



An
Bord
Pleanála

Inspector's Report

ABP-316209-23

Development	Demolition and internal alterations to the existing dwelling house, construction of new single storey extension, closing up of 2 no. vehicular entrances and formation of new vehicular access, treatment unit and percolation area.
Location	Kealties, Durrus, Co. Cork,
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	23/8
Applicant(s)	Breda O'Sullivan and Orla Dolan
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party v. Refusal
Appellant(s)	Breda O'Sullivan and Orla Dolan
Observer(s)	None
Date of Site Inspection	28 September 2023

Inspector

Cáit Ryan

1.0 Site Location and Description

- 1.1. The site is located in a rural area on a scenic coastal road, approx. 6km south west of Durrus and approx. 16km south west of Bantry. This stretch of L-4704-39 (local primary) road is winding. The site and nearby houses overlook Dunmanus Bay.
- 1.2. The overall site comprises a single-storey house, 'West Winds', within its relatively small curtilage, and the remainder of the site comprises a field. Site area is stated as 0.36ha. It is a corner site, bounded to the west by a narrow curving road L-47042-0 (local tertiary). The site slopes from north to south. It is bounded to the north by a field, and there are mature trees along the northern boundary. Directly to the east is an older style dormer bungalow, positioned at a slightly higher level to that of 'West Winds'. There is a row of ribbon development east of this neighbouring dwelling.
- 1.3. There is an existing wall separating the dwelling house's curtilage from the field, located approx. 4m west of the dwelling at its nearest point. There is a shed near the north eastern corner of the site. The finished floor level of the existing house is slightly above the adjoining road level to the south. Roadside boundaries to the front of the dwelling comprise railing and piers detailing, arranged in a double entrance format, and a stone wall is partially visible over a very limited extent of the field's southern boundary. The remainder of this roadside frontage is overgrown. The western site boundary comprises hedgerow.
- 1.4. The site is highly visible as viewed from the west, including longer range views from the southwest. It is not easily visible on approach from the east, due to the road's winding nature, and higher ground levels and mature planting on nearby house sites.

2.0 Proposed Development

- 2.1. The proposed development comprises partial demolition and internal alterations to the existing dwelling house and construction of a single storey extension.
- 2.2. It is proposed to close up 2 no. vehicular entrances on the local road to the south. The more easterly entrance is shown to be modified to a pedestrian access. A new vehicular access is proposed at the north western corner of the site to L-47042-0.
- 2.3. The existing septic tank would be decommissioned and a new waste water treatment unit and percolation area are proposed, along with associated site works. The

existing wall to the west of the house would be removed, thereby incorporating the adjoining field into an enlarged house site.

- 2.4. Documentation included with the planning application includes Planning Presentation, which contains a landscape statement, photomontage analysis and 3d model views, and separate Site Entrance Report and Site Suitability Assessment.

3.0 Planning Authority Decision

3.1. Decision

The planning authority refused permission for the following reason:

Having regard to the siting, height, scale and design of the proposed development and to the prominent nature of this site within a 'High Value Landscape' in a coastal area on the Sheeps Head Peninsula, adjoining an important Scenic Route (S108) as designated under the Cork County Development Plan 2022, it is considered that the proposed development would be visually intrusive on the site, would significantly alter the character of the area, would degrade the important quality views obtainable from the adjoining scenic route and would contravene materially policy objectives HE 16-21 and GI 14-9, 14-13 and 14-14 of the Cork County Development Plan 2022.

The proposed development would seriously injure the visual and scenic amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports (dated 9 March 2023)

Basis for planning authority's decision:

Area Planner's report

- Considers proposal would be visually obtrusive in High Value Landscape and would seriously injure visual and scenic amenities of this coastal area.
- Screens out Appropriate Assessment.
- Recommendation to refuse permission reflects Area Planner's report.

Senior Executive Planner's report concurs with Area Planner's recommendation. Refusal reason in this report is that on which planning authority's decision is based.

3.2.2. Other Technical Reports

Area Engineer (dated 10 February 2023)

- Notes sight distances at proposed entrance are below recommended 70m, at 30m to south and 50m to west, and are considered acceptable in this case.
- Recommends Further Information (FI)
 - to relocate percolation area to northern boundary, to achieve greater separation distance from the high water mark
 - revised site layout indicating installation of drainage grating at relocated entrance.

Environment Report (8 February 2023)

- States no objection, subject to 2 no. conditions relating to waste management.

3.3. **Prescribed Bodies**

None.

3.4. **Observations to the Planning Authority**

None.

4.0 **Planning History**

None.

5.0 **Policy Context**

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

Vol. 1: Main Policy Material

The site is located on unzoned lands in a rural area, and falls within the Tourism and Rural Diversification Area, in terms of Rural Housing Policy.

Chapter 5: Rural

Objective RP 5-22: Design and Landscaping of New Dwelling Houses and Replacement Dwellings in Rural Areas is summarised to include:

- a. Encourage new dwelling house design that respects character of existing places, materials and built forms and that fit appropriately into landscape.
- b. Encourage proposals to be energy efficient.
- c. Foster innovative approach to design that safeguards potential for exceptional innovative design in appropriate locations.
- d. Require appropriate landscaping and screen planting by retention of existing on-site trees hedgerows.

Section 5.6 relates to Environmental and Site Suitability Requirements, and states (at Section 5.6.5) that those intending to build houses in rural areas are advised to consult the Cork Rural Design Guide.

Objective 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.

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.

Objective GI 14-13: Scenic Routes Protect the character of those views and prospects obtainable from scenic routes and in particular stretches of scenic routes that have very special views and prospects identified in this Plan. The scenic routes identified in this Plan are shown on the scenic amenity maps in the CDP Map Browser and are listed in Volume 2 Heritage and Amenity Chapter 5 Scenic Routes of this Plan.

Objective GI 14-14: Development on Scenic Routes

- a) Require those seeking to carry out development in the environs of a scenic route and/or an area with important views and prospects, to demonstrate that there will be no adverse obstruction or degradation of the views towards and from vulnerable landscape features. In such areas, the appropriateness of the design, site layout, and landscaping of the proposed development must be demonstrated along with mitigation measures to prevent significant alterations to the appearance or character of the area.
- b) Encourage appropriate landscaping and screen planting of developments along scenic routes (See Chapter 16 Built and Cultural Heritage).

Chapter 16: Built and Cultural Heritage

County Development Plan Objectives HE 16-21: Design and Landscaping of New Buildings

- a) Encourage new buildings that respect the character, pattern and tradition of existing places, materials and built forms and that fit appropriately into the

landscape.

b) Promote sustainable approaches to housing development by encouraging new building projects to be energy efficient in their design and layout.

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 using predominantly indigenous/local species and groupings and protecting existing hedgerows and historic boundaries in rural areas. Protection of historical/commemorative trees will also be provided for.

Chapter 13: Energy and Telecommunications

Objective ET 13-20: Building Energy Efficiency and Conservation Require innovative new building design and retrofitting of existing buildings, to improve building energy efficiency, reduce embodied energy, energy conservation and the use of renewable energy sources in accordance with national regulations and policy requirements.

Vol. 2: Heritage and Amenity

The site is located on Scenic Route S108, described as road from Bantry via Durrus and Ahakista to Kilcrohane on Development Plan mapping.

Table 2.5.1 Scenic Routes – Views and Prospects and Scenic Route Profiles includes that Scenic Route 108 is of ‘Very High’ Overall Landscape Value, and that General Views Being Protected include views of Dunmanus Bay & Islands and the Mizen Peninsula.

Development Plan Mapping

The site is located within a High Value Landscape.

The Landscape Character Type is Rugged Ridge Peninsulas.

Flood Zone A is located very marginally within the subject site, along a limited part of the southern (roadside) site boundary.

Flood Zone B applies to a very limited extent along the southern roadside boundary.

5.2. Environmental Protection Agency Code of Practice – Domestic Waste Water Treatment Systems (2021)

The Code of Practice sets out (at Section 1.3) that if existing DWWTs are being upgraded, variances to the requirements set out within this CoP may be considered by the local authority where it is satisfied that the proposed upgrade will protect human health and the environment.

5.3. Natural Heritage Designations

The site is not located in or adjoining a European site.

The nearest European site is Reen Point Shingle SAC (Site Code 002281) located approx. 590m to the south west.

5.4. EIA Screening

I refer the Board to the completed Form 1 in Appendix 1.

6.0 The Appeal

6.1. Grounds of Appeal

The main points may be summarised as follows:

- No third party objections.
- Planning authority failed to adequately assess Architectural Design Report and Landscape Report and masterplan.
- Failure to consider Development Plan Objective RP 5-22 and to reference Cork Rural Design Guide.
- Existing western boundary stone-faced earthen ditch and southern boundary block wall fail to appropriately screen existing dwelling.

- Extension and boundary treatments will improve existing scenario and improves scenic views rather than degrading them. It provides contemporary and innovative house design. It will result in reduced ridge height.
- Western elevation is not a flat continuous elevation and does not present to the scenic road as such. If the Board consider length of western elevation is excessive, applicants have no objection to omission of car port.

Documentation submitted with appeal includes consulting engineer's letter stating:

- There is insufficient depth of soil over bedrock in northern part of site. Raised percolation area would not be appropriate because elevated nature would potentially result in effluent leakage from side of percolation area.
- Percolation area at highest point would pose a threat to existing wells on this and neighbouring site, and preclude installation of new well elsewhere. Code of Practice requires far greater separation distance to down gradient well.
- Proposed location is most suitable part of site for percolation area, despite not achieving recommended 50m distance from foreshore. There is a good depth of subsoil, and separation distances to wells can be achieved.
- Existing septic tank and percolation area is in same area as new WWTS. New installation represents significant improvement on existing.

Separately, a Landscape Statement submitted with the appeal is dated 23.11.2022 and is very similar to that lodged with the application, also of that date. However, the appeal version does not include Section 6.0 Mitigation.

6.2. **Planning Authority Response**

None.

6.3. **Observations**

None.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the documentation received in relation to the appeal, and having inspected the site, and having regard to the relevant local and national policies and guidance, I consider that the main issues in this appeal are as follows:

- Visual Impact – Design and Landscaping
- Wastewater Treatment System
- Material Contravention
- Other Issue – Surface Water

7.2. Visual Impact - Design and Landscaping

7.2.1. Having regard to the location of the subject site within a High Value Landscape, and on Scenic Route 108, which is identified as being of 'Very High' overall landscape value, and the site's context to Dunmanus Bay on the opposite side of the road, and having regard also to the planning authority's reason for refusal, one of the key issues in the assessment of this case is the visual impact of the proposed development. Both the design of the proposed extension and alterations to the existing dwelling and the landscaping plan as a key component of the overall scheme are important considerations in the assessment of the visual impact.

7.2.2. The proposed development would significantly alter the overall site layout, the design and scale of the dwelling on site, and nature of the roadside boundaries. The curtilage of the existing house would be substantially extended to comprise 0.36ha.

7.2.3. The existing dwelling has a stated floor area of 129sqm. It is proposed to demolish the porch extension at the front and small boiler room to the west (side), amounting to demolition of 19sqm. The floor area of the proposed extension would be 135sqm, located to the west of the existing house. The main part of the new extension would be connected to the existing house by a new link corridor.

7.2.4. In terms of site context, properties in the vicinity comprise mostly bungalows, although there is some variation in house design including 2 no. substantial 1½ storey dwellings further to the east. Dwellings to the east of the site are set back varying distances from their roadside boundaries.

Design

- 7.2.5. The existing 'West Winds' bungalow on site is of relatively limited scale, stated to originally have been a shop, and extended and modified over a number of decades. While the ridge height of the existing porch extends above that of the main house on site, the porch nevertheless has the appearance of being of modest scale, in part due to its hipped roof profile. The house has a pebble-dash finish. The plans and particulars lodged with the application indicate that it is proposed to remove the porch extension and small boiler room, replace tiles on the existing roof with slate, apply external insulation and render in place of the pebbledash finish, create 'tight' eaves, and carry out internal alterations.
- 7.2.6. The design of the proposed extension can be described as contemporary, and is of substantial scale in the context of the existing dwelling. While the existing house fronts the roadside boundary, it is positioned very slightly on a south west/north east axis. While this is not easily discernible as viewed on site, in the context of the proposed development, I note that the proposed extension is indicated to align with the front building line of the existing porch (to be demolished), such that this new extension would be slightly closer to the roadside boundary. The existing porch is approx. 13m to the southern red line boundary. While the proposed extension is indicated to be 11m from the red line boundary, I estimate based on the drawings on file that it would be closer to the actual roadside boundary.
- 7.2.7. The extension design includes a monopitch roof. The main bulk of the extension would be positioned along a generally north/south axis. The extension is slightly narrower at the front (south) elevation at approx. 6m wide, and widens to approx. 9m to the rear (north). A covered car port would be located directly to the rear of the extension. The overall length of the extension including car port is approx. 26m, as viewed on west elevation.
- 7.2.8. The front elevation of the proposed extension would be approx. 0.5m lower than the ridge height of the main house. The front building line of the proposed extension is approx. 2.8m forward of the modified main house. In terms of context to the established building line in the immediate vicinity, the older style dormer bungalow to the east incorporates a veranda-type feature. This adjoining dwelling would be approx. 3m forward of the proposed extension.

- 7.2.9. The west elevation indicates that the finished floor level of the extension would be slightly below the top of existing southern roadside boundary. Notwithstanding that the height of the extension is slightly below the ridge height of the existing house on site, having regard to the monopitch design of the extension, its building line forward of the existing house on site and its proximity to the front boundary, the extension would be highly visible as viewed from both the south and west in particular.
- 7.2.10. The principal external finish of the extension is panelled metal cladding system. A very limited area of natural stone is proposed at base level on front (south) elevation, which wraps around the corner to the western elevation. The colour of the proposed metal cladding is not specified on the lodged drawings. However, Kiosk Architecture's 3d Model Views document shows the proposed extension in black or similar colour, and refers to dark muted tone. The cover letter lodged with the application states that the aim is to achieve a design inspired by traditional farmyard clusters, consisting of *inter alia* a mix of materials. There is no information on file demonstrating the use of metal cladding in a residential context elsewhere in the vicinity. While the Landscape Statement includes an image of Ahakista Bar, indicating black galvanised corrugated material to roof and upper section of gable elevation, I do not consider this example to be comparative to the subject proposal.
- 7.2.11. However, I consider that the use of the metal cladding material would be generally acceptable for this house extension, noting that the overall design and its associated external finishes would contrast with the new render finish (in lieu of pebble-dash) to the existing dwelling. In the event that the Board was minded to grant permission for the proposed development, it is recommended that a condition is attached whereby the colours and textures of the proposed external finishes are confirmed by way of compliance submission.
- 7.2.12. With regard to the design of the proposed extension and alterations to the existing dwelling, I consider that the overall design, bulk, scale and materiality of the proposed development would be acceptable. While the overall design and in particular the monopitch roof profile contrast to the more traditional design of the bungalow, I consider that the overall design and scale of the extension would integrate successfully with the modified bungalow and the site context.
- 7.2.13. The applicant's grounds of appeal includes that if the Board consider that the

western elevation is excessive in length, that there is no objection to a condition requiring the omission of the car port. I note however that the car port is further recessed from the staggered building line on the western elevation. I consider that the provision of the car port as shown would be acceptable in terms of visual impact. In the event that the Board was minded to grant permission, I do not consider that a condition requiring the omission of the car port is warranted.

7.2.14. On site inspection I noted that 'West Winds' is visible from various longer range views further to the south west on L-4704-39. It reads as being of modest scale against a backdrop of tall, mature planting on a nearby site further to the east. While the proposed development would be visually prominent on this Scenic Route 108, I do not consider that the proposed extension would have an adverse impact on character of views obtainable from the scenic route nor on the visual amenities of the area. However, I consider that a well-considered landscaping plan for the site would be important terms of assisting the proposed extension to integrate into this site. The matter of landscaping is further discussed in the following section.

7.2.15. In terms of detail, I note that the applicant's grounds of appeal include that the proposed development was not assessed in the context of Objective RP 5-22: Design and Landscaping of New Dwelling Houses and Replacements in Rural Areas, and that Cork Rural Design Guide was not referenced. I note the emphasis placed in this objective on encouraging new dwelling house design to respect the character of existing built forms, on fostering an innovative design approach and on requiring appropriate landscaping and screen planting of proposed development. However, the proposed development is neither a new dwelling house nor a replacement dwelling, and as such I do not consider that Objective RP 5-22 is directly relevant to the subject case.

Landscaping

7.2.16. As per my assessment above, I consider that the overall design and scale of the proposed extension and modifications to the existing dwelling to be acceptable. While the proposed development would be visually prominent, I do not consider that it would adversely impact on the character of views obtainable from the scenic route, nor obstruct any views towards the coast. In addition, I consider that new planting on the enlarged site would assist in integrating the proposed extension into this setting.

- 7.2.17. The plans and particulars lodged with the application include Landscape Statement dated 23 November 2022 which includes Section 6.0 Mitigation. The very similar Landscape Statement of same date included with the appeal does not include Section 6.0 Mitigation.
- 7.2.18. A 'Concept design' drawing no. 2251 lodged with the application shows the proposed landscape plan. The area indicated as 'D' to the front of the extended dwelling and along the roadside boundary is 'new woodland shelter planting'. The planting schedule indicates that 'Planting 4: Trees' comprises 7 no. tree species.
- 7.2.19. The Landscape Statement lodged with the application shows (at 6.0 Mitigation) an aerial image of the site, overlain with views to be restricted and filtered. It outlines the intention to conceal and reveal the dwelling from the scenic route. I note that lawn and meadow areas are proposed to the west of the proposed extension, in contrast to tree planting along the southern roadside frontage and elsewhere to the west. This 'gap' would result in the extension being partially visible as viewed from the west.
- 7.2.20. The cover letter lodged with planning application proposes screen planting of approx. 280 trees of 1.5-3m in height at planting stage including larger Scots Pine to a height of 3.5m at planting stage. The 'Concept design' indicates 4 of these Scots Pine are located near the proposed vehicular entrance.
- 7.2.21. Having regard to the significant number of trees proposed, at approx. 280no., the tree species proposed and the height range at which these would be planted, I consider that the proposed planting would be generally acceptable. I note the 'reveal' in the landscaping plan as viewed from the west, and consider that the visibility of the proposed extension would be acceptable.
- 7.2.22. For completeness, I note that drawing titled WWT: Proposed Site Layout (Drawing No. 1.01) by Niall Ryan Consulting Engineers shows the proposed wastewater treatment system west of the extension, including the location of the soil polishing filter in the general south western corner. This location approximates to some of the 'reveal' area, i.e., unplanted areas. Having regard to the proposed servicing of the site, I do not consider it appropriate to require further tree planting at this location.
- 7.2.23. However, in the interests of clarity, I consider it appropriate that a revised landscaping plan be submitted which includes location of the waste water treatment system. In addition, while some areas of new woodland shelter planting are indicated

(as 'D'), I consider that the substantial quantum of trees proposed is not apparent on 'Concept design'. In the event that the Board was minded to grant permission, it is recommended that the matter of a revised, more detailed landscape plan could be addressed by way of condition.

7.2.24. In terms of visual impacts of the proposal as viewed from east of the site, I note that the site is not visible on approach from the east, due to the curving nature of the road and existing development, including roadside boundaries and mature planting on neighbouring residential properties to the east. Having regard to the plans and particulars on file, I consider that near views of the proposed development from east, while visually prominent, would not adversely impact on the character of views obtainable from the scenic route, nor on the visual amenities of the area.

7.2.25. Accordingly, having regard to the detailed design of the proposed extension and alterations to the existing dwelling, and to the extensive planting proposed on the enlarged site, I consider that the proposed development would satisfactorily assimilate into its setting, would be acceptable in terms of visual impact and would not therefore adversely impact on the character of the views obtainable from the scenic route nor on the visual amenities of the area.

7.3. Wastewater Treatment System

7.3.1. The existing septic tank is located approx. 17m west of the house and is proposed to be decommissioned. The Site Characterisation Form lodged with the application states that the existing septic tank system does not appear to have a compliant infiltration area. The site is stated to be in agricultural use. On site inspection I noted that the site comprises grass and hedgerows along site boundaries.

7.3.2. A secondary treatment system and soil polishing filter are proposed. The drawing titled WWT: Proposed Site Layout (Drawing No. 1.01) by Niall Ryan Consulting Engineers lodged with the application shows the secondary treatment unit 11m from the extended dwelling and the soil polishing filter located in the south western corner of the site, 14m from the dwelling's external deck. There is an existing well south east of the dwelling, near the eastern site boundary. Water from this well will be tested. If required, a new well will be bored north of the dwelling, i.e., up-gradient of the wastewater treatment system. A new stormwater soakaway is proposed approx. 2m from the southern roadside boundary.

- 7.3.3. The Site Suitability Assessment lodged with the application includes
- Aerial image showing location of well and septic tank serving house to east.
 - Photograph (Fig. 10) shows land drainage from neighbouring fields runs on the surface at north west corner of the site, and notes rock outcrop.
- 7.3.4. While the septic tank and percolation area serving the house to the east are not shown on dimensioned drawings, having regard to the location of same shown on the aerial image, I am satisfied that the proposed wastewater treatment system would comply with the minimum separation distance to the neighbouring dwelling house and its septic tank and percolation area, as set out in Table 6.3 of EPA Code of Practice – Domestic Waste Water Treatment Systems (2021).
- 7.3.5. The Site Characterisation Form notes that the required 50m separation distance to the foreshore cannot be achieved, and that all other separation distances are achieved. It states that the soil type is AminDW (Deep well drained mineral (Mainly acidic)) and subsoil type is TDCSsS (Till derived from Devonian and Carboniferous sandstones and shales). Groundwater vulnerability category is Extreme. It notes rock outcrops on higher ground at northern side and that the rock level appears to drop significantly in the southern part, near the road, where the site appears to be dry and well drained. The trial hole assessment states that the bedrock was not encountered. The (surface) percolation test result is 3.50. This is considered satisfactory.
- 7.3.6. I note that the 1:2500 OS map delineates the high water mark (HWM) on the opposite (coastal) side of the road. The HWM is estimated to be in the range of approx. 15m to 38m from the southern site boundary. The proposed soil polishing filter would be minimum 22m from the HWM, as estimated from the 1:2500 OS map.
- 7.3.7. The Area Engineer recommended Further Information to relocate the percolation area to the northern boundary in order to achieve greater separation distance from the high water mark. A letter from the consulting engineer included with the grounds of appeal states that there is insufficient depth of soil over bedrock at that part of the site and its relocation would potentially result in effluent leakage from the side of the percolation area, and that it would pose a threat to existing wells on the subject site and neighbouring site. It states that despite not achieving the recommended minimum separation distance to the foreshore, the proposed location is the most suitable part of the site for a percolation area, and there is a good depth of subsoil.

7.3.8. While noting that the proposed waste water treatment system does not meet the minimum 50m separation distance to the foreshore, I note also that the EPA Code of Practice states (at Section 1.3) that if existing DWWTs are being upgraded, variances to the requirements set out within this CoP may be considered by the local authority where it is satisfied that the proposed upgrade will protect human health and the environment.

7.3.9. Having inspected the site and having examined all information on file, I consider that the proposed secondary waste water treatment system including soil polishing filter would be acceptable in terms of protecting human health and the environment, and that the proposed wastewater treatment system would be acceptable in this case.

7.4. **Material Contravention**

7.4.1. I note that the planning authority's reason for refusal states that the proposed development would contravene materially policy objectives HE 16-21 and GI 14-9, 14-13 and 14-14 of the Cork County Development Plan 2022-2028. These objectives are outlined in full in Section 5 of this report, and are outlined in brief as follows:

HE 16-21: Design and Landscaping of New Buildings – includes encourage new buildings that respect character and patterns of existing built forms and fit appropriately into the landscape, fosters an innovative design approach and requires appropriate screen planting of proposed developments.

GI 14-9: Landscape – includes protect visual and scenic amenities, ensure new development meets high standards of siting and design, discourage removal of extensive amounts of trees and hedgerows.

GI 14-13: Scenic Routes – protect the character of those views and prospects obtainable from scenic routes.

GI 14-14: Development on Scenic Routes - require demonstration that there will be no adverse obstruction or degradation of views towards and from vulnerable landscape features, and encourage appropriate landscaping and screen planting of developments.

7.4.2. I have noted the content of these objectives in full in the assessment of this case as outlined above, and I consider that having regard to the nature, scale, bulk and

materiality of the proposed extension and alterations to the existing dwelling, the expanded site curtilage and landscaping proposals, and the site context including in particular its relationship to the adjoining scenic route, that the proposed extensions and alterations to the dwelling would adequately integrate into this setting and that the proposed development would not adversely impact on the visual amenities of the area nor adversely affect the character of views obtainable from scenic routes, and would not materially contravene the Development Plan. In my opinion the Board should not, therefore, consider itself constrained by Section 37(2) of the Planning and Development Act, 2000, as amended, hereafter referred to as 'the Act'.

- 7.4.3. Notwithstanding the matters outlined above if however the Board considers that a material contravention arises in this instance, and wishes to consider this under Section 37(2) of the Act, I highlight also to the Board the matter of conflicting objectives in the development plan under Section 37(2)(b)(ii), which states

(b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that—

(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned

- 7.4.4. In this regard I note that **Objective ET 13-20: Building Energy Efficiency and Conservation** requires innovative new building design and retrofitting of existing buildings, **to improve building energy efficiency**, reduce embodied energy, energy conservation and the use of renewable energy sources in accordance with national regulations and policy requirements. (emphasis added)

- 7.4.5. The appeal submission states that the proposed development has been designed to maximise energy efficiency (albeit with reference to Objective HE 16-21, rather than Objective ET 13-20). Accordingly, if the Board consider that the matter of material contravention arises with reference to any of the 4 no. objectives stated in the planning authority's refusal reason, I would highlight that Objective ET 13-20 may be considered a conflicting objective in this regard.

7.5. Other Issue - Surface Water

- 7.5.1. The Area Engineer recommended that Further Information be requested for a revised site layout indicating the installation of a drainage grating at the relocated entrance. On site inspection I noted a surface water drain just north of the proposed vehicular entrance. In the event that the Board was minded to grant permission for the proposed development, it is recommended that a condition is attached which requires proposals for surface water drainage at the relocated vehicular entrance to be submitted and agreed by the planning authority.

8.0 Appropriate Assessment

- 8.1. The nearest European site, the Reen Point Shingle SAC (Site Code 002281), is approximately 590m south west of the subject site. Having regard to the nature, scale and location of the proposed development, the nature of the receiving environment and the separation distance to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

- 9.1. I recommend that planning permission be granted for the proposed development.

10.0 Reasons and Considerations

Having regard to the existence of an existing dwelling on site, the provisions of the Cork County Development Plan 2022-2028 as they relate to landscape and scenic routes, the sensitive design, layout and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not be injurious to the visual amenities of the area, would not be prejudicial to public health, would be acceptable in terms of traffic safety and would be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Details of the materials, colours and textures of all of the external finishes to the extended and modified dwelling house shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
3.	<p>(a) Prior to commencement of development, a revised landscape scheme shall be submitted to and agreed in writing by the planning authority. The scheme shall include the following:</p> <ul style="list-style-type: none"> • the location of the proposed waste water treatment system, and • the numbers (either individually or in clusters) of the proposed tree planting. <p>(b) Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.</p>

4.	<p>(a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.</p> <p>(b) Prior to commencement of development, proposals for surface water drainage at the relocated vehicular entrance at the north western corner of the site shall be submitted to and agreed in writing by the planning authority.</p> <p>Reason: In the interest of pollution prevention and orderly development.</p>
5.	<p>(a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 17 day of January, 2023, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2021. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.</p> <p>(b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.</p> <p>(c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwellinghouse and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.</p> <p>(d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the</p>

	<p>location of the polishing filter.</p> <p>(e) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.</p> <p>Reason: In the interest of public health.</p>
6.	<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, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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

22 April 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-316209-23		
Proposed Development Summary	Demolition and internal alterations to the existing dwelling house, construction of new single storey extension, closing up of 2 no. vehicular entrances and formation of new vehicular access, treatment unit and percolation area.		
Development Address	Kealties, Durrus, Co. Cork.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
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?			
Yes			EIA Mandatory EIAR required
No	X	Extension to existing dwelling – not a class	Proceed to Q.3
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]?			
		Threshold	Comment (if relevant)
			Conclusion
No	X	Extension to existing dwelling – not a class	No EIAR or Preliminary Examination required
Yes			Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: **Cáit Ryan**_____

Date: **22 April 2024**_____