roadside boundary. A Utility pole is located within the site and just west along the roadside boundary.
- 1.4. The site is located along the southern side of a heavily trafficked local road (L-2991). The speed limit at this section of road is 50kph with the limit starting c. 850m west of the site near a local public house and ending c. 1.6km north east of the site. At the time of my inspection I considered most cars to be travelling in excess of the speed limit. The Walterstown National School is located c. 500m east of the site. There are a large number of individual house entrances off this road. The road is relatively straight and wide enough to facilitate two way traffic. I note a broken white line to the front of the site.
- 1.5. Levels within the site falls away from the public road southwards and it is noted the coast line is c. 1km south of the site.

## 2.0 Proposed Development

- 2.1. This permission application is for-
  - Modification and material widening of the existing vehicular entrance

- the construction of a split level style 2-storey house- 224 sq.m
- the construction of a shared access driveway serving the house and the residual agricultural lands
- a detached garage- 34 sq.m
- a septic tank
- and all associated siteworks

2.2. The Planning Authority sought Further Information on the 20/01/22 in which they highlighted concerns over the previous refusal on site, sightlines and the existing density of development in this rural area lacking public wastewater services and their position to consider only one house on the landholding. They sought revised proposals for a house positioned in line with existing houses either side with direct access to the public road and sightlines to be shown.

2.3. The applicant submitted a response to the FI request (RFI) on the 13/07/22 in which they highlighted-

- The previous refusal on the site related to available sightlines. An Bord Pleanála noted prospective proliferation of development served by treatment systems but did not deem it sufficiently substantive to include as a reason for refusal.
- The original drawings show sightlines as required and this view is shared by the Area Engineer.
- An assessment of available sightlines has been prepared by MHL Consulting Engineers provides further endorsement of this view and is submitted. The proposal satisfies the requirements of DMURS and DMRB.
- In terms of wastewater concerns this application is for one house only and not three like the previous application. The proposed system complies with EPA guidance.
- The application is for one house and to provide access to otherwise landlocked agricultural lands. It is not possible to provide separate accesses and the Area Engineer agrees. It is not feasible for the house to be positioned

in line with existing houses as suggested. There will be no mutual overlooking of private open spaces or areas.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The Planning Authority decided to grant permission on the 02/08/2022 subject to 18 conditions generally of a standard nature including-

- C7- requiring vegetation or any structure to not exceed 1m in height within the sight distance triangle
- C18- requiring sight distances of 70 metres in both directions, at a point 2.4m back from the road edge to the satisfaction of the Planning Authority.

### **4.0 Planning Authority Reports**

#### **4.1. Planning Reports**

4.1.1. The Planning Reports generally reflect the decision of the Planning Authority. The following is noted from the first report-

- The site is located within the development boundary of Ballymore / Walterstown.
- The proposal is a type of development that is not identified as a project for the purposes of EIA.
- The requirement for Appropriate Assessment has been screened out.
- The site is located outside of any designated flood risk zone.
- The current proposal is for a single house but the submitted layout provides a large access road to provide access to further future development similar to previous proposals. Following discussions with the Area Engineer (who recommends refusal) it was noted he would be more amenable to one house positioned in line with existing houses either side with a single entrance and

without the road access providing for future development of lands to the south.

- It is noted that under the draft CDP the development boundary around this settlement has been removed and therefore the site will form part of the Metropolitan Greenbelt area.

4.1.2. The following is noted from the second report following submission of FI-

- Following an onsite meeting the Area Engineer is satisfied that adequate sight distances can be achieved.
- Requests for Further Information issued before CDP 2022 came into effect shall be decided on the basis of the CDP2014/LAPS 2017/TDPs (superseded Statutory Plans) having regard to the adopted CDP.
- The application was lodged on 18/11/21 and the FI issued on the 201/01/22 prior to the 2022 CDP coming into effect. Therefore the application should be decided on the basis of the CDP 2014 / LAP 2017.
- Although the site is now located within the Metropolitan Greenbelt, under the Cobh MD LAP 2017 the site was located within the Village Nuclei of Ballymore where the occupancy clause did not apply.

#### 4.2. Other Technical Reports

- Area Engineer-
  - 05/01/22- the proposal should be refused due to poor road alignment, and restricted sightlines in both directions. The proposal would endanger public safety to reason of a traffic hazard.
  - No date given but due date acknowledged as 09/08/22- No objection subject to conditions.

#### 4.3. Prescribed Bodies

- None

#### 4.4. Third Party Observations

There was one third party submission which generally reflects the matters raised in the 3<sup>rd</sup> party appeal as set out in section 7.1 below.

#### 5.0 Planning History

This site and part of the landholding southwards-

- 19/6853, ABP-308629-20 Permission for 3 serviced residential sites and construction of a new vehicular entrance from the public road. Permission refused by ABP-
  - The proposed vehicular access to the site joins a busy road that is poorly aligned, at a point where sightlines are restricted in both directions and the restricted road frontage would preclude the provision of satisfactory sightlines at this location. It is considered that the traffic likely to be generated by the proposed development would endanger public safety by reason of traffic hazard and would, therefore, be contrary to objective TM 3-3(d) of the Cork County Development Plan 2014. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- The Board also noted in their Direction-
  - *.....the proposed development could lead to an excessive proliferation of development served by individual wastewater systems in the area. Taken in conjunction with existing development in the vicinity, the proposed development could give rise to an excessive density of development in a rural area lacking public wastewater facilities.*

#### 6.0 Policy Context

##### 6.1. Cork County Development Plan 2022-2028 (CDP)

- 6.1.1. It is noted the application was originally lodged at a time when the previous County Development 2014-20 was in effect. The current County Development Plan 2022-

2028 has been operative since 6th of June 2022. The application was permitted by the Council on the 02<sup>nd</sup> of August 2022.

6.1.2. Section 2.15 of the operative CDP deals with “Settlement Networks in Cork County

- Section 2.15.9 states-

*“The settlement network has been adjusted with the removal of the development boundary from most village nuclei and a discontinuation of many Other Locations. This adjustment is required so that growth is concentrated in the settlements that have the most potential to accommodate that growth and allow for more flexibility around provision of housing in the wider rural area where development boundaries have been removed from former village nuclei.”*

- Section 2.15.10 states-

*“It is important that these settlements and locations are recognised as places with vibrant and committed communities often active in the provision of a range of social and community facilities. These places will always be acknowledged as such by the Planning Authority and proposals to extend existing business, social and cultural facilities will be considered on their merits. In addition, should significant investment in water services occur in these settlements over the lifetime of this plan, there is scope to review and include these locations. These locations will continue to be eligible to apply for local and national funding. A full list of these settlements is provided in Appendix I of the plan.”*

- Volume 1 Appendix I of the CDP details ‘Settlements which are no longer part of the Settlement Network’. Ballymore/ Walterstown is no longer identified as such i.e. page 558 and therefore the subject application must be considered against the rural settlement strategy.

6.1.3. Volume 1, Chapter 5 is titled ‘Rural’ and deals with such matters including houses in rural areas. Section 5.4.9 details-

*“The policies in this section only apply to rural parts of the County outside defined development boundaries.”*

The application site is located outside a defined development boundary and therefore the following Objective is relevant-

- *RP 5-3: County Metropolitan Cork Strategic Planning Area*

*Objective RP 5-3 should be read in conjunction with Chapter 14 Green Infrastructure and Recreation and the section relating to 'Prominent and Strategic Metropolitan Cork Greenbelt Areas' including Objective GI 14-16 and Figure 14-3.*

*The Metropolitan Cork Greenbelt is the area under strongest urban pressure for rural housing. Therefore, applicants shall satisfy the Planning Authority that their proposal constitutes an exceptional 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, including their sons and daughters who wish to build a first home for their permanent occupation on the family farm.*
- b. Persons taking over the ownership and running of a farm on a full-time basis, who wish to build a first home on the farm for their permanent occupation, where no existing dwelling is available for their own use. The proposed dwelling must be associated with the working and active management of the farm.*
- c. Other persons working full-time in farming, forestry, inland waterway, or marine related occupations, for a period of over seven years, in the local rural area where they work and in which they propose to build a first home for their permanent occupation.*
- d. Landowners including their sons and daughters who wish to build a first home for their permanent occupation on the landholding associated with their principal family residence for a minimum of seven years prior to the date of the planning application.*

6.1.4. Paragraphs 5.6.6 and 5.6.7 deal with 'Servicing Single Housing in Rural Areas'. The following objective is relevant-

- RP 5-23: Servicing Single Houses (and ancillary development) in Rural Areas



a) *Ensure that proposals for development incorporating on-site wastewater disposal systems comply with the EPA Code of Practice Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10) and Wastewater Treatment Manual - Treatment Systems for Small Communities, Business Centres, Leisure Centres and Hotels (1999), or relevant successor approved standards / guidelines (including design, installation and maintenance). The cumulative impact of such systems will also be considered in the assessment process.*

b) *Surface water should be disposed of using sustainable drainage systems and in a manner that will not endanger the receiving environment or public health. The use of permeable paving should also be considered to reduce run off.*

6.1.5. Chapter 12 deals with 'Transport and Mobility'. Section 12.11 deals with 'Traffic/Mobility Management and Road Safety', Paragraph 12.11.4 states-

*"It is of critical importance to road safety that any new vehicular access is designed with adequate provision for visibility, so that drivers emerging from the access will have adequate visibility of oncoming vehicles, cyclists and pedestrians."*

The following Objective is relevant-

TM 12-8: Traffic/Mobility Management and Road Safety

.....

*d) Ensure that all new vehicular accesses are designed to appropriate standards of visibility to ensure the safety of other road users.*

*e) Improve the standards and safety of public roads and to protect the investment of public resources in the provision, improvement and maintenance of the public road network.....*

## 6.2. National Planning Framework (NPF)

6.2.1. National Planning Objective 19 of the NPF outlines-

*“In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements”*

### **6.3. Ministerial Guidelines**

#### **6.3.1. Sustainable Rural Housing Guidelines for Planning Authorities (2005) (SRHG)**

- The appeal site is located in an area identified as under strong urban influence. In these areas the guidelines advise that the housing needs of the local rural community should be facilitated, but that urban generated housing demand should be met on zoned and serviced land within settlements (Appendix 3, Box 1).
- Section 3.2.3 deals with ‘Rural Generated Housing’ and ‘Persons who are an intrinsic part of the rural community’. It states-

*“Such persons will normally have spent substantial periods of their lives, living in rural areas as members of the established rural community. Examples would include.....people who have lived most of their lives in rural areas and are building their first homes. Examples in this regard might include sons and daughters of families living in rural areas who have grown up in rural areas and are perhaps seeking to build their first home near their family place of residence.”*

### **6.4. Other Guidance Documents**

- EPA Code of Practice Domestic Waste Water Treatment Systems (Population Equivalent  $\leq 10$ ), 2021

### **6.5. Natural Heritage Designations**

- The site is located c. 1.2 km south of the Great Island Channel SAC (001058)
- The site is located c. 2.8km north west of the Cork Harbour SPA (004030)

## 7.0 The Appeal

### 7.1. Grounds of Appeal

One third party appeal has been received from John and Eileen Morgan from the property directly east of the application site. The grounds of appeal can be summarised as follows-

- The application proposes a full road junction to the single houses and agricultural land.
- All the objections concern density of housing, lack of privacy and the lack of sightlines for the entrance.
- The Area Engineers report dated 05/01/22 recommends refusal.
- The response from Hudson Associates 13/07/22 is very misleading and does not comply with TII standards.
- The modified entrance is in fact the same entrance previously for three and two houses. Sightlines are inadequate by TII standards.
- There is not enough road frontage to allow the minimum 10m radius required.
- The 24m set back ends up behind the Appellants boundary fence.
- Vertical alignments are poor.
- The modified entrance is clearly not the entrance to a single dwelling. It is for further development of the site.
- An Bord Pleanála have previously refused permission.
- The Board also considered the proposed development would lead to an excessive proliferation of development served by individual wastewater systems.
- DMURS is not applicable to rural areas. The TII or NRA Guidelines are applicable for sight distance.
- The survey of ambient speed carried out on the 8<sup>th</sup> of July is misleading. Three cars were parked across from the site entrance. This slowed and even stopped cars. Also the nearby school was closed for summer holidays.

## 7.2. Applicant Response

The Applicant's response to the grounds of appeal can be summarised as follows-

- The Appellants reference to primary planning reports fail to recognise the more informed assessment reflected in the FI reports.
- As per the document prepared by MHL Consulting Engineers the appropriate Guidelines applicable to this application are those set out in DMURS, namely sightlines of 45m back from the road edge.
- The sightlines of 70m referred to in the RFI and Condition 18 of the decision have been derived from DMRB.
- The respective sightlines to the east and west of the entrance are 100m and 120m are demonstrably available as indicated in the drawings and evident on site.
- 10m radius curve lines are available at the entrance to provide sufficient turning for both agricultural and residential uses.
- Sightlines from the 2.4m set back are unrestricted by the neighbour's boundary fence.
- The wastewater treatment assessment indicates that any effluent from the proposed house can be discharged without any environmental compromise to the area.
- The Appellants have erected a tall concrete post and plank fence along the road boundary which does not qualify as exempted development and thus may be deemed unauthorised. Originally this fence encroached on the Applicants site but has since been removed.
- The Appellants also planted shrub on the line of the boundary between the site and within the road verge constituting a traffic hazard. This has since been removed but plant pots have been introduced creating unnecessary obstruction.
- It is requested the appeal be considered baseless and therefore dismissed as vexatious.

- The Planning Authority's decision to grant permission on a family landholding is fully consistent with established Development Plan policies for areas such as this.
- The response is accompanied by a report and survey drawing from MHL Consulting Engineers refuting the assertion that there is a lack of sightlines and detailing how DMURS is the appropriate standard. It also details the ambient speed survey was carried out after the three parked cars left the site.

### 7.3. **Planning Authority Response**

The Planning Authority's response to the grounds of appeal can be summarised as follows-

- All the relevant issues have been covered in the technical reports and no further comment is made.

### 7.4. **Observations**

- None

## 8.0 **Assessment**

### 8.1. **Introduction**

8.1.1. I have examined the application details and all other documentation on file, including the Appeal. I have inspected the site and have had regard to relevant local/regional/national policies and guidance.

8.1.2. I consider that the substantive matters raised and to be addressed in this assessment are as follows-

- Road Safety Matters
- Rural Generated Housing Need
- Density of Housing and Proliferation of development served by Wastewater Systems.
- Appropriate Assessment

## 8.2. Road Safety Matters

- 8.2.1. The Appellants main ground of Appeal appears to relate to the proposed modification and use of the entrance. They highlight how it is the same entrance as previously refused and that sightlines are inadequate. They refer to the Boards previous refusal reason on the site and claim the 'ambient speed survey' submitted by the applicant to be misleading. They also challenge the appropriateness of DMURS for rural areas.
- 8.2.2. The Applicants sought to address the Planning Authority initial concerns at FI stage. They indicate they met with the Area Engineer on site, agreed the proposal and submitted a 'Site Entrance Assessment' carried out by MHL consulting engineers dated 06/07/22.
- 8.2.3. This report details the design speed in the vicinity of the proposed development is 50kph however the ambient speed is below 40kph as observed during the site visit. The report then argues the appropriateness of DMURS for the proposal which requires 45m sightlines versus the Design Manual for Roads and Bridges (DMRB July 2011) which requires 70m minimum stopping sight distances in 50kph zone. They make this argument based on the site's location within what they consider an urban area i.e. within a settlement boundary. Notwithstanding this argument the report asserts the proposal provides 100m sightlines to the east of the entrance and 120m to the west as shown in drawing 16.15.PL.011 exceeding DMURS and DMRB.
- 8.2.4. A further letter (16/09/22) from MHL Consulting Engineers is provided in Response to the Appeal. It generally refutes the Appellant's assertion that TII standards should apply to local roads and again put forward the argument the site is located within the 50 kph speed limit as it passes through the village of Ballymore. They contend the 'ambient speed survey' was carried out after three parked cars left the site and the entrance is designed to accommodate agricultural machinery to enter or leave the site safely.
- 8.2.5. The Board is reminded note they previously refused permission for three serviced residential sites at this location as the proposed access to the site adjoins a busy road that is poorly aligned, at a point where sightlines were restricted in both directions.

- 8.2.6. As discussed in further detail in section 8.3 the site is not located within a 'Settlement Boundary' as per the provisions of the operative Cork County Development Plan 2022-28. CDP Objective TM 12-8: Traffic/Mobility Management and Road Safety paragraph (d) seeks to ensure *that all new vehicular accesses are designed to appropriate standards of visibility to ensure the safety of other road users*'. The CDP is otherwise silent in terms of actual sight line standards.
- 8.2.7. The site is located within a 50 kph speed limit zone. The speed limit starts c. 850m west of the site near a local public house and ends c. 1.6km north east of the site and past a local national school c.500m east of the site. Local Authorities are responsible for setting speed limits on local roads. It is likely this limit, over a c. 2.5km stretch, was considered appropriate due to the heavily trafficked nature of the road, the very large number of individual vehicular entrances onto the local road and the presence of a national school.
- 8.2.8. MHL Consulting in their RFI submission dated 06/07/22 detail the design speed of the road to be 50kph but the ambient speed is below 40kph. There is little detail provided determining how this was calculated or if it was just observational.
- 8.2.9. I visited the site on the 13/04/22 between 16.30hrs and 17.15 hrs. I drove the extent of the speed limit on 6 occasions (three times in each direction). Notwithstanding the 50kph speed limit, it appears to me the design speed of this road is greater than 50 kph. This road was busy at the time and I also observed speeds by many road users to be travelling at what I considered to be significantly in excess of the 50 kph speed limit.
- 8.2.10. Matters of compliance with speed limits are ones for the Gardai. However, my on-site experiences highlight the absolute need for compliance with CDP Objective TM 12-8 i.e. that all new vehicular accesses are designed to appropriate standards of visibility to ensure the safety of other road users. This is particularly important given the proximity of the nearby national school. In this context it is considered a comprehensive and robust full road speed survey would need to be undertaken to record the actual design speed for this road at the application site given the presence of the broken white line. The survey should then be used to justify the required sight line. I am not convinced 70m in both directions is sufficient in this regard.

8.2.11. The application drawings propose 70m sightlines in each direction with 50m additional to the west and 30m additional to the east. The proposal requires relocating an existing utility pole which I note is located outside of the application site boundary as per the submitted drawings and a letter of consent relocating this has not been submitted. The Planning Authority's Area Engineer has indicated satisfaction with the proposal subject to conditions. Condition 7 requires vegetation or any structure to not exceed 1m in height within the sight distance triangle.

8.2.12. I inspected these sightlines on the grounds and observed-

- Low lying pot plants located along the grass verge of the property to the east. Using a trundle wheel and measuring tape I am satisfied at least 70-90m of unobstructed sightline are currently available eastwards.
- The existing hedgerow east of the application site (shown on drawings behind the visibility triangle) protrudes into the on-site sightline visibility triangle. Using a trundle wheel and measuring tape, I found a 70m unobstructed sightline eastward was not achievable on the ground. Visibility of the near road edge became restricted near the point where the hedgerow ends c. 35m from the centre of the site entrance.

8.2.13. Notwithstanding the currently available sightline eastward, there may be issues over maintenance of the grass verge in which the low lying pot plants lie. I note the Applicants indicate in their Response to the Appeal that this verge is taken in charge by the Council but no evidence of this has been submitted. In this regard and notwithstanding condition 7 of the Council's decision, the Applicants have not demonstrated they can maintain this space to achieve the necessary sightline in perpetuity. In this regard a sightline triangle of c. 10m eastwards may only be within the Applicants control.

8.2.14. The hedgerow west of the site is not located within the applications landholding, is not included within the redline and there is no letter of consent from the adjoining landowner for the applicant to maintain same behind the sightline as shown on the drawings.

8.2.15. Having regard to all of the above and in the absence of a detailed road speed survey and proposals to achieve and maintain adequate unobstructed sightlines in both directions in perpetuity it is considered the development as proposed would create



an unacceptable traffic hazard risk which could endanger public safety. The application should be **refused**.

### 8.3. Rural Generated Housing Need

- 8.3.1. The application was originally made to Cork County Council under the provisions of the 2014-20 County Development Plan (CDP) in which Ballymore/ Walterstown was identified as a settlement in the Cobh Municipal District LAP 2017 i.e. ‘village nuclei’ and to which no demonstration of local need was required by the applicant nor would an occupancy condition apply.
- 8.3.2. During the process of the Application the new CDP 2022-28 became operative on the 06/06/22 in which the settlement designation for Ballymore/ Walterstown was removed.
- 8.3.3. The Planning Authority granted permission for the application on the 02/08/22 and in the Planning Report justified their decision having regard to CDP transitional arrangements where requests for further information have issued by the Council prior to the new plan coming into effect.
- 8.3.4. While I acknowledge the Planning Authority’s position and the reason for their decision, I am not aware of any statutory planning provision or case law that suggests permission can be granted under the provisions of a CDP or LAP that is no longer operative. Section 34 (2) (a) of the Planning and Development Act 2000 as amended (PDA) states-

*“When making its decision in relation to an application under this section, the planning authority shall be restricted to considering the proper planning and sustainable development of the area, regard being had to-*

*(i) the provisions of the development plan....”*

- 8.3.5. Accordingly the application should be considered under the provisions of the operative CDP i.e. 2022-28 and as detailed in section 5.4.9 policies regarding ‘*Rural Generated Housing Need*’ shall apply.
- 8.3.6. The site is located in a rural area within the Metropolitan Cork Greenbelt as designated in the CDP. Objective RP-3 of the CDP details that the Metropolitan Cork Greenbelt is the area under strongest urban pressure for rural housing and

Applicants shall satisfy the Planning Authority that their proposal constitutes an exceptional rural generated housing need based on their social and / or economic links to a particular local rural area. In this regard, they must demonstrate that they comply with one of the following categories of housing need which I summarise as follows-

- a) Farmers including sons and daughters.
- b) Persons taking over the ownership and running of a farm on a full-time basis.
- c) Other persons working full-time in farming, forestry, inland waterway, or marine related occupations in the local rural area where they work and
- d) Landowners including their sons and daughters who wish to build a first home for their permanent occupation on the landholding associated with their principal family residence for a minimum of seven years prior to the date of the planning application.

8.3.7. The planning application form and submitted letters of consent indicate the applicant is the joint landowner of the site with her three sisters. I note the Applicant's current address as per the application form is in Cahir Co. Tipperary. The file before me does not include a Supplementary Application Form generally required for rural housing applications. There is no other information submitted that allows me to consider if the Applicant complies with Objective RP 5.3.

8.3.8. The Applicant has therefore failed to demonstrate her proposal constitutes an exceptional rural generated housing need based on her social and / or economic links to the local rural area via the criteria outlined in Objective RP 5-3 of the CDP. In the absence of same the proposal is also considered contrary to the provisions of National Planning Objective 19 of the NPF which seeks to facilitate the provision of single housing in the countryside in areas under urban influence based on the core consideration of demonstrable economic or social need having regard to the viability of smaller towns and rural settlements.

8.3.9. **This is a new issue.** The Board may wish to consider seeking Further Information from the Applicant under the provisions of section 131 of the Act. However given the other substantive refusal reason as set out in section 8.2, the proposal should also

be **refused** for failure to demonstrate the Applicant's exceptional rural generated housing need and compliance with CDP Objective RP 5.3.

#### 8.4. **Density of Housing and Proliferation of development served by Wastewater Systems.**

8.4.1. Under a previous planning application for three serviced residential sites on the subject landholding (ABP-308629-20) the Board refused permission for a traffic hazard and road safety reason. The Board also added a 'Note' to the Direction in which they stated-

*“the proposed development could lead to an excessive proliferation of development served by individual wastewater systems in the area. Taken in conjunction with existing development in the vicinity, the proposed development could give rise to an excessive density of development in a rural area lacking public wastewater facilities.”*

8.4.2. The Appellants refer to this 'Note' in their appeal but do not raise any specific concerns. In their Response to the Appeal the Applicants contend the submitted wastewater treatment assessment indicates that any effluent from the proposed house can be discharged without any environmental compromise to the area.

8.4.3. The Applicant has submitted a Site Characterisation Report (SCR) with the application dated 08/11/2021, in which it is proposed to discharge treated discharge to groundwater. The site is identified over a locally important aquifer, with a groundwater vulnerability of Extreme and an R2<sup>1</sup> groundwater protection response. I have examined these against the GSI datasets<sup>1</sup> and Table E1 of the EPA COP<sup>2</sup> and can confirm they are accurate.

8.4.4. The trial hole was opened to 1.8m on the 21/10/21 with no bedrock or water table encountered. There was no evidence of water ingress indicated or detailed in the trial hole upon examination on the 24/0/21.

8.4.5. The overall 't' test result was recorded as 20.06 and the assessor noted these values are within the COP limits for a percolation area served by a septic tank. A 'p' test

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<sup>1</sup> [Geological Survey Ireland Spatial Resources \(arcgis.com\)](https://www.arcgis.com) accessed 04/07/23

<sup>2</sup> Environmental Protection Agency Code of Practice: Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10) 2021

value of 16.75 was also recorded. A septic tank and percolation area of 108 sq.m is proposed. The proposal appears to comply with all minimum separation distances as per Table 6.2 of the COP.

8.4.6. The Appellant's do not question the results or the methodology of the testing and I note the Planning Authority have raised no concerns in this regard. The Board's concern under ABP-308629-20 related to the proposed excessive density of development in this rural area lacking public wastewater facilities i.e. three residential sites all requiring on site wastewater treatment and disposal to groundwater.

8.4.7. This application proposes one house only. Its wastewater treatment proposal complies with all minimum separation distances and the SCR determines it can adequately dispose of wastewater to the ground in accordance with the EPA COP. One house subject to all normal planning criteria (including a rural generated housing need) would in these circumstances represents an appropriate density of development in this rural area having particular regard to the infill nature of the site and consolidating a clearly established pattern of ribbon development.

## 8.5. **Lack of Privacy**

8.5.1. The Appellant's detail their objection also concerns a lack of privacy but it is not clear to what extent this concern relates. I note their original submission to the council details the proposal will create overlooking and a severe loss of privacy. They contend the proposed house directly behind and close to their house should not be permitted.

8.5.2. The Appellant's property is east of the application site. The proposed house will not be located directly behind the Appellants house but does breach the established building line between the two existing houses. The proposed house is closer to the existing house west of the application site.

8.5.3. The house is designed as split level and there will be one first floor east facing window to a living room c. 45m from the Appellants property. In this regard I am satisfied the Appellant's property will not be unduly overlooked from the proposed house.

8.5.4. I note the application also proposes use of the entrance for agricultural purposes with a route and access provided along the site's eastern boundary to the agricultural landholding at the rear. I appreciate the Appellants concerns over this route close to their boundary and potential future proposals for the landholding. However the route and use of these lands for agricultural purposes will not cause a severe loss of privacy to the Appellant's and would not be detrimental to their existing residential amenity. It would be unreasonable to landlock these lands given their current use and the existing agricultural entrance.

## 8.6. **Appropriate Assessment**

8.6.1. Having regard to-

- the nature and scale of the development proposed in this rural area,
- the separation distances of the site to the nearest European sites- the Great Island Channel SAC (001058) and the Cork Harbour SPA (004030) both located approximately 1.2 – 2.8 km from the site,
- the absence of any apparent direct pathway between the appeal site and these European sites,
- the hydrological distance of indirect pathways to these European Sites via e.g. roadside drainage ditches, tributary streams etc where any likely pollutant in surface waters would be sufficiently diluted and or dispersed in any event

no Appropriate Assessment issues are considered to arise, and the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on any European site.

## 9.0 **Recommendation**

9.1. I recommend that permission be refused for the following reason-

## 10.0 **Reasons and Considerations**

1. Having regard to-

- the absence of a comprehensive and robust survey of road speeds to the front of the application site, to determine the actual design speed of the road from which it is proposed to access and egress the site
- the provision of appropriate sightlines for the proposed development based on the recorded design speed of the road,
- the failure to demonstrate adequate sightline visibility in an easterly direction which can be maintained in perpetuity,
- the restricted sightline visibility in a westerly direction from the proposed entrance by growth from an existing hedgerow, maintenance of which has not been shown to be under the control of the applicant and can then be maintained in perpetuity,

it is considered that the traffic likely to be generated by the proposed development would endanger public safety by reason of traffic hazard and would, therefore, be contrary to Objective TM 12-8 (d) of the Cork County Development Plan 2022-28. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

## 2. Having regard to:

- The site's location in a rural area within the County Metropolitan Cork Greenbelt as designated in the Cork County Development Plan (2022-2028) an area which is under the strongest urban pressure for rural housing as detailed in Objective RP 5-3 of the Plan
- The absence of supporting documentary evidence on the file demonstrating a local housing need based on the Applicant's social and / or economic links to this particular rural area, in terms of compliance with the categories of housing need set out in Objective RP 5-3
- National Policy Objective 19 of the National Planning Framework (2018) which seeks to facilitate the provision of single housing in the countryside based on the core consideration of demonstrable

economic or social need to live in a rural area, having regard to the viability of smaller towns and rural settlements and

- The location of the site within a rural area identified as being an area under strong urban influence in accordance with the Sustainable Rural Housing Guidelines for Planning Authorities published by the Department of the Environment, Heritage and Local Government 2005

the Board is not satisfied on the basis of the information on the file that the applicant's proposal constitutes an exceptional rural generated housing need as required by Objective RP 5-3 of the County Development Plan, or comes within the scope of either economic or social housing need criteria as set out in the National Planning Framework or that she has demonstrated she is a person who is an intrinsic part of the rural community in accordance with the provisions of the Sustainable Rural Housing Guidelines for Planning Authorities.

The proposed development, in the absence of any identified locally based need for a house at this location, would contravene policy objective RP 5-3 of the Cork County Development Plan (2022), would result in a haphazard and unsustainable form of development in an unserved area, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and undermine the settlement strategy set out in the development plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has

influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Adrian Ormsby  
Planning Inspector

04<sup>th</sup> of July 2023