



An
Bord
Pleanála

Inspector's Report ABP314741-22

Development	Construction of 2 dwellinghouses with new vehicular entrance and all associated site works.
Location	Leighmoney More, Dunderrow, Kinsale, Co. Cork.
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	21/06539.
Applicant(s)	Rose O'Donovan.
Type of Application	Permission.
Planning Authority Decision	Permission subject to 11 conditions.
Type of Appeal	Third Party
Appellant(s)	Tracy Kiely.
Observer(s)	None on file.
Date of Site Inspection	28 th November 2023.
Inspector	Des Johnson.

1.0 Site Location and Description

- 1.1. Dunderrow is a small village in County Cork, approximately 7kms south east of Innishannon and 5kms north west of Kinsale. The L 7239 passes through the village and the R 605 passes to the north east side of the village.
- 1.2. The appeal site is on the western side of the village settlement. It is at a higher elevation relative to the centre of the village. Dunderrow National School is central in the village and Eli Lilly Kinsale Ltd. is a large complex located on the south-eastern outskirts of the village.
- 1.3. The appeal site was set out in grass at the time of inspection. Existing dwellings border the site to the east and south-east. There are existing dwellings to the north, on the opposite side of the L 7239. The L 7239 is bordered by a hedgerow along the appeal site frontage and has no public footpath. The site lies within the 50kph speed limit.

2.0 Proposed Development

- 2.1. The proposal is for the construction of two dwelling houses with new vehicular entrance and associated site works. The proposed houses are two-storey with stated gross floor areas of 189.6sqm and 182.8sqm respectively. The site area is stated to be 0.511ha.
- 2.2. Proposed finishes include tiles/slates to roofs, and render and timber cladding to external walls.
- 2.3. Further Information was submitted on 16th August 2022, including an updated Site Suitability Report, pre-connection agreement with Irish Water, and a modified Site Layout Plan to rationalise the vehicular entrance and re-organise the orientation of one dwelling. The site is on a locally important aquifer with high vulnerability. A secondary treatment system with soil polishing filter is proposed.

3.0 Planning Authority Decision

3.1. Decision

Grant permission subject to 11 conditions.

The conditions relate to financial contribution, water connection, drainage requirements, soakaways, sight distances, WWTS requirements, finished floor levels, front boundary requirements, surface water, and landscaping.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Authority sought Further Information (FI) on 9th November 2021 relating to revised plans and engineering and planning matters, and the FI was lodged on 16th August 2022. Since the request for FI, the elected members decided to make an alteration to the draft LAP extending Dunderrow's settlement boundary to accommodate up to 20 dwellings to 2028. There are no policy restrictions or guidance on how much housing will be allowed in a single planning application. The vision for Dunderrow is to encourage development within the village and support the provision of local services within the core. Objective DB-01 seeks to encourage the development of up to 20 additional dwelling units within the development boundary during the Plan period. The advice to reduce the form of development to a single individual dwelling is superseded and not a ground for refusal. The level of amenity proposed is tolerable or borderline acceptable.

3.2.2. Other Technical Reports

Engineering Report dated 6th September 2022 raises no objection subject to recommended conditions.

Estates Report dated 31st August 2022 recommends refusal stating that the applicants have ignored the direction by way of FI to resubmit with a reduced proposal for an individual dwelling, as the proposal for 2 dwellings is not compatible with the existing Local Area Plan 2017.

4.0 Planning History

Register reference 19/6546 – permission refused for dwelling and wastewater treatment plant on a site short distance to the south-east of the appeal site. The reason for refusal relates to the unplanned and unacceptable estate form of development where only limited services are available.

Register reference 19/6547 – permission refused for dwelling and wastewater treatment plant on a site short distance to the south-east of the appeal site. The reason for refusal relates to the unplanned and unacceptable estate form of development where only limited services are available.

5.0 Policy and Context

5.1. Development Plan

The Cork County Development Plan 2022-2028 applies. The Plan (Volume 5 West Cork) came into effect on 28th June 2022.

The site lies within the development boundary for the village of Dunderrow.

Plan objectives for the village of Dunderrow are as follows:

DB-01 Within the development boundary encourage the development of up to 20 additional dwelling units during the Plan period

DB-02 It is important that any proposed development would not be over-dominant in views of the village when approaching from the east thereby detracting from the attractive character, appearance and setting of Dunderrow village.

5.2. Natural Heritage Designations

Courtmacsherry Estuary SAC is approximately 9.5kms to the south-west. The qualifying interests include mudflats and sandflats, salt meadows, dunes, and stoney banks.

Courtmacsherry Bay SPA is approximately 9.5kms to the south-west. The qualifying interests relate to wetland and waterbirds.

Old Head of Kinsale SPA is approximately 12.6kms to the south. The qualifying interests are Kittiwake and Guillemot.

5.3. EIA Screening

5.4. Having regard to the nature and scale of the proposed development, its location at the edge of an existing village and the likely emissions therefrom during construction

and occupation, it is possible to conclude that the proposed development is not likely to give rise to significant environmental impacts and the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

These are submitted by the adjoining property owner to the east and may be summarised as follows:

1. The proposed development would overlook the appellants property. Proposed ridge heights and floor levels are very high in comparison to surrounding properties. There would be a detrimental effect on the appellant's privacy, and right to light.
2. The submitted Site Layout shows two entrances/driveways into an area of land (outlined in blue) owned by the applicant. The appellant is concerned that there may be a future application to develop these lands, which would be closer to her home and result in even more detrimental impacts in terms of overlooking, loss of privacy and right to light.
3. The appellant has concerns of the impact of two additional sewage treatment units on ground water in the general area during both construction and occupation of the proposed dwellings. The appellants dwelling and other family dwellings receive their potable water from the existing well located adjacent to the existing sod and stone ditch, which it is proposed to remove.
4. The Site Suitability Assessment was carried out under the 2009 Code, but this has been replaced by the 2021 EPA Code. A new Site Suitability assessment should be carried out.
5. The proposal is for ribbon development which does not conform to good planning. It may lead to a precedent for further linear development.
6. The road network in the area cannot carry any further development. The minor country road is already overstretched due to the proximity of Dunderrow National School and Eli Pharmaceutical facility.

7. The applicant did not comply fully with the Planning Authority's request for Further Information. There was no reduced proposal for a single dwelling as requested. There appears to be an intention to apply for two more houses in the future.
8. The need for the proposed dwellings is unclear. This appears to be a commercial project.

6.2. Applicant Response

This may be summarised as follows:

1. The grounds of appeal raise issues similar to those raised during the consideration of the application by the Planning Authority and were deemed resolved at that stage. The new Cork County Development Plan was adopted during the consideration of the application by the Planning Authority and the decision was made under the new Plan (2022). The 2022 Plan has superseded all Local Area Plans, and classifies Dunderrow as a 'village'. The subject site is within the development boundary for Dunderrow.
2. The proposed houses are carefully sited in order to protect the privacy of existing residents. They are located to the rear of the site in a location where natural contours slope downwards in a southerly direction away from the appellant's property. The design of the proposed house types has due regard to the topography of the site. There is a separation distance of in excess of 22m between the rear façades of the proposed houses and the appellants property.
3. The appellants house has a ridge height of 75.25m, compared with the proposed ridge heights of 78.936m and 76.936m. The majority of neighbouring dwellings have ridge heights higher than the appellant's ridge. The proposed scale, massing and height are appropriate for this site.
4. Proposed boundary treatment includes hedgerows and mature trees, as well as a sod and stone boundary wall to the rear of the site boundary. This will provide sufficient screening to the appellant's property. The hedgerow will be accompanied by a 1.5m post and wire fencing.to protect privacy and amenity.

5. Any future development would be assessed separately under a separate application and is not a relevant consideration in this appeal.
6. The revised Site Suitability Assessment submitted by way of Further Information noted that there are no group water scheme wells within 250m of the site but that there is a well servicing 3 dwellings which is privately owned; the site will be able to achieve all separation distances in accordance with EPA CoP. The Area Engineer noted that there is a separation distance of 60m between the waste water treatment plants and the well, and this is deemed acceptable. Groundwater flows in a south westerly direction away from the shared well.
7. The proposed development does not constitute ribbon development either by location or design.
8. The proposed development would not give rise to any adverse traffic impacts.

6.3. Planning Authority Response

This may be summarised as follows:

1. The 2022 Development Plan retains a growth strategy for Dunderrow, retains it as a village settlement, and enlarges the settlement boundary
2. The proposed development, being south and west of adjacent houses, would preserve and provide appropriate residential amenity between existing and proposed occupiers.
3. The two entrances on lands outlined in blue are not part of this application.
4. The minimum separation distances between the existing group well and proposed site sewage systems (on lower ground level) are in accordance with recognised standards as per EPA Code of Practice.
5. Council engineers are satisfied with the validity of the Site Suitability Assessment.
6. The proposal does not constitute ribbon development. The village settlement is identified for growth.
7. Proposed sightlines are to recognised standards.
8. The approach to the optimum number of dwellings changed when the County Development Plan was adopted and came into force.

6.4. Observations

None on file.

7.0 Assessment

7.1. The application for planning permission for the construction of two dwelling houses with new vehicular entrance and all associated site works was originally lodged with the Planning Authority on 16th September 2021. It was subject to a request for Further Information dated 9th November 2021 seeking information relating to public water connection, a fresh Site Suitability Assessment and a modified Site Layout Plan reducing the number of dwellings to one. Further Information was submitted on 16th August 2022 including a Site Layout Plan for two houses. During the consideration of the application by the Planning Authority (which included a time extension) the Cork County Development Plan 2022-2028 came into effect and this included the subject appeal site within the development boundary for Dunderrow and also, included objectives for the village allowing for an additional 20 dwellings over the Plan period. The Planning Authority's decision was made under the 2022 Plan.

7.2. At the outset I draw the Boards attention to the following:

- The Newspaper Notice or Site Notice submitted with the application make no mention of proposed wastewater treatment systems
- There is confusing information regarding house types being proposed. Drawings PLA-01, PLA-03, PLA0-05 and PLA-06 submitted with the application indicate house types C and D. Section A-A on Drawing PL02 is incomplete and confusing.
- Submitted with Further Information on 16th August 2022, the Proposed Site Layout (Drainage) drawing PLA03 refers to house types C and D, the Site layout drawing PL01A refers to house types A and B, the Site Suitability Assessment attaches two drawings both of which refer to house types C and D.
- Floor plans and elevations submitted with the application are for house types A and B only. The footprint for the houses on all drawings appear to relate to house types A and B.

- The Site layout drawings submitted include a new access road from the L 7239. Provision is made for two vehicular accesses from the proposed access road to the adjoining parcel of land to the north (see drawings PLA-05 and PLA-01). These lands are outlined in blue and appear to be in the same ownership. The proposed development under appeal does not relate to these lands and the public notices do not refer to any future accesses to these lands.

7.3. I submit that the key issues in this case are as follows:

- Adequacy of submitted documentation
- Principle of development
- Residential amenities
- Effluent treatment
- Access
- Appropriate Assessment
- Conclusion

7.4. **Adequacy of submitted documentation**

7.5. The public newspaper and Site Notices do not refer to proposed wastewater treatment systems and percolation areas. The notices do refer to all associated site works. Consideration must be given to the adequacy of the public notices regarding the description of the proposed development. In this case I submit that the public notices do give an adequate description of the proposed development. In coming to this conclusion, I note that dwellings in the vicinity are shown as being serviced by individual treatment systems and consider that it would be apparent to the public that the description of “associated site works” in this instance would include individual treatment systems.

The documentation submitted with the application, and by way of Further Information, is confusing regarding the house types proposed. It appears that some of the documentation may have been prepared with a larger development (including the adjoining lands to the north) in mind (see Drawings PLA-05 and PLA-06 which refer to sites 3 and 4). However, the proposal the subject of appeal, is for two

dwellings only. The floor plans and elevations submitted are for house types A and B only. I submit, that while other drawings submitted are incorrectly notated regarding house types, the Site Layout Plan clearly shows footprints corresponding to house types A and B. In the event of the Board deciding to grant permission, a condition should be attached requiring the submission of correctly notated drawings within 1 month of the grant for placement of the Planning Authority's file.

The Site layout drawings submitted include a new access road from the L 7239. Provision is made for two vehicular accesses from the proposed access road to the adjoining parcel of land to the north (see drawings PLA-05 and PLA-01). These lands are outlined in blue and appear to be in the same ownership. The proposed development under appeal does not relate to these lands and the public notices do not refer to any future accesses to these lands. In the event of the Board deciding to grant permission, a condition should be attached clearly stating that the permission cannot be interpreted as consent for any vehicular access to the adjoining lands to the north outlined in blue on submitted drawings.

7.6. Principle of development

The proposed development is to be assessed having regard to the provisions of the current Cork County Development Plan 2022-2028. Under the Plan, the site lies within the development boundary for the village of Dunderrow, and there is an objective for the village to encourage the development of up to 20 additional dwelling units over the Plan period. A further objective states that it is important that any proposed development would not be over dominant in views of the village when approaching from the east. I submit that the principle of the proposed development is consistent with these provisions of the Development Plan and would not detract from the attractive character, appearance and setting of Dunderrow village. It would not be over dominant in views of the village when approaching from the east.

7.7. Residential amenities

The appellant contends that the proposed development would overlook her property adjoining to the east. The ridge heights of the proposed dwellings are 78.936 for the northerly dwelling (Type A) and 76.936 for the southerly dwelling (Type B). The ridge level of the existing dwelling to the east is shown as 75.25. House Type A is 22m from the eastern site boundary and House Type B is 27.8m from the boundary.

House type A has two bedroom and a bathroom window at first floor level in its eastern elevation, and House type B has windows serving a bedroom, en-suite, and landing at first floor level in its eastern elevation. The FFL of House Type A is shown as 70.40, and for House Type B is 68.40. The FFL of the existing dwelling adjoining to the east is shown as 70.81.

Having regard to the design and orientation of the proposed dwellings, and separation distance from the adjoining property to the east, I submit that the proposed development would not give rise to unacceptable injury to the residential amenities of existing property in the vicinity by reason of overlooking, overshadowing or loss of light.

The proposed layout for the houses, set back from the public road, does not constitute ribbon development.

7.8. Effluent treatment

A revised Site Suitability Assessment was submitted by way of Further Information. This notes that there are no group water scheme wells within 250m of the site but that there is a privately owned well servicing 3 dwellings to the north adjacent to the public road. The assessment states that there is a separation distance of 60m between the proposed wastewater treatment plants and the well. Groundwater flow is in a south westerly direction away from the shared well.

The underlying aquifer is locally important with high vulnerability. Percolation test results are satisfactory. The planning authority is satisfied with the validity of the Site Suitability Assessment and there is no information on file, or observed at the time of inspection, to indicate that the site is not suited to the treatment and disposal of effluent as proposed.

7.9. Access

The proposed dwellings are to be served by an access road 5m wide running south from the public road. The front boundary of the site adjoining the public road is to be removed and setback. Sightlines at the proposed junction are acceptable. The planning authority's Engineering Report finds no objection to the proposal.

Having regard to the nature and scale of the proposed development, I consider that the proposed access arrangements are acceptable and would not be likely to give rise to any safety issues.

7.10. Appropriate Assessment Screening

The appeal site is approximately 9.5kms separated from both the Courtmacsherry Estuary SAC and Courtmacsherry Bay SPA. The qualifying interests for Courtmacsherry Estuary SAC include mudflats and sandflats, salt meadows, dunes, and stoney banks. The qualifying interests for Courtmacsherry Bay SPA relate to wetland and waterbirds. Old Head of Kinsale SPA is approximately 12.6kms to the south. The qualifying interests are Kittiwake and Guillemot.

The proposed development is not connected with or necessary to the management of any European site. Having regard to the nature and scale of the proposed development, the absence of any pathway to any designated site, and to the qualifying interests for Courtmacsherry Estuary SAC, Courtmacsherry Bay SPA, and the Old Head of Kinsale SPA, I submit that the proposed development is not likely to have a significant effect individually, or in combination with other plans or projects, on any designated European site.

7.11. Conclusion

I conclude that the principle of the proposed development is acceptable having regard to the provisions of the Cork County Development Plan 2022-2028, that the public notifications are adequate to inform the public of the proposed development, that the discrepancies identified in the submitted documentation are of a technical nature that can be addressed by way of conditions attached to any permission granted.

Should the Board disagree with this conclusion, it could seek to rectify matters by requesting revised newspaper and site notices, and correctly notated drawings by requesting Further Information before making its decision. Should the Board consider refusing permission for reasons relating to public notices and incorrectly notated drawings, it should put the reasons to the parties and give an opportunity to respond before making its decision.

8.0 Recommendation

I recommend that planning permission be granted,

9.0 Reasons and Considerations

Having regard to the provisions of the Cork County Development Plan 2022-2028 and the location of the site within the development boundary for the village of Dunderrow, it is considered that the proposed development, subject to compliance with the following conditions, would not be seriously injurious to the residential amenities of property in the vicinity or detrimental to public health, would not endanger public safety by reason of traffic hazard or obstruction of road users, and would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The finished floor levels of the proposed dwellings shall be in accordance with the details submitted to the planning authority on 16th September 2021.</p> <p>Reason: In the interest of visual and residential amenity.</p>
2.	<p>Within 1 month of the date of this permission, the applicant shall submit copies of the site layout, cross-section and elevational drawings with corrected notation to the Planning Authority for placement of the planning file.</p> <p>Reason: In the interest of clarity.</p>
3.	<p>The wastewater treatment systems and percolation areas shall be installed in accordance with the requirements of the Code of Practice, Wastewater Treatment Systems Serving Single Houses (p.e. < 10) EPA 2021 and shall be maintained in accordance with the manufacturer's instructions.</p> <p>Reason: In the interest of public health.</p>

4.	<p>Details of the external finishes of the proposed development shall be submitted to, and agreed in writing with the Planning Authority prior to commencement of development. The development shall be carried out in accordance with the written agreement.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<p>Details of the following shall be agreed in writing with the Planning Authority prior to the first occupation of the dwellings:</p> <ul style="list-style-type: none"> - surface water drainage from the site access road - soakaways on the individual house sites - roadside drainage on the public road along the site frontage - finishes to the setback along the public road - landscaping, including boundary treatment, of the house sites, <p>and the development shall be carried out in accordance with the written agreement.</p> <p>Reason: In the interests of orderly development, and visual amenity.</p>
6.	<p>The provision shown on submitted drawings to facilitate vehicular accesses on to the adjoining lands to the north (outlined in blue on submitted drawings) from the proposed site access road, shall be omitted. (This permission shall not be interpreted as consent for vehicular access to the adjoining lands to the north).</p> <p>Reason: In order to clarify the development hereby permitted.</p>
7.	<p>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. The contribution shall be paid prior to the 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</p>

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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Des. Johnson
Planning Inspector

3rd January 2024

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.