



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316096-23

<b>Development</b>	Demolition of existing derelict dwellinghouse and construction of replacement dwelling and garage, new access, wastewater treatment system and all associated site works.
<b>Location</b>	Dromdaleague, Drimoleague , Co Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	22/793
<b>Applicant(s)</b>	Kevin and Susan Bohmiller
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party v. Refusal
<b>Appellant(s)</b>	Kevin and Susuan Bohmiller
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	23 May 2024

**Inspector**

**Cáit Ryan**

## **1.0 Site Location and Description**

- 1.1. The site comprises two separate areas outlined in red, located a short distance north of Drimoleague village, approx. 13km north of Skibbereen and approx. 63km south west of Cork city.
- 1.2. The more southerly site comprises 0.01ha and is located on L-8747-0 approx. 460m north of Drimoleague via L-8745-0 and contains a dilapidated dwelling which is proposed to be demolished. This part of the site is bounded to the north west by a dwelling. The Top of the Rock Páirc and Walking Centre is located on more elevated lands north of this neighbouring dwelling, and is described on file as comprising a managed holiday complex for short term letting and walking centre. Top of the Rock viewing location is approx. 70m north west of the subject house on the western side of local road L-8745-0.
- 1.3. There is a dwelling house located approx. 30m to the south west. A farmyard complex/agricultural sheds are located on a corner site on the opposite (south west) side of the local road to the subject dwelling.
- 1.4. The separate site outlined in red on which it is proposed to build a new dwelling comprises 0.591ha and is located on local road L-8745-0. It is a roughly square-shaped site at an elevated location and has extensive views over the surrounding countryside. Much of this site is elevated above the adjoining public road. The Clodagh River is approx. 230m downhill to the north. This site is approx. 270m north of the existing house.

## **2.0 Proposed Development**

- 2.1. Permission is sought to
  - Demolish an existing derelict dwelling house, comprising 72.6sqm
  - Construct a replacement dwelling house and domestic garage
- 2.2. As outlined, the proposed dwelling house would be located on a separate site approx. 270m to the north of the existing dwelling, on a nearby separate local road. A new vehicular entrance is proposed to this site. The proposed wastewater treatment system is a septic tank and percolation area, and the dwelling would be

served by a new well. The proposed dwelling house is part single- and part two-storey, would have an overall height of 8.02m and comprise 246.8sqm. The single storey garage is 48.7sqm.

- 2.3. Documentation lodged with the application includes a Planning Statement. Unsolicited Further Information (FI) was submitted comprising drawings of the dwelling to be demolished and a structural survey of this dwelling.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The planning authority made a decision to refuse permission for 3 no. reasons:

1. The proposed development does not come under the scope of policy objective RP 5-30 of the Cork County Development Plan 2022, because the proposed new dwellinghouse would be constructed on a different site, on a separate landholding that is divorced from the site of the current derelict dwellinghouse proposed for demolition. The proposed development would contravene materially the provisions of objective RP 5-30 which sets out the Council's policy requirements regarding the replacement of ruinous dwellings and would therefore not be in accordance with the proper planning and sustainable development area.
2. The application site is located in a Transitional Rural Area as identified in the current Cork County Development Plan 2022 wherein it is policy of the Planning Authority to restrict rural housing to persons who can demonstrate a genuine rural generated housing need based on their social and/or economic links to a particular rural area and to certain limited categories of applicants. Based on the information submitted with the application the Planning Authority is not satisfied that the applicant has demonstrated that they within the scope of the housing need criteria for a dwelling at this location as set out in development plan objective RP 5-7. The proposed development would, therefore, contravene materially the provisions of the Plan with regard to the provision of sustainable rural housing and would, therefore, be contrary to the proper planning and sustainable development of the area.

3. The proposed development would be located in a prominent and exposed hillside location. It is the Council's stated objective under RP 5-22 and GI 14-9 of the Cork County Development Plan 2022 to ensure that new development meets a high standard of siting and design, can fit appropriately into the landscape and to protect skylines and ridgelines from development and preserve the visual and scenic amenities of the area. Having regard to the prominent and exposed nature of the site and on the basis of the height, scale and design of the dwelling and garage being proposed, it is considered that the proposed development would result in an unduly obtrusive feature on the landscape, would seriously injure the visual amenities of the area, detract from the essential rural character of the area and accordingly would contravene materially policy objectives RP 5-22 and GI 14-9 of the Cork County Development Plan 2022. The proposed development would therefore, be contrary to the proper planning and sustainable development of the area.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The basis for the planning authority's decision includes:

**Area Planner's** report (22 February 2023) included noting that the existing dwelling appears to be in very good condition and could easily be made habitable, that the replacement house is on a separate site and the application does not satisfy Objective RP 5-30, and that no SF1 (housing need) form submitted. Recommends refusal for 2no. reasons on grounds that (1) the proposal does not comply with Objective 5-30 and (2) would be unduly obtrusive feature on the landscape and materially contravene Development Plan Objectives GI 14-12 and GI 14-19.

**Senior Executive Planner's** report (23 February 2023) concurs with Area Planner's report to refuse permission. Recommends refusal for 3no. similar reasons, including that a rural generated housing need has not been demonstrated as set out in Development Plan Objective RP 5-7.

#### 3.2.2. Other Technical Reports

**Area Engineer's report** dated 30 January 2023 includes:

- Noted that entrance is located on the outside of a shallow bend. Sight distance of 90m is available to north and 70m to south. Recommends FI for 90m sight distances in both directions, and matters relating to percolation tests including that timings of pre-soak and actual percolation tests do not appear to be in agreement.

**Environment report** dated 7 February 2023

- No objection subject to 2 no. conditions relating to waste management.

### 3.3. **Prescribed Bodies**

None

### 3.4. **Observations to Planning Authority**

None

## 4.0 **Planning History**

None.

## 5.0 **Policy Context**

### 5.1. **Cork County Development Plan 2022-2028**

#### **Chapter 5: Rural**

##### **Sustainable Rural Housing**

**Objective RP 5-1: Urban Generated Housing** Discourage urban-generated housing in rural areas, which should normally take place in the larger urban centres or the towns, villages and other settlements identified in the Settlement Network. Encourage the provision of a mix of house types in towns and villages to provide an alternative to individual housing in the open countryside.

**Objective RP 5-2: Rural Generated Housing** includes Sustain and renew established rural communities, by facilitating those with a rural generated housing need to live within their rural community.

#### Rural Area Type

In terms of rural settlement policy, the site is located within Transitional Rural Area. The Development Plan states (at Section 5.4.7) that these rural and inland parts of Western County Cork exhibit characteristics of a weaker economic structure and have higher levels of environmental sensitivity.

**Objective RP 5-7: Transitional Rural Area** These rural areas are more distant from the major urban areas and the associated pressure from urban generated housing and exhibit characteristics of a weaker economic structure. Although there are lower concentrations of population, there is a more stable population base and less evidence of persistent population decline than other parts of the County. Therefore, in order to adopt a positive approach to facilitating the genuine rural generated housing needs of the local community based on their social and / or economic links to a particular local rural area, it is an objective that applicants must demonstrate that their proposal complies with one of the following categories of housing need:

- (a) Farmers, their sons and daughters who wish to build a first home for their permanent occupation on the family farm.
- (b) Persons taking over the ownership and running of a farm on a full-time basis (or part – time basis where it can be demonstrated that it is the predominant occupation), 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) Persons who have spent a substantial period of their lives (i.e. over seven years), living in the local rural area in which they propose to build a first home for their permanent occupation.
- (d) Persons working full-time in farming (or part – time basis where it can be demonstrated that it is the predominant occupation), forestry, inland waterway or marine related occupations, for a period of over three years, in the local rural area where they work and in which they propose to build a first home for their permanent

occupation.

(e) Persons whose predominant occupation is farming / natural resource related, for a period of over three years, in the local rural area where they work and in which they propose to build a first home for their permanent occupation.

(f) Persons whose permanent employment is essential to the delivery of social and community services and intrinsically linked to a particular rural area for a period of over three consecutive years and who can demonstrate an economic and social need to live in the local rural area where they work, within which it is proposed to build a first home for their permanent occupation.

(g) Returning emigrants who spent a substantial period of their lives (i.e., over seven years), living in the local rural area in which they propose to build a first home for their permanent occupation, who now wish to return to reside near other immediate family members (mother, father, brother, sister, son, daughter or guardian), to care for elderly immediate family members, to work locally, or to retire. It is not necessary for the applicant to show that they have already returned to Cork, provided they can show that they genuinely intend taking up permanent residence.

#### Environmental and Site Suitability Requirements

#### **Objective RP 5-22: Design and Landscaping of New Dwelling Houses and Replacement Dwellings in Rural Areas**

a. Encourage new dwelling house design that respects the character, pattern and tradition of existing places, materials and built forms and that fit appropriately into the landscape.

b. Promote sustainable approaches to dwelling design by encouraging proposals to be energy efficient in their design, layout and siting, finishes, heating, cooling, and energy systems having regard to the need to reduce reliance on fossil fuels and reduce carbon emissions.

c. Foster an innovative approach to design that acknowledges the diversity of suitable design solutions in most cases, safeguards the potential for exceptional innovative design in appropriate locations and promotes the added economic, amenity and environmental value of good design.



d. Require the appropriate landscaping and screen planting of proposed developments by retention of existing on-site trees hedgerows, historic boundaries, and natural features using predominantly indigenous/local trees and plant species and groupings.

Renovation or Replacement of an Uninhabitable or Ruinous Dwellings:

**Section 5.12.1:** In the case of uninhabitable or ruinous dwellings, where the existing dwelling structure is substantially in place, the renovation / redevelopment or replacement of same for use as a dwelling will be considered on a case-by-case basis, having regard to an appropriate scale and design of building, normal planning considerations and the requirements of other relevant policies and objectives in this plan. It is not the intention of the settlement policy objectives of this plan generally to prevent such development. A ruinous dwelling still in place is defined as a structure formerly used as a dwelling, with the main walls substantially intact.

**Section 5.12.2:** In the interests of clarity, the provisions of Objective RP 5-2 (i.e. the 'Rural Generated Housing Need' requirement) and Objective RP 5-25 (i.e. Occupancy Clause) will not apply to development that comes within the terms of RP 5-30 below.

**Objective RP 5-30: Redevelopment or replacement of an Uninhabitable or Ruinous dwelling** Encourage proposals for the sensitive renovation, redevelopment, or replacement of existing uninhabitable or ruinous dwellings subject to normal proper planning and sustainable development considerations as well as the requirements of other objectives in this Plan and provided that it satisfies the following criteria:

- The original walls of the dwelling structure must be substantially intact
- The structure must have previously been in use as a dwelling.
- The development is of an appropriate scale and design (including materials used), relative to the structure being replaced and the location and character of the site.
- Existing mature landscape features are retained and enhanced, as appropriate.
- No damage shall be caused to sites used by protected wildlife.
- Proposals must be acceptable in terms of public health and traffic safety.

## **Chapter 14: Green Infrastructure and Recreation**

### **Objective GI 14-9: Landscape**

- a) Protect the visual and scenic amenities of County Cork's built and natural environment.
- b) Landscape issues will be an important factor in all land-use proposals, ensuring that a pro-active view of development is undertaken while protecting the environment and heritage generally in line with the principle of sustainability.
- c) Ensure that new development meets high standards of siting and design.
- d) Protect skylines and ridgelines from development.
- e) Discourage proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments.

### **Development Plan Mapping**

Neither of the 2 land parcels subject of this appeal are located within a High Value Landscape, nor are they on a Scenic Route.

The Landscape Character Type is Broad Marginal Middleground and Lowland Basin.

The site is within Flood Zone C.

## **5.2. Sustainable Rural Housing Guidelines for Planning Authorities**

These guidelines differentiate between Urban Generated Housing and Rural Generated Housing and directs urban generated housing to towns and cities and lands zoned for such development.

## **5.3. National Planning Framework**

- 5.3.1. National Policy Objective 15 Support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining

vibrant rural communities.

- 5.3.2. National Policy Objective 19 makes a distinction between areas under urban influence and elsewhere. It seeks to ensure that the provision of single housing in rural areas under urban influence on the basis of demonstrable economic and social housing need to live at the location, and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

#### **5.4. Natural Heritage Designations**

The site is not within or adjacent to any Natura 2000 sites.

- Bandon River SAC (Site Code 002171) is approx. 13km to north east.
- Roaringwater Bay and Islands SAC (Site Code 000101) is approx. 16km to south west.
- Sheep's Head to Toe Head SPA (Site Code 004156) is approx. 18km to south.

#### **5.5. EIA Screening**

See Form 1 and Form 2. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

### **6.0 The Appeal**

#### **6.1. Grounds of Appeal**

- No observations opposing the proposal received but application was accompanied by one letter of support.

- Area Engineer's report recommended FI.
- Current and past policy regarding replacement dwellings in County has not explicitly specified that a replacement dwelling has to be located on exact site of dwelling being replaced. The landholding was historically part of a single farm but now separated. New site is only c. 200m from ruinous dwelling.
- The placement of the replacement dwelling on separate areas to the ruinous dwelling has been accepted previously. Precedence found in P.A. Ref. 09/4314, granted by both the planning authority and Board.
- Review of 189 replacement dwelling applications to planning authority in the period 2004-2023 does not provide any evidence of an interpretation of replacement dwelling policy as the planning authority has chosen in this instance.
- There has been no planning history at either site, but there have been numerous similar applications in Cork County.
- The site of the ruinous dwelling is not now entirely convenient for a replacement dwelling. The replacement dwelling site is more suitable for reasons of traffic safety and residential amenity.
- Policy RP 5-30 applies. The second reason for refusal is not applicable given that any local housing need requirements are exempted in such instances.
- House is vacant 26 years and is uninhabitable. Its renovation is not practical as confirmed by structural survey.
- Disputes that this development would have a detrimental impact on the character of this area due to its scale, placement and design. Photomontage views demonstrate that it would not represent an obtrusive or discordant feature on the landscape but would be in keeping with established rural character of the wider area.
- Separate engineer's report states the realistic travel speeds of vehicles on the road is more akin to 35km/h – 40km/h than that of posted 80km/h speed limit. The topography and winding nature of the road reduces vehicular speeds

such that the majority of vehicles travel at an average speed of 35km/h-40km/h. Adequate visibility sightlines can be provided based on design speed of road of 48km/h. Maximum Stopping Sight Distance (SSD) of 90m can be achieved on the northern approach and 64m on the southern approach.

- Separate site assessor's letter states that based on March 2023 trial hole results, it has been decided to relocate the system to east where the ground was drier and there was less water ingress in the trial hole after 48 hours.

## **6.2. Planning Authority Response**

None

## **6.3. Observations to Planning Authority**

None.

## **7.0 Assessment**

7.1. I have examined the application details and all other documentation on file. I have inspected the site and have had regard to relevant local and national policies and guidance. I consider that the substantive issues to be addressed in this assessment are as follows:

- Rural Settlement Policy
- Visual Impact

I consider that the principal planning issues relating to the proposed development include the servicing of the proposed development, in terms of wastewater treatment and traffic safety. These are discussed with reference to the rural settlement policy, specifically the relevant criteria set out under Development Plan Objective RP 5-30.

7.2. Plans and particulars lodged with the appeal include a revised site plan showing the

percolation area re-located to north eastern corner of the site, report and drawings regarding sight distances, drawings showing reduced garage ridge height and photomontage views.

### 7.3. Rural Settlement Policy

- 7.3.1. A key issue in the subject case is whether the proposed development would be in compliance with Objective RP 5-30: Redevelopment or replacement of an Uninhabitable or Ruinous dwelling, and if not, whether it would be in compliance Objective RP 5-7: Transitional Rural Area.
- 7.3.2. With regard to refusal Reason 1, which states that the proposal does not come within the scope of RP 5-30 as the new dwellinghouse would be constructed on a different site, on a separate landholding divorced from the site of the current derelict dwelling proposed for demolition, I consider that the principle of the two dwellinghouses (the proposed dwelling and that to be demolished) not being on the same site is required to be addressed. This is discussed in the following section.

#### Objective RP 5-30

- 7.3.3. **Objective RP 5-30** encourages proposals for the sensitive renovation, redevelopment, or replacement of existing uninhabitable or ruinous dwellings subject to normal proper planning and sustainable development considerations and subject to satisfying a number of criteria. These criteria are assessed as follows:

• ***The original walls of the dwelling structure must be substantially intact***

The original walls of the dwelling structure are substantially intact, as noted on site inspection. Survey drawings of the dwelling and a structural survey were submitted as unsolicited FI. The structural survey states that the roof has a slate finish, and that some lead flashings around the chimney are missing.

• ***The structure must have previously been in use as a dwelling.***

The structure was previously used as a dwelling.

• ***The development is of an appropriate scale and design (including materials used), relative to the structure being replaced and the location and character of the site.*** (emphasis added)

The proposed dwelling (on 0.591ha) is approx. 270m north of the existing dwelling (on 0.01ha) proposed to be demolished, via L-8745-0. The two distinct areas outlined in red are located within two separate parcels of land outlined in blue. There is a minimum separation distance of approx. 90m between the lands outlined in blue. I estimate based on the 1:2,500 OS map that the combined lands outlined in blue amount to approx. 7.03ha, with the northern landholding comprising 3.34ha and the southern landholding comprising 3.69ha.

The grounds of appeal state that the landholding was historically part of a single farm but now separated, and that the new site is only 200m from the ruinous dwelling. It is also stated that Objective RP 5-30 criteria does not indicate that the new building must be erected on the same site as the derelict building.

I note that the plans and particulars on file clearly indicate the subject site as comprising two distinct areas outlined in red. However, I consider that the Development Plan requirement for the development to be of an appropriate scale, etc., relative to the structure being replaced and the location and character of the site can be interpreted as being of 'the site', i.e., as the Development Plan criterion refers to '...the site' I do not consider that this provides for an application for a replacement dwelling to comprise more than one site.

The grounds of appeal state that precedent is found at P.A. Ref. 09/4314 by both the planning authority and the Board relating to construction of a bungalow and garage at Killeagh. However, I note on the planning authority's planning enquiry mapping tool that the case cited (ABP PL 04.234171 and P.A. Ref. 09/4314) relates to a Dooneen Upper, Garrettstown address, and is indicated to comprise one site only. The Board decision in the case states the proposed development as construction of new dwellinghouse, proprietary aeration unit and associated site works, and retention of existing dwelling and permission for change of existing dwelling to chicken houses. Given that the case cited comprises one site only, and having regard to the nature and scale of development in that case, I do not consider that that case cited demonstrates that a precedent has been set for a replacement house to be constructed on a site separate to that of the dwelling proposed to be demolished.

The grounds of appeal list a further 10no. planning applications over the period

2016-2022 for replacement dwellings in the county. However, it is not stated how these applications are comparable to the subject case. I have viewed these sites on the planning authority's online planning search, and note that 9no. of these comprise 1no. site only. One application (P.A. Ref. 16/456) comprises two distinct areas outlined in red, although in that case the existing dwelling and the proposed replacement dwelling are in approximately the same location. Accordingly, I do not consider that it has been demonstrated any of these 10no. cases cited are comparable to the subject case.

With regard to the P.A. Ref. 16/7304 case cited, limited details are set out in the appeal submission relating to same. I note the planning authority's online planning search indicates permission was granted for demolition of a derelict dwelling and construction of a new dwelling at Knockaveale, Bandon. The two separate sites outlined in red in that case relating to the existing and proposed replacement dwellings are separated by approx. 75m roadside frontage, and are taken from a single landholding outlined in blue. In terms of detail, I note that the planner's recommendation on P.A. Ref. 16/7304 was to refuse permission, for 1 no. reason which referenced *inter alia* that the proposed new dwelling was on a greenfield site and not at the location of the existing dwelling to be demolished.

While I note the planning authority's decision to grant P.A. Ref. 16/7304, I note also that Section 5.12.1 of the current Development Plan states *inter alia* that the renovation/redevelopment or replacement for use as a dwelling of uninhabitable or ruinous dwellings will be considered on a case-by-case basis, having regard to an appropriate scale and design of the building, normal planning considerations and requirements of other relevant policies and objectives of this plan.

I consider that notwithstanding that the landholding may previously have been part of a single farm, the relevant issue in this case is that the two areas outlined in red are located on separate sites within two separate larger landholdings outlined in blue. While noting that these two red-lined sites are in the general vicinity of each other, the Development Plan criterion refers however to location and character of 'the site', and having regard to all information on file, I consider the proposed development would not be in compliance with this Development Plan criterion by reason of the location of the proposed replacement dwelling on a site separate to that of the



existing house proposed to be demolished. Refusal of permission is recommended on this basis.

With regard to compliance with other aspects of this criterion, such as appropriate scale and design relative to the structure being replaced and the character of 'the site', given that the existing dwelling and the proposed dwelling are not on the same site, I do not consider that this criterion can be complied with in this case. However, in the event that the Board was minded to grant permission for the proposed development, I note that the floor area of the existing dwelling is 72.6sqm. The proposed 246.8sqm dwelling would be in excess of three times the size of the existing dwelling. In terms of floor area I do not consider that the proposed dwelling would be of an appropriate scale relative to the existing structure being replaced. A 48.75sqm garage is also proposed.

The matter of design and scale of the proposed dwelling is discussed elsewhere in this report under Visual Impact.

**• Existing mature landscape features are retained and enhanced, as appropriate.**

The proposed site layout plan lodged with the application shows approx. 24m length of existing sod and stone ditch within the site to be removed, and also approx. 33m length of new sod and stone ditch to be provided. While noting the extent of existing ditch to be removed, I consider that the removal of same and the additional planting proposed would be generally acceptable in terms of retaining and enhancing mature landscape features.

Separately, the revised site layout plan lodged with the appeal includes an additional proposed hedge located forward (north) of the proposed dwelling at the eastern part of the site. I consider that the provision of same would further augment planting on the replacement house site and this detailing would be generally acceptable.

However, as outlined above, I do not consider that the principle of the provision of a dwelling on this site would be in compliance with the Development Plan.

For clarity, given that this revised site plan indicating the provision of additional planting has been lodged with the appeal, this may be considered a new suggestion, in the event that the Board was minded to grant permission. In addition, given that plant species are not specified on the site plans, it is considered that revised

landscaping proposals would be required indicating same. The matter of additional landscaping is further discussed under Visual Impact.

- **No damage shall be caused to sites used by protected wildlife.**

The site is not located within or adjacent to any Natura 2000 sites. Bandon River SAC (Site Code 002171) is approx. 13km to north east, Roaringwater Bay and Islands SAC (Site Code 000101) is approx. 16km to south west, and Sheep's Head to Toe Head SPA (Site Code 004156) is approx. 18km to south.

Appropriate Assessment screening is addressed separately in this report, whereby I conclude on the basis of objective information that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

As outlined previously, I note that some hedgerow is proposed to be removed to accommodate the new dwelling house, and new planting is also proposed. The appeal submission includes an additional hedgerow north of the proposed dwelling.

Having regard to the nature and scale of the proposed development, I consider that the provision of a new dwelling house and associated site works would not cause damage to sites used by protected wildlife.

- **Proposals must be acceptable in terms of public health and traffic safety.**

#### Public Health

The planning application originally lodged proposed to locate the septic tank and percolation area northwest/west of the dwelling. The Area Engineer's report recommended FI be requested as the percolation characteristics of the chosen soil level did not appear satisfactory and timings of the pre-soaking and actual percolation tests did not appear to be in agreement.

The appeal submission includes revised proposals to service the site, and I consider it appropriate that the alternative proposal be assessed in this case.

I noted on site inspection that grass had been planted at the northern part of the site, i.e., north of the existing hedgerow which traverses the site, and that the ground was firm underfoot.

Plans and particulars lodged with the appeal include a new Site Characterisation

Form. It is confirmed within this document that the replacement dwelling site is located over a locally important aquifer with extreme vulnerability, which requires a Groundwater Protection Response of R2<sup>1</sup>. Trial hole results indicated that the depth of ground surface to water table is 1.83m. The T Value is stated as 17.75 (subsurface). Based on these results, the Site Assessor recommended a secondary treatment system (Tricel Novo or similar) and polishing filter.

A revised site plan (Drg. No. 4296-P-05; Rev. B) shows a wastewater treatment system located east of the dwelling house and the percolation area is shown at the north eastern corner of the site. In contrast, a partial site plan (Drg. No. s04221-01\_R1) also lodged with the appeal shows a wastewater treatment system to north (i.e., not east) of the proposed dwelling. While this drawing is indicated to be at scale 1:500, it does not scale at 1:500. Accordingly, I consider that there would appear to be an inconsistency regarding the location of the wastewater treatment system on the revised site plan with that shown on the partial site plan (Drg. No. s04221-01\_R1).

With regard to the trial hole results, the depth of ground surface to water table is 1.83m, and the depth of the trial hole is stated as 2m. However, I note that the trial hole should be minimum 2.1m deep, as set out in the Code of Practice Domestic Waste Water Treatment Systems (EPA, 2021), which states that in locally important or poor aquifers trial holes should be excavated to a depth of at least 2.1m or to the bedrock. While I note that this is a very marginal shortfall, it is not stated if bedrock was encountered, if relevant, or other rationale for not extending to minimum 2.1m. Rock type is stated as sandstone.

The Site Characterisation Form states that when 2 further trial holes were opened in March 2023 the water ingress appeared to be mainly surface water run off as there had been heavy rains in the days prior and on the day that they were opened, and that the ground surface showed signs of poor drainage while the subsoil appeared free draining and was mostly unsaturated. Notwithstanding the information outlined in the evaluation of the trial hole tests, I note that the Site Characterisation Form states that the date and time of excavation was 13 March 2023 (at 08:02hrs) and that examination was on 15 August 2022 (at 15:50hrs). Given that the stated examination date precedes the March 2023 excavation date, there would appear to

be a discrepancy in the dates provided. I note that the CoP states (at Section 5.4.2) that the trial hole should remain open for a minimum period of 48 hours to allow the water table, if present, to establish itself. Having regard to the information provided with the application and appeal, it has not been demonstrated that the trial hole was open for a minimum 48 hour period, and I consider that the dates relating to the trial hole test are not shown to be in accordance with the CoP.

With regard to percolation test procedure, I note that the Code of Practice states (at Appendix D) that the hole should be pre-soaked twice from 4 to 24 hours before the start of the percolation test. The Site Characterisation Form states that pre-soaking test holes were carried out on 23 and 24 August 2022. The percolation tests are stated to have been carried out on 24 April 2022, i.e., pre-dating the August 2022 pre-soaking dates.

(For clarity, I note that dates and times relating to the percolation tests lodged with the appeal are the same as those specified in the application originally lodged).

I consider on the basis of the information on file that it has not been adequately demonstrated that the percolation tests, including the required pre-soaking, were carried out in accordance with the CoP.

Having regard to all information on file I consider that there are a number of limitations and discrepancies in the information provided relating to the trial hole and percolation tests, and relating to the proposed location of wastewater treatment system on revised plans and particular submitted with the appeal.

Notwithstanding therefore the results of the trial hole and percolation tests indicated, which would appear to be satisfactory, and the ground conditions noted on site inspection, I am not satisfied on the basis of the submissions made in connection with the planning application and appeal that it has been demonstrated that these tests were carried out in accordance with the CoP. Refusal of permission is recommended on this basis.

### Traffic Safety

The site of the proposed dwelling house is located on local road L-8745-0. It is a narrow, winding road and is c.3.7m wide at the approximate location of the proposed vehicular entrance. There is an existing agricultural entrance approx. 5m south of the

site's red line boundary and approx. 11m south of the proposed vehicular entrance to serve the new dwelling. This local road slopes from south to north.

I consider that sight distances in a northerly direction from the proposed vehicular entrance would be acceptable, and sight distances to south would be more limited.

The Area Engineer's report noted that the entrance is located on the outside of a shallow bend, that a sight distance of 90m is available to north and 70m to south, and recommended FI for 90m sight distances in both directions.

The engineer's report included with the appeal states that the realistic travel speeds of vehicles on the road is more akin to 35km/h – 40km/h than the posted 80km/h speed limit, and that the topography and road's winding nature reduces vehicular speeds such that the majority of vehicles travel at an average speed of 35km/h-40km/h. It states that adequate visibility sightlines can be provided based on design speed for the road of 48km/h, and that maximum Stopping Sight Distance (SSD) of 90m can be achieved on the northern approach and 64m on the southern approach.

The Junction Access Visibility drawing indicates a 66m southbound visibility splay from the proposed vehicular entrance. This drawing shows that the roadside boundary south of the proposed vehicular entrance is mostly devoid of any hedgerow. The most southerly (approx. 14m) part of this splay is on lands outside the blue line boundary. In addition, I note that the absence of any hedgerow or planting along the roadside boundary south of the site's red line boundary contrasts with hedgerow shown at this location (save for the existing agricultural entrance) on the various site plans on file.

The submitted report outlines that the traffic volumes at time of traffic survey on Wednesday 8 March 2023 between 10:00am – 11:00am amounted to 3 no. northbound vehicles only.

Having inspected the site, and having regard to all information on file, including the detail of the submitted engineer's report, the winding nature of the road to the south and its downhill slope for northbound vehicles approaching the site, I am not satisfied on the basis of the information on file that the 66m sightline to the south would be sufficient, and also that this sightline could be achieved without some removal of the existing hedgerow along the roadside frontage. Accordingly, I consider that based on the information on file that the proposed development would endanger public safety

by reason of traffic hazard due to inadequate sightlines. Refusal of permission is recommended on this basis.

In terms of detail, the engineer's report submitted with the appeal states that the subject site is currently accessed via a farm gate, which will be closed and the new access would be relocated approx. 15m to the north. However, for clarity, I note that the existing agricultural entrance is not within the red line boundary, and it is not shown on site plan that this entrance would be closed up.

### ***Other Issues with regard to Objective 5-30***

For completeness, in addition to the 6no. criteria set out under Objective RP 5-30, I note that the information on file also outlines the rationale for the replacement dwelling being proposed on a separate landholding. These include that the existing house on site has been vacant for 26 years, is uninhabitable and its renovation is not practical as confirmed by structural survey, difficulty in achieving adequate sightlines and the replacement house would be an appropriate distance from the commercial Top of the Rock centre and away from the farm shed opposite. In addition to these matters outlined, I noted on site inspection that rushes were growing both to front (south east) and rear (north west) of the existing dwelling.

However, notwithstanding the information provided regarding the current condition of the existing dwelling, its site context and reference to limited sightlines, and having regard to all information on file and as outlined previously, I do not consider that it has been demonstrated that Objective RP 5-30 allows for a separate site for the replacement dwelling to be located a distance, albeit a relatively limited distance, from the dwelling proposed to be demolished.

### **Objective RP 5-7: Transitional Rural Area**

- 7.3.4. The grounds of appeal state that Objective RP 5-30 applies and as such refusal Reason 2 is not applicable given that any local housing need requirements are exempted in such instances.
- 7.3.5. Given that I consider that the proposed development is not in compliance with Objective RP 5-30 of the Development Plan, I consider it relevant, for completeness, to also assess the proposed development with reference to Objective RP 5-7: Transitional Rural Area. This states that it is an objective that applicants must

demonstrate that their proposal complies with one of the categories of housing need listed at (a) – (g).

7.3.6. The applicants' ties to the area are outlined, including that one of the applicants has been visiting relatives and friends in Drimoleague on a near-annual basis for over 40 years, that they relocated in 2022 and rent in the immediate area. (In terms of detail, the application originally lodged suggests that the applicants moved to Drimoleague since 2020). While I note that the grounds of appeal state that the applicants have no requirement to demonstrate a housing need, I note also that the applicants do not comply with any of the categories (a) to (g). I consider it appropriate, in the particular circumstances of this case, to include non-compliance with Objective RP 5-7 as a refusal reason.

7.3.7. Further to the above, I note the provisions of the Sustainable Rural Housing Guidelines for Planning Authorities, 2005, wherein reference is made to strengthening rural villages and towns to assist in mitigating excessive levels of pressure for urban generated development in rural areas. Defining persons considered as constituting those with rural generated housing needs is recommended to be part of the process for determining planning applications for houses in rural areas, with examples given of 'persons who an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'. The County Development Plan to a degree reflects the categories of housing need outlined in the Guidelines. It is clear however based on the information on file that the applicants' housing need does not align with the provisions of the Guidelines, whereby there is an emphasis on family links to the rural area in which it is proposed to build and on traditional rural/natural resource related and other occupations.

7.3.8. Having regard to the matters outlined above, I consider that the proposed development does not demonstrate a rural generated housing need in accordance with the provisions of the Guidelines. Refusal of permission is recommended on this basis.

#### **7.4. Visual Impact**

7.4.1. The replacement dwelling site is elevated over the adjoining public road and surrounding area to the north. As outlined previously, the Landscape Character Type is Broad Marginal Middleground and Lowland Basin, and the site is not within a High

Value Landscape nor on a Scenic Route. In the wider area, lands to the north slope downwards to the Clodagh River approx. 230m north and rise further north of same.

- 7.4.2. The replacement dwelling site comprises part of two fields, located off a narrow winding road which slopes from south to north. There is a mature hedgerow along western (roadside) and eastern site boundaries. A hedgerow on a roughly east/west axis traverses the site, and there is a small gap in this field boundary. There are no existing northern and southern site boundaries. The southern part of the site slopes gradually generally from south to north, and more steeply at the northern part of the site. The field from which the southern part of the site is taken has a hedgerow along its southern site boundary. The field further south of this hedgerow rises significantly towards the Top of the Rock Pod Páirc and Walking Centre premises.
- 7.4.3. The proposed dwelling house is part single-, part two-storey. It comprises generally of four distinct forms, one of which is two-storey of 8m ridge height and the remaining three forms are single storey. The most northerly single storey element is a covered deck area integrated into the house design. The principal external finish of the proposed house is smooth render, with limited use of natural stone and zinc.
- 7.4.4. While the overall 248sqm floor area would result in a relatively large dwelling at this location, having regard to the design of the dwellinghouse incorporating a number of distinct components, I consider that the overall design of the dwelling including the two-storey element would be acceptable. However, the matter of the scale of the proposal relative to the existing dwellinghouse proposed to be demolished is discussed at Section 7.3.
- 7.4.5. The elevated site on which it is proposed to construct the new dwelling has expansive views over the countryside and it would be highly visible in the wider rural landscape. Having inspected the site and having viewed the site from longer range views such as from near junction of L-8749-23 and L-8750-0 (which leads to Glen Ilen farm/manufacturing premises to north west) and from L-4710-28 which is north east of the Clodagh River, I consider that the provision of the proposed house on this site would be visually prominent in the landscape. However, having regard to the context of the site's backdrop against the more elevated lands to the south I do not consider that it would adversely impact on the visual amenities of the area.



- 7.4.6. Combined with both the backdrop of the more elevated lands to the south and additional planting proposed on the site plan lodged with the application, and as further augmented on the revised site plan lodged with the appeal, I consider that the proposed development would be acceptable in terms of its impacts on visual amenities. In addition, in the event that the Board was minded to grant permission, additional landscaping would assist in further integrating the dwelling into the site, and this matter could be addressed by way of condition.
- 7.4.7. I note the photomontage views included in the appeal submission. The location from which these views are taken are indicated on 1:10,560 site location map, although the views indicated are not numbered. It would appear that the image in Fig. 10 in the appeal submission relates to the approx. location of Views 3 & 4 shown on site location map. The image shown in Fig. 11 would appear to relate to Views 1 & 2.
- 7.4.8. The proposed garage comprises 48.75sqm and has an overall ridge height of 5.79m. Having regard to the overall site layout, I do not consider that the garage would be seriously injurious to the visual amenities of the area, and would be acceptable as originally proposed.
- 7.4.9. The appeal submission includes revised drawings whereby the garage ridge height is reduced by 0.5m to 5.29m. The revised site plan (Drg. No. 4296-P-05; Rev. B) lodged with the appeal shows the garage 4.47m west of the proposed dwelling, and forward of the dwelling's southern building line, i.e., as per the planning application originally lodged. The partial site plan (not to scale) also lodged with the appeal shows the garage re-positioned marginally south of that originally shown.
- 7.4.10. However, while noting this alternative proposal as suggested in the appeal submission, I do not consider that a 0.5m reduction in ridge height would be required to assist the proposed garage structure being assimilated into the site. Accordingly, in the event that the Board was minded to grant permission for the proposed development, I do not consider that the reduced height and re-positioning of the garage would be required.
- 7.4.11. As outlined above, I consider that the proposed dwelling house and garage would be acceptable in visual terms and would not be unduly prominent nor be seriously injurious to the visual amenities of the area. Accordingly, I do not consider that refusal of permission on the basis of material contravention of Objectives RP 5-22

and GI 14-9 would be warranted in this case.

## **8.0 AA Screening**

- 8.1.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000, as amended.
- 8.1.2. The subject site is located approx. 13km south west of Bandon River SAC (Site Code 002171), approx. 16km north east of Roaringwater Bay and Islands SAC (Site Code 000101) and approx. 18km north of Sheep's Head to Toe Head SPA (Site Code 004156).
- 8.1.3. The proposed development comprises demolition of an existing dwelling and construction of a replacement dwelling on a separate, nearby site. The new dwelling would be served by a septic tank and percolation area, as proposed in the application originally lodged, or as alternatively proposed in the appeal submission, by a secondary wastewater treatment system discharging to conventional percolation area. Soakaways are proposed on the site plans.
- 8.1.4. No nature conservation concerns were raised in the planning appeal.
- 8.1.5. No streams are identified on site. The cover letter relating to the site characterisation report submitted with the appeal states that land drains on either side of the site had not been cleared in some time and were not running properly.
- 8.1.6. The Clodagh River is approx. 230m downhill to north of the replacement house site, where it flows into the Ilen River. The Ilen River continues to Skibbereen, approx. 13km south of the site, after which it enters the sea further south west. Roaringwater Bay and Islands SAC (Site Code 000101) is located a short distance south west and west of Skibbereen.
- 8.1.7. The information on file does not indicate any direct hydrological connection to Roaringwater Bay and Islands SAC. With regard to the blocked drains referred to in the cover letter accompanying the site characterisation report, I consider that any works relating to this would be a minor maintenance matter to be addressed as a standard construction measure.

8.1.8. I consider that in the event the proposed development resulted at either construction or operational stage in any surface water run off to Clodagh River, and by extension to Ilan River, having regard to the nature of the receiving waters and the assimilative capacity of these two rivers and distance to Roaringwater Bay SAC, the site would be at greater remove and subject to further dilution effects within the river such that significant effects from the proposed development are not considered likely.

8.1.9. I consider that having regard to all information on file, and having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European site. The reason for this conclusion is as follows:

- The nature of the works proposed which are of relatively small scale
- The distance to the nearest European sites, and the absence of any direct hydrological or other pathways

I conclude on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) under Section 177V of the Planning and Development Act 2000, as amended, is not required.

## **9.0 Recommendation**

It is recommended that permission is refused for the reasons set out below.

## **10.0 Reasons and Considerations**

1. Having regard to the nature and scale of the proposed development which comprises two separate areas outlined in red, and whereby the proposed replacement dwellinghouse is located at a different site to the dwellinghouse proposed to be demolished, it is considered that the proposed development

would materially contravene Objective RP 5-30 of Cork County Development Plan 2022-2028, in particular the criterion which requires the development to be of an appropriate scale and design relative to the structure being replaced and the location and character of the site. The proposed development would, therefore, be contrary to the provisions of the current County Development Plan and to the proper planning and sustainable development of the area.

2. Having regard to the location of the site within a rural area identified as a Transitional Rural Area in the Cork County Development Plan 2022-2028, to the categories of housing need provided for within the Development Plan for such areas as set out in Objective RP 5-7, and to the provisions of the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in 2005 relating to rural generated housing need, it is considered that the applicants do not come within the scope of the housing need criteria as set out in the Development Plan and Guidelines for a dwellinghouse at this rural location on local road L-8745-0. The proposed development, in the absence of any identified locally based need for a dwellinghouse, 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. The proposed development would, therefore, be contrary to the rural settlement policy provisions of the Cork County Development Plan and the Sustainable Rural Housing Guidelines for Planning Authorities and would, therefore, be contrary to the proper planning and sustainable development of the area.
3. The Board is not satisfied on the basis of information submitted with the application and appeal, in particular the Site Characterisation Form, that the site assessments have been carried out in accordance with the EPA Domestic Waste Water Treatment System Code of Practice, 2021, with specific regard to the trial hole and percolation tests and therefore cannot be satisfied that the proposed development would not have any adverse effects on groundwater

quality. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

4. The site is located on a minor road which is substandard in terms of width and alignment. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a road at a point where sightlines are restricted in a southerly direction.

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.

---

Cáit Ryan  
Senior Planning Inspector

5 July 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	ABP-316096-23			
<b>Proposed Development Summary</b>	Demolish derelict house and construct *new replacement house and domestic garage, wastewater treatment system comprising septic tank and percolation area, new site access and all associated site works.  *Replacement house to be constructed on separate, nearby site.			
<b>Development Address</b>	Dromdaleague, Drimoleague, Co. Cork.			
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X	
		<b>No</b>	No further action required	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>				
<b>Yes</b>			EIA Mandatory EIAR required	
<b>No</b>	X		Proceed to Q.3	
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>				
		<b>Threshold</b>	<b>Comment (if relevant)</b>	<b>Conclusion</b>
<b>No</b>		N/A		No EIAR or Preliminary Examination required
<b>Yes</b>		Class 10(b)(i) of Part 2 of Schedule 5. Threshold is 500 dwelling units.		Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>	X	<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

Inspector: \_\_\_\_\_

Date: \_\_\_\_\_

## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	ABP-316096-23	
<b>Proposed Development Summary</b>	Demolish derelict house and construct *new replacement house and domestic garage, wastewater treatment system comprising septic tank and percolation area, new site access and all associated site works.  *Replacement house to be constructed on separate, nearby site.	
<b>Development Address</b>	Dromdaleague, Drimoleague, Co. Cork.	
<b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<b>Nature of the Development</b> Is the nature of the proposed development exceptional in the context of the existing environment?        Will the development result in the production of any significant waste, emissions or pollutants?	Proposal is for demolition of derelict house and construct new replacement house and garage on separate site. The nature of the proposed development is not exceptional in context of the existing environment. There are existing dwelling houses in the vicinity.        No significant waste, emissions or pollutants would ensue.	No        No
<b>Size of the Development</b> Is the size of the proposed development exceptional in the context of the existing environment?	New build comprises a single rural house and garage with on-site septic tank and percolation area. Having regard to nature of proposed development, size of subject development is not exceptional in this context.	No



