



An
Bord
Pleanála

Inspector's Report

ABP-317096-23

Development	Construction of 2 houses
Location	Barrack Hill, Ballycotton, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	225959
Applicant(s)	Mark and Aine Wright
Type of Application	Planning Permission
Planning Authority Decision	Grant of Permission
Type of Appeal	Third Party
Appellant(s)	Andrew Mayes and Virginia Holland Mayes Don O'Riordan May O'Riordan
Observer(s)	None
Date of Site Inspection	22/12/2023
Inspector	Claire McVeigh

1.0 Site Location and Description

- 1.1. The 0.383ha site is located within the development boundary of the coastal village of Ballycotton, Co. Cork, approximately 40km east/southeast from Cork City. The subject site is located on a highly visible slope rising from the village main street (R629) on the prominent headland overlooking Ballycotton Bay. To the southeast of the site is the landmark Star of the Sea Church (a protected structure), designated as regionally important on the National Inventory of Architectural Heritage (NIAH) and to the west of the subject site is a three bay two storey house-built c. 1900 also designated as being of regional importance on the NIAH. To the north of the subject site adjacent to the main street are a number of residential and commercial properties with rear yards and garden spaces backing onto the hillside.
- 1.2. Access to the site is to the east via an overgrown pathway off the local access road 'Barrack Hill'. On the day of my site inspection this pathway was inaccessible due to the overgrown vegetation. I was able to gain access from the garden of the existing property to the west of the subject site (Cois Na Mara).

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of two split level detached dwellings with forecourt parking spaces for two cars per dwelling, widening the vehicular entrance and all associated site works. The response to further information request received on 24th March 2023 states that the floor area provided on the application form was incorrect and that the actual proposed floor areas of the dwellings is 255 sq. metres for the main dwelling and 130 sq. metres for the second dwelling. A new water supply connection to the public mains is proposed and a new connection to the public sewer. Surface water is proposed to be disposed using on-site soak pits.
- 2.2. Following a request for further information revised north elevation drawing 20231-200-C was submitted removing the stone wall link between the two proposed dwellings.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 12 no. conditions. The conditions are generally of a standard type. The following are of note:

- Cond. 1 The development to be carried out in accordance with the plans and particulars lodged on 26th August 2022 and as amended 24 March 2023.
- Cond. 4 (b) Having regard to potential future upgrade works to the L3636, final details of the proposed access point/set back area shall be submitted to the planning authority for agreement in writing prior to commencement of development.
- Cond. 5 Sight distance of 42 metres (both north and south) shall be provided from the centre point of entrance 2.4m back from public road edge.
- Cond. 6 Vegetation or any structure shall not exceed 1m in height within the sight distance triangle.
- Cond.12 Landscaping in accordance with revised landscaping scheme submitted on the 24th March 2023, planting to commence in the first planting season following commencement of development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The key points in the planner's initial report (19/10/2022):

- The site is within the development boundary (refers to the East Cork Municipal District LAP 2017 – I note that the Cork County Development Plan 2022 replaced same from Monday June 6th, 2022) and that the site is not specifically zoned.
- Notes there is a live permission on this site to construct 2 no. detached dwellings with a floor area of 98 sq. metres and a height of 7.2 metres with a

relatively simple form/design (Planning authority register reference 13/5929).
Permission expires 24th May 2024.

- Having regard to the planning history on the lands and the location of the site within the settlement boundary there is no objection in principle to the proposal.
- Refers to a withdrawn application for a three-storey flat roofed design (Planning authority register reference 21/4822) – design/scale issues highlighted by the planner in respect to those proposals impact on Ballycotton village's unique coastal vernacular aesthetic.
- Acknowledges that the site is challenging and considers the design response works with the idiosyncrasies of the receiving sloping embankment. Discussed the design proposal with the SE/Architect and recommends revisions to reduce the elongated treatment. Contextual elevations showing the relationship between the adjacent dwelling (NIAH structure) and the proposed development required. Further information sought in respect the addressing concerns relating to the elongated nature of the proposed design, contextual elevations to show relationship with the NIAH recorded existing two storey property to the west of the subject site, clarification of floor areas of proposed dwellings, clarification of proposed FFLs.
- Notes that the lands to the south at high level are part of the development boundary and potentially subject to future applications for development and that the context of the surrounding development is likely to alter in time.
- Overlooking impacts are not exacerbated in the current application than that already permitted, and that suitable tree planting could further mitigate impacts. Further information sought in respect to a detailed landscaping scheme.
- Both IW and water services engineers have indicated no objection to the proposed new sewer connection. notes the wastewater infrastructure upgrade permitted under register reference 21/4483.
- Barrack Hill itself and the junction of same with the main street is problematic from a traffic safety perspective. Ultimately it is proposed to try and improve

the junction with the main street however no tangible/costed scheme is yet in place. If one was in place a special contribution towards its construction could be levied as the applicants will be beneficiary of same.

- Third party concerns regarding potential damage to adjacent property these would be a civil matter.
- Further information should be sought in relation to the issue raised by a third party in respect to a right of way.
- The proposal does not trigger requirement for either mandatory or sub-threshold EIA.
- Screens out the requirement for appropriate assessment having regard to the scale and nature of the proposal and the lack of any physical or hydrological connection between the development site and any European site.

Planner's report following receipt of further information (17/04/2023) considers that the revised proposals, removing the stone wall link between the two proposed dwellings, sufficiently reduces the overall visual elongation. Notes the corrected floor areas of the proposed dwellings as (255 sq. metres and 130 sq. metres respectfully) The landscaping scheme will assist in mitigating any potential privacy/overlooking issues. Notes section 34(13) of the Act and accepts that the planning authority is not arbiter of the civil dispute relating to the right of way.

Highlights that since the subject application was lodged, a new proposal for a small housing scheme of 12 dwellings has been submitted (planning authority register reference 23/4070) which includes some wider road/traffic safety measures on the L3636. It is important that the proposed access in this subject application stitches into these potential works should they be ultimately permitted. Recommends a condition is attached to agree same with the area engineer. Concludes and recommends that permission be granted noting that there is a previously permission for two dwellings on the site thus the proposal is essentially a revision to same. No commencement shall take place until final serving connection agreement with Irish Water is in place.

3.2.2. Other Technical Reports

The Area Engineer notes that the junction of Barrack Hill and Main Street (R629) provides for very poor visibility in both directions. Barrack Hill narrows significantly to approximately 3 metres in width for a distance approaching the main street junction single lane traffic is only attainable at this location, leading to reversing onto the Main Street. The surface condition of the street is poor, with very poor edge delineation and priority, at the narrow section there is no footpath and existing dwelling houses open directly onto the public road. There is a central area of old cottage dwellings (mainly unoccupied) where the street diverges around both sides merging again on the upper south side of the island. Barrack Hill loops around, linking to Chapel Road) to the main street.

Having regard to the previous permission granted (13/5952), and the extension of time granted (18/5843) for a similar development suggests that a decision to further renew the permission granted in 2013, subject to condition.

No objection in respect to wastewater proposals subject to condition.

3.3. Prescribed Bodies

Uisce Éireann no objection to the proposal subject to conditions.

3.4. Third Party Observations

- Submission from Andrew Mayes and Virginia Holland-Mayes considers that the planning application is in danger from 'planning creep' as the first application granted on the site was for the construction of two modest houses. The current application is considered to be excessive in size considering the site is on a high value landscape and is visible from both designated scenic routes. Proximity of the proposal within 4.5 metres of the shared western boundary would impact adversely on the residential amenity and conservation contribution of the NIAH recorded 'Cois Na Mara'. The site is in proximity of two protected structures and will have a visual impact on both. Concerns that the right of way over the proposed development is not shown on the submitted application documentation. Considers it important that all existing trees and hedging on the site be retained as this site is very exposed and new

planting will struggle to become established. Concerns raised with respect to proposed excavation of rock at the entrance to provide sight lines.

Acknowledge the plan to treat wastewater from Bally cotton and are facilitating such by allowing the main sewage pipes to come through their lands and to access the treatment plant to the rear of their property. However, highlight that a connection to the main sewer before a treatment plant is constructed is contrary to planning guidelines.

- Submission from May O’Riordan raises concerns about impact the proposed development would have upon privacy, noting the significant areas of glazed areas overlooking their property taking into account the difference in floor levels. Concerns about the proposed development impacting on the potential and value of their land’s potential for future development. Concerns about the development over burdening the village sewage system.
- Submission from Don O’Riordan raises concerns that the proposed new entrance will require the excavation of solid rock. This excavation would cause damage to their house. Recommends that a difference entrance to the development be found away from the houses on Barrack Hill.

4.0 Planning History

225767	(Applicant Mark and Aine Wright) invalidated application
214822	(Applicant Mark and Aine Wright) application withdrawn
185843	(Applicant Brian O’Sullivan) Extension of duration granted (September 2018) for the construction of 2 no. detached storey-and-a-half type dwellings, installation of a separate sewage packaged treatment system and associated site works to each dwelling, construction of access road and alterations to existing entrance. Extension of Duration of Permission granted (Period extended until 14 th May 2024) under Planning Ref: 13/5929 and Appeal Ref: PL04.242842.
135929	ABP PL04.242842 (Applicant Betty Murray) Planning permission granted (15 th May 2014) for the construction of 2 no. detached storey and a half type dwelling, installation of a separate sewage packaged

treatment system and associated site works to each dwelling,
construction of access road and alterations to existing entrance.

134927 (Applicant Betty Murray) application withdrawn

Other planning history of relevance:

Lands immediately south and southeast of the subject site.

234079 Notification of decision to grant permission January 2024 from Cork County Council, subject to 42 conditions, for the construction of 12 number detached two storey dwellings, a new vehicular entrance, road and services upgrade works to Barrack Hill and Main Street junction, and all associated works and site services. **Currently on first party appeal (ABP 319123-24)** with respect to condition relating to limitation placed on the occupation of the permitted units until the Ballycotton Wastewater Treatment Plan (WwTP) has been constructed and operating satisfactorily within its licence conditions.

214235 Planning permission refused March 2021 for the construction of six two storey dwelling houses, new vehicular entrance and roadway and associated site services. There was one reason for refusal:

1. The proposed development would endanger public safety by reasons of traffic hazard because the site is served by a narrow and substandard access road which is inadequate to cater for additional traffic movements likely to be generated by the proposed development. Accordingly, to grant permission would be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Cork County Development Plan 2022

For clarity the Cork County Development Plan 2022 replaced from Monday the 6th June 2022 the Cork County Development Plan 2014, The 8 Municipal District Local Area Plans adopted in 2017 and the 9 Town Development Plans of the former Town Council Towns. As the application was received in August 2022 the East Cork

Municipal District LAP 2017 has been replaced. I note the planner's report incorrectly refers to same within their primary report.

Ballycotton a designated village in the East Cork Municipal District is located in the 'Greater Cork Ring Strategic Planning Area' for the development plan period 45 new units are identified as required in the core strategy. I note that wastewater upgrades planned for Ballycotton (as per section 11.9.1) are currently being implemented by Uisce Éireann.

The subject site is located within the development boundary of Ballycotton Village but is not zoned.

Ballycotton Port is identified as an important fisheries port and the area is designated as a 'High Value Landscape'. Scenic Route S48 is delineated along the R629 and local road between Ballycotton & Kilmacahill Sea Views. This type 2 broad bay coast route is defined as having a 'very high' overall landscape value, very high landscape sensitivity and a county level landscape importance (Appendix F Landscape Character Assessment of County Cork). Structures of historical or cultural importance visible from the route include St. Coleman's Church, two thatch houses, Star of the Sea Catholic Church all of which are protected structures and the settlement of Ballycotton. In addition, scenic route S49 is located to the west of the subject site along the local road between Inch and Ballycotton via Ballybranagan and Churchtown with views of the sea and rural coastal environment.

Section 14.9.2 states that it is important to protect the character and quality of those particular stretches of scenic routes that have special views and prospects particularly those associated with the High Value Landscapes. Section 14.9.3 confirms that all proposals should be assessed on their merits taking into account the overall character of the scenic route including the elements listed in Volume 2 Heritage and Amenity Chapter 5 Scenic Routes.

The following objectives are of relevance:

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.

GI 14-22 General Views and Prospects

Preserve the character of all important views and prospects, particularly sea views, river or lake views, views of unspoilt mountains, upland or coastal landscapes, views of historical or cultural significance (including buildings and townscapes) and views of natural beauty as recognized in the Draft Landscape Strategy.

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.

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).

HE16-15: Protection of Structures on the NIAH

Protect where possible all structures which are included in the NIAH for County Cork, that are not currently included in the Record of Protected Structures, from adverse impacts as part of the development management functions of the County.

WM 11-10: Surface Water, SuDS and Water Sensitive Urban Design

- a) Require that all new developments incorporate sustainable drainage systems (SuDS). Efforts should be taken to limit the extent of hard surfacing and impermeable paving.
- b) Encourage the application of a Water Sensitive Urban Design approach in the design of new development or other urban interventions. Opportunities to contribute to, protect or re-enforce existing green infrastructure corridors or assets should be maximised.
- c) Optimise and maximise the application of Sustainable Urban Drainage Systems (SuDS) to mitigate flood risk, enhance biodiversity, protect and enhance visual and recreational amenity; all in the most innovative and creative manner appropriate and in accordance with best practices. Proposals should demonstrate that due consideration has been given to nature based solutions in the first instance in arriving at the preferred SuDS solution for any development.
- d) Provide adequate storm water infrastructure in order to accommodate the planned levels of growth expected for the County.
- e) Where surface water from a development is discharging to a waterbody, appropriate pollution control measures (e.g., hydrocarbon interceptors, silt traps) should be implemented.
- f) The capacity and efficiency of the national road network drainage regimes will be safeguarded for national road drainage purposes.

5.2. Sustainable and Compact Settlements Guidelines for Planning Authorities

Section 3.3.5

The key priorities for compact growth in Rural Towns and Villages in order of priority are to:

- (a) strengthen the existing urban core through the adaptation, re-use and intensification of existing building stock,

- (b) realise opportunities for infill and backland development, and
- (c) provide for sequential and sustainable housing development at the edge of the settlement at suitable locations that are closest to the urban core and are integrated into or can be integrated into the existing built-up footprint of the settlement and can be serviced by necessary supporting infrastructure.

(ii) Table 3.7 Areas and Density Ranges for Rural Towns and Villages

Rural Town or Village Rural Towns and Villages are small in scale with limited infrastructure and services provision. It is a policy and objective of these Guidelines that development in rural towns and villages is tailored to the scale, form and character of the settlement and the capacity of services and infrastructure (including public transport and water services infrastructure). Lands zoned for housing at the edge of rural towns and villages at locations that can be integrated into the settlement and are connected to existing walking and cycling networks can offer an effective alternative, including serviced sites, to the provision of single houses in the countryside. The density of development at such locations should respond in a positive way to the established context.

5.3. Development Management Planning Guidelines for Planning Authorities (2007).

Section 7.9 Conditions requiring matter to be agreed.

5.4. **Natural Heritage Designations**

Ballycotton Bay Special Protection Area (004022)

Proposed Natural Heritage Areas pNHA: Ballycotton, Ballynamona and Shanagarry (000076)

Proposed Natural Heritage Areas: Ballycotton Islands (001978)

5.5. **EIA Screening**

See completed Form 2 on file. 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

Three appeals were received from the following:

- May O’Riordan of dwelling house and landowner of lands adjoining subject site to the north.
- Don O’Riordan of dwelling house on no. 4 Barrick Hill and lands adjoining subject site to the north and northeast.
- Andrew Mayes and Virginia Holland Mayes, Cois Na Mara dwelling immediately to the west of the subject site.

The grounds of appeal can be summarised as follows:

- Negative and adverse impacts on the unique coastal vernacular aesthetic and the protected views, and views between protected structures.
- Significant effect on privacy of the existing property north of the subject site given the elevation of the site levels (15m difference in floor levels between the cottage and the upper floor of the proposed new dwellings. Concerns regarding the continuous effectiveness of the proposed screen planting and they may not be maintained. Concerns that the proposed development would limit future development potential of lands to the north.
- Excessive excavation required and excavation of bedrock at the proposed site entrance, concerns about vibration and damage to existing buildings – recommend a condition be attached to inspect the adjoining buildings prior to and during works commencing to identify any damage caused during the construction period.
- Design and scale concerns relating to the proposed dwellings doubling in size from the originally permitted development, permission will adversely affect the village amenity cause unnecessary environmental damage.
- Proximity to the boundary would impact adversely on the residential amenity and conservation contribution of the dwelling to the area (western property).
- Obstruction of right of way.

- Impact on boundary hedgerows, bats – condition to retain all trees on the north and west boundaries of the site.
- Traffic safety, adequate sight distance from proposed entrance not provided concerned that unsafe entrance will endanger road users, require significant rock removal to provide adequate sight lines to the south. Condition no. 5 will not be possible due to the intrusion of the dwelling house owned by Mr. O’Riordan (4 Barrack Hill).
- Provision to be made for proper disposal of surface water given the rock base to the subject site with little topsoil/sub soil coverage. As raised by area engineers report.
- Foul drainage situation within Ballycotton is critical and while works are ongoing there is as yet no possibility of further connection to the system. More suitable sites will become available after the completion of the Wastewater Treatment Plant in 2024

6.2. Applicant Response

- Submission of revised drawing (Planning appeal Proposed site [sic] lines to main entrance Ref 20231-103) to indicate compliance with condition no. 5 of the local authority’s planning permission demonstrating the 42m sightlines at 2.4m back from the road edge.

6.3. Planning Authority Response

- Letter dated 29th June 2023 states that the Senior Executive Engineer visited the site today and has advised that from examination of the drawing (for clarity drawing reference 20231-103 cover letter dated the 6th June 2023 as submitted to An Bord Pleanala) and visual inspection on site it appears that the sightlines can be achieved as indicated on the drawing.

6.4. Observations

- None

6.5. Further Responses

- Andrew Mayes and Virginia Holland Mayes – There is a distortion in the plan submitted (Ref: 20231-103) which allows the sight line from the proposed entrance to be achieved that is not possible from a site visit.

7.0 Assessment

7.1. I note that the subject site sites within the development boundary of Ballycotton on unzoned land and adjacent to lands zoned for green infrastructure in the Cork County Development Plan 2022-2028. As such, I consider the principal of development is therefore acceptable, subject to the detailed considerations below.

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

- Design, scale and visual impact (including impacts on trees and hedgerows)
- Impact on residential amenity
- Traffic safety
- Miscellaneous - Site servicing, excavation and right of way
- Appropriate Assessment

7.3. Design, scale and visual impact (including impacts on trees and hedgerows)

7.3.1. Previously planning permission was granted for 2 no. two-storey detached dwellings with a narrow building form of less than 6 metres (see section 4.0). The proposed development comprises a completely different design utilising a split-level design spanning horizontally across the subject site. The proposed gross floor area of both these dwelling houses, with a confirmed proposed floor area of 255sq.metres and 130 sq. metres, are significantly larger than that previously permitted on the site. Furthermore, given the design proposed the footprint of the structures they extend across the subject site horizontally and step back further into the slope due to the increased depth of the structure ranging between 8 and 13 metres double in part to that previously permitted. The proposed ridge height ranges between 33.45m for the

dwelling closest to the western boundary and stepping up to 35.52m for the dwelling closest to the eastern boundary, which appears to generally align with the existing NIAH listed property to the west of the subject site (as per drawing Ref: 20231-200).

- 7.3.2. I note that planner's summary of the SE/Architect's views on the proposed design acknowledges the challenges of the site and considers that the design response works with the sloping embankment. Concerns in respect to the elongated elevation were identified in the planner's report and in response the applicant omitted the connecting wall between both buildings to break up the elevation and allow for the buildings to be legible as separate elements. One of the appellant's has raised concerns regarding the impact of the development on the protected views and also interrupting the relationship between the protected structures.
- 7.3.3. I am of the opinion that the proposed removal of the interconnecting wall between both proposed dwellings would not make a perceptible impact when viewing the proposed development from the protected scenic route (S48). I consider that the proposed development will create an incongruous and unduly prominent feature within this designated high value landscape by reason of its scale, horizontal form in design (spanning approximately 50 metres) and its footprint resulting in significantly greater quantities of excavation of the existing slope than that previously permitted under planning register reference 135929/ABP PL04.242842.
- 7.3.4. I note that the Cork Rural Design Guide: Building a New House in the Countryside provides guidance on making use of and working with the sloping site levels. It is highlighted in the guide that digging out a site, or creating an artificial platform, is expensive and can make the house unduly prominent. I am of the view that the documentation submitted with the application has not sufficiently demonstrated how the proposed dwellings would not adversely impact on the scenic views, as required by development plan objective GI 14-14, and the attractive coastal vernacular context established in Ballycotton and enhanced by the protected structures, including the chapel spire of the Star of the Sea Church acting as a placemaking landmark, and the NIAH recorded building 'Cois Na Mara'. I further consider that the proposed development, including the significant excavations, within approximately five metres of the existing western site boundary, comprising mature trees and hedgerows, does not adequately demonstrate how the existing trees and hedgerow are to be protected to help assimilate this new development into the highly sensitive

landscape contrary to development plan objective GI 14-9: Landscape which discourages proposals necessitating the removal of extensive amounts of trees, hedgerow and historic walls or other distinctive boundary treatments.

- 7.3.5. I draw the Board's attention to the planning history for the adjoining lands to the south and southeast further upslope from the subject site (set out in section 4.0) where permission has recently been granted by the planning authority for 12 no. houses along with an upgrade of the existing Barrick Hill Roadway in front of the subject site and adjoining main street. An appeal is currently live with the Board (ABP 319123-24) in respect to a condition. I acknowledge that in the event of the implementation of this permission the visual context of the subject site will be significantly different to that existing. When viewed together these applications will result in two access roads running almost in parallel off Barrack Hill with vehicular entrances within metres of each other. Notwithstanding the cumulative impact of both these applications as noted, I am of the opinion that separately the subject application will result in a significant change to the landscape, in this particularly sensitive elevated area, and in my opinion would adversely impact on the designated high value landscape and the character of Ballycotton village.
- 7.3.6. In conclusion, taking into account that the site is located within a designated visually sensitive 'High Value Landscape' and located proximate to Scenic Route S48 with a recognised 'very high' overall landscape value, 'very high' landscape sensitivity and designation of a county level landscape importance (Appendix F Landscape Character Assessment of County Cork) and having regard to the topography of the site, the exposed and elevated positioning of the proposed development, together with its elongated horizontal massing, the resulting extensive driveway and the extent of proposed excavation works, it is considered that the proposed development would form a discordant and obtrusive feature on the landscape at this location, would seriously injure the visual amenities of the area, would fail to be adequately absorbed and integrated into the landscape (contrary to development plan policy GI14-13: Scenic Routes which seeks to protect the character of those views and prospects obtainable from scenic routes as identified in Volume 2 Heritage and Amenity Chapter 5 of the development plan), and would set an undesirable precedent for other such prominently located development in the vicinity. The

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

- 7.3.7. Notwithstanding, acknowledging the planning history of the adjoining lands if the Board are minded to grant permission for this subject application, I recommend that a condition be attached to require a comprehensive landscape survey and revised detailed landscape plan to be submitted to include full details of the proposed excavation works, reuse of the excavated material on site, new planting proposals including height of trees to be planted and measures to protect the existing trees and hedgerows along the western and north boundaries of the site.

7.4. Impact on residential amenity

- 7.4.1. The appellant May O'Riordan has expressed concern that the proposed development would overlook their house and result in a loss of privacy having regard to the elevated nature of site. The planning authority sought by further information a detailed landscaping proposals paying particular attention to the northern and western elevations to help mitigate any overlooking concerns.
- 7.4.2. I would agree with the planning authority's assessment that the proposed development would not give rise to any significant levels of overlooking that would amount to undue loss of privacy given the separation distances involved. However, given the topography of the site and its elevated position I am of the opinion that the proposed landscaping scheme does not provide sufficient detail to demonstrate how the perception of being overlooked and loss of privacy will be adequately mitigated in terms of the retention of existing trees and hedgerows and the proposed size of the new native tree planting proposed. In conclusion, it is considered that the proposed development would not give rise to a serious injury to the established residential amenities of the appellant's property subject to a revised detailed landscaping scheme being agreed with the planning authority by condition.
- 7.4.3. In addition, the appellant has also expressed concern regarding the potential impact the development may have on the future development potential of their landholding. The proposed two no. dwellings are located more than 18 metres from the boundary of their site and, as such, I do not consider that this development would result in any constraint to the future development of lands adjoining subject to the normal planning and sustainable development criteria.

7.5. Traffic safety

- 7.5.1. The planning authority in making their recommendation to grant permission has attached three conditions to address traffic safety, as detailed in section 3.1. Condition no. 4 (b) of their decision requires the final details of the proposed access point/set back area to be submitted to the planning authority for agreement in writing prior to the commencement of development having regard to the potential future upgrade works to the L3636. As noted previously the proposed upgrade works are included in a separate planning application register reference 23/4079 recently granted by the planning authority but currently on first party appeal with respect condition no. 4 which prevents the occupation of the houses until such a time as the Ballycotton Wastewater Treatment Plant (WwTP) has been constructed and is operating satisfactorily within its licence conditions.
- 7.5.2. Condition 4 (b) of the subject application, therefore, restricts the commencement of development by linking it to the application on adjoining lands upon which a final decision has not been made. Given the shared access arrangement, as evident from my site inspection and from the submitted copy of a PRA map dated 10 May 2023, indicating a right of way by Mr. Don O’Riordan to access lands /yard to the rear of his dwelling no. 4 Barrack Hill across the proposed entrance to the site I consider that condition 4 (b) involves matters that are of a fundamental nature and are such that third parties could be affected. I note that the Development Management Guidelines for Planning Authorities (2007) state that the use of such conditions should be avoided in these situations.
- 7.5.3. I acknowledge that the applicant has submitted a revised drawing to indicate sight lines in compliance with condition no 5. of 42 metres both north and south from the centre point of the entrance set back 2.4 metres from the public road edge. However, as the proposed access point/set back is contingent on entrance details to be agreed under condition 4(b) linked with planning application register reference 23/4079 on adjoining lands involving the proposed upgrade of a section of Barrack Hill I consider this drawing is premature. In addition, the proposed sightlines indicated relies on lands outside of the application site (red line) and are not identified as being in the same ownership as the applicant. I note that no letter of consent has been submitted in respect to these lands included and annotated that ‘vegetation to be maintained to

achieve clear line of sight shown in hatch blue' (drawing no. 20231-103) submitted with cover letter dated 6th June 2023.

- 7.5.4. As such, I consider that these matters are fundamental to traffic safety and require resolution. Given the premature nature of these matters, the lack of landowner agreement in respect to maintaining a sight line to the south of the access and the potential effect on third parties I am of the opinion that these cannot be addressed by way of condition. Therefore, the proposed development would be premature pending the upgrade works to Barrack Hill and Main Street junction.

7.6. Miscellaneous - Site servicing, excavation and issues relating to right of way

7.6.1. Site servicing

The appellants have raised concerns about Ballycotton's capacity in terms of wastewater treatment acknowledging the current works ongoing to complete a new Wastewater Treatment Plant (WwTP). Irish Water has raised no objection subject to condition that the applicant must sign a connection agreement prior to the commencement of development. I am of the opinion that given progress on the construction of the new WwTP and the requirements of the applicant to attain a connection agreement that the issue of sewage disposal is not one that would warrant a recommendation of refusal.

In respect to the proposal with respect to surface water I note the application form identifies that soakpit will be used for onsite disposal of surface water. The Area Engineer report notes this proposal and recommends that a condition be attached to prevent surface water to flow onto the public road from the site. The planning application documentation does not include drawing to indicate the number or locations of the proposed surface water soak pits. I consider that the level of information in respect to the proposed surface water measures is limited.

In conclusion with respect to the appellant's concerns raised relating to surface water proposals, given that:

- (a) there is no surface water sewer in this area as noted in the Area Engineer's report,
- (b) the subject site's location on a sloping and rocky site, and

(c) the proposed extensive footprint of the two dwellings and access roadway in conjunction with their associated levels of excavation and hard surface terraces,

I am of the opinion that insufficient details have been provided to determine whether it will be possible to dispose of the surface water in a manner that will not endanger the receiving environment or public health contrary to development plan objective WM 11-10: Surface Water, SuDS and Water Sensitive Urban Design.

7.6.2. *Excavation*

I note the appellants have raised the issue of excavation of bedrock required at the entrance level and to the western boundary of the site will cause disruption to the adjoining residents. Both residents have raised concerns that vibrations from the excavation will damage their buildings and requires that it should be made a condition that these buildings are inspected prior to the works commencing in order to reduce the burden of proof of subsequent damage caused by the proposed excavations.

From my site inspection I noted large sections of rock outcrop on the slope, particularly at the proposed entrance to the site. There is a lack of information submitted in respect to the extent of proposed earthworks and potential rock breaking required to be undertaken to facilitate the development. There is potential for such works to affect residential amenity, in terms of human comfort from impacts of noise, however, I consider that these matters could be addressed by condition if the Board is minded to grant permission.

I acknowledge the appellants concerns relating to potential of vibration induced damage in their buildings. I acknowledge that these issues are the subject of a separate legal code and thus need not concern the Board for purposes of this appeal. Notwithstanding, I am of the view that the extent of excavation proposed, and the potential adverse degradation of the vulnerable landscape is a planning issue, as addressed in 7.3 above.

7.6.3. *Right of way*

In terms of the issues relating to a right of way across the subject site from the adjoining land and property 'Cois Na Mara' the Development Management Guidelines for Planning Authorities (2009) make clear the "...planning system is not

designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts” (p.53). Therefore, this is a matter to be resolved between the parties, having regard to the provisions of s. 34(13) of the 2000 Planning and Development Act (as amended). Accordingly, should the Board decide to grant permission I would recommend that an advisory note be added at the end of the planning decision.

7.7. Appropriate Assessment

- 7.7.1. The site does not lie within any designated European sites. Ballycotton Bay Special Protection Area (004022) is within approximately 100 metres to the north of the subject site.
- 7.7.2. Given the nature of the development is limited to two no. dwellings, that the site is in an established urban area, it is considered that no appropriate assessment issues are likely to arise. It is considered that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on the Natura 2000 network and appropriate assessment is not therefore required.

8.0 Recommendation

- 8.1. It is recommended that planning permission be refused for the reasons and considerations set out below:

9.0 Reasons and Considerations

- 1. The site is located within a designated visually sensitive area ‘High Value Landscape’ and located proximate to Scenic Route S48, as delineated along the R629 and local road between Ballycotton & Kilmacahill Sea Views. This type 2 broad bay coastal route is defined as having a ‘very high’ overall landscape value, very high landscape sensitivity and a county level landscape importance (Appendix F Landscape Character Assessment of County Cork). Having regard to the topography of the site, the exposed and elevated positioning of the proposed development, together with its elongated horizontal form (spanning approximately 50metres), the resulting extensive

driveway and the extent of proposed excavation works, it is considered that the proposed development would form a discordant and obtrusive feature on the landscape at this location, would seriously injure the visual amenities of the area, would fail to be adequately absorbed and integrated into the landscape (contrary to GI 14-14: Development on Scenic Routes of the Cork County Development Plan 2022-2028), and would set an undesirable precedent for other such prominently located development in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. It is considered that the proposed development, taking into account that there is no surface water sewer in this area, the subject site's location on a sloping and rocky site, and the proposed extensive footprint of the two dwellings and access roadway in conjunction with their associated levels of excavation and hard surface terraces it is considered that insufficient details have been provided to determine whether it would be possible to dispose of the surface water in a manner that will not endanger the receiving environment or public health contrary to WM 11-10: Surface Water, SuDS and Water Sensitive Urban Design of the Cork County Development Plan 2022-2028. The proposed development would, therefore, be prejudicial to public health and be contrary to the proper planning and sustainable development of the area.
3. The proposed development would be premature pending the upgrade works to Barrack Hill and Main Street junction. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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.

Claire McVeigh
Planning Inspector

22 April 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	317096-23			
Proposed Development Summary	Construction of two houses.			
Development Address	Barrack Hill, Ballycotton, 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	√	
		No		
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				
No	√		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		N/A		
Yes	√	Class/Threshold.....		Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	√	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	317096-23	
Proposed Development Summary	Construction of two houses.	
Development Address	Barrack Hill, Ballycotton, Co. Cork	
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.		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The proposed development is for the construction of two dwelling houses and access roadway. It is proposed to connected to the public sewer and public water supply. Surface water is stated to be disposed off on site via soak pits.</p> <p>The proposal is for the development of two houses and site works. No significant waste, emissions or pollutants are likely.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>The size of the proposed development is notably below the mandatory thresholds in respect of a Class 10 Infrastructure Projects of the Planning and Development Regulations 2001 as amended.</p> <p>I note planning authority register reference 23/4079 recently granted by Cork County Council and on first party appeal to An Bord Pleanála on lands immediately adjacent and south of the subject site for 12 no. dwellings, site works and road upgrade for a section of Barrack Hill. There is no real likelihood of significant cumulative considerations having regard to other existing and/or permitted</p>	No

	projects in the adjoining area.	
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The application site is not located in or immediately adjacent to a European site. The closest European site is the Ballycotton Bay SPA. (Site Code 4022)</p> <p>There are no ecological sensitive locations in the vicinity of the site.</p> <p>It is considered that, having regard to the limited nature and scale of the development, there is no real likelihood of significant effect on other significant environmental sensitivities in the area.</p>	No
Conclusion		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		

Inspector: _____

Date: _____

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)