



An
Bord
Pleanála

Inspector's Report

ABP-317205-23

Development	Construction of a dwelling house, installation of on-site wastewater treatment system and associated site works.
Location	Knockroe and Rockhouse Townlands, Kilmacsimon, Bandon, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	22/5795
Applicant(s)	Aisli Holland Fitzgerald, Steven Fitzgerald
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions.
Type of Appeal	Third Party v. Grant
Appellant(s)	Michael O'Donovan
Observer(s)	None
Date of Site Inspection	22 May 2024
Inspector	Cáit Ryan

1.0 Site Location and Description

- 1.1. The site is located on L-3204-21, approx. 4.5km south east of Innishannon and approx. 23km south west of Cork city. This local road is a winding road which connects Innishannon with Ballinadee, approx. 3.5km south of the site. The entrance to Kilmacsimon Rowing and Swimming Club is approx. 300m to the south, on the opposite (eastern) side of the road. Kilmacsimon is approx. 1.2km south of the site, via L-32041-0.
- 1.2. There are 4no. houses south of the site on the western side of the road, and a house has recently been constructed on the adjoining site to the north. There appears to be 2no. houses on the eastern side of the road, which are largely screened from view. The Bandon River flows to the rear (east) of these houses.
- 1.3. The 0.84ha site is of irregular shape. It is roughly T-shaped, whereby the narrower, more elongated part of the site is along the roadside boundary. Knocknacurra Stream flows in a roughly west-east direction along most of the southern site boundary. There is an existing agricultural entrance north of the stream, which is proposed to be modified to serve the new dwelling. There is a separate agricultural entrance at the southern end of the site's roadside frontage, which does not appear to be in use. There are hedgerows/other planting along all site boundaries.
- 1.4. There is much variation in grounds levels throughout the site, and much of the site is elevated above the adjoining public road. The site slopes generally from north west to south east. The relatively narrow northern portion of the site slopes from south to north. In general, much of the site is overgrown and does not have the appearance of being in active agricultural use. Vegetation on site includes gorse, and rushes were visible along the northern side of the stream.

2.0 Proposed Development

- 2.1. The proposed development comprises construction of a dwelling house, installation of on-site wastewater treatment system and associated works.
- 2.2. A 164sqm single-storey dwelling is proposed. External finishes comprise smooth render and a dark grey standing seam metal sheeting is proposed. It is proposed to

modify an existing agricultural entrance to serve the new dwelling house.

- 2.3. Documentation lodged with the application includes a cover letter, an Archaeological Assessment and a Site Characterisation Form.
- 2.4. With regard to wastewater, a secondary treatment system with soil polishing filter is proposed. With regard to surface water, the lodged application proposed to discharge to stream. The Clarification of Further Information (CFI) response includes revised proposals to provide a soakpit on site.

3.0 Planning Authority Decision

3.1. Decision

Following requests for Further Information (FI) and Clarification of Further Information (CFI), the planning authority made a decision to grant permission subject to 23 no. conditions. Conditions of note are as follows:

Condition 1: Development to be carried out in accordance with the plans and particulars lodged with the application on 29 July 2022, as amended by documents/drawings received by the planning authority on 20 September 2022, 21 February 2023, 12 April 2023 and 18 April 2023.

Condition 2: Applicant required to enter into Section 47 Agreement.

Condition 3: Submit revised landscape scheme prior to commencement.

Conditions 5, 6, 8 and 14 relate to the proposed wastewater treatment system.

Condition 7: The construction of the site entrance, the tie-in to existing public road and any modifications to existing storm water drainage network on public road shall be to satisfaction of Area Engineer.

Condition 11: Sight distance at entrance shall remain unobstructed by vegetation in perpetuity. Where applicable, all utility poles shall be set back from edge of public road and outside of sight triangle.

Condition 13: Prior to construction of dwelling standard sight distances shall be achieved at the proposed site entrance. Sightlines shall be entirely unobstructed,

boundary ditches within the sight triangles shall be removed/re-aligned and cutting back of vegetation shall not satisfy the requirements of this condition. Any utility poles in visibility splays shall be relocated outside the sight triangles.

Condition 19: Protective fencing in accordance with BS 5837 shall be installed to protect all trees identified to be retained.

Condition 22: Silt fencing will be installed prior to commencement of development. A compliance report shall be submitted to the planning authority upon installation.

Condition 23: Development contribution of €3036.37.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Senior Executive Planner (21 September 2022, 15 March 2023 and 3 May 2023)

First report considers applicant complies with Development Plan Objective RP 5-4(d). Recommendation to seek FI reflects report.

Second report considers amendments to dwelling are acceptable and that matters requested by Ecologist be addressed. Recommends CFI.

Third report considers all outstanding matters addressed, and cover letter should issue re Section 34(13) of the Act. Recommends grant subject to 23no. conditions.

3.2.2. Other Technical Reports

Area Engineer (20 September 2022 and 19 April 2023)

First report states sightlines showing 90m+, that surface water to be discharged to stream as per Unsolicited Further Information. Recommends 11no. conditions.

Second report states no objection subject to conditions.

Ecology (14 September 2022, 14 March 2023 and 2 May 2023)

First report notes 3m distance of driveway to Knocknacurra Stream, notes concerns regarding potential impacts on water quality at construction and operational stages, and impacts on root protection areas (RPAs) of trees along stream. Recommends FI

for tree survey, landscaping plan and measures to safeguard watercourses during construction and operation.

Second report considers FI request not sufficiently addressed and recommends CFI.

Third report considers that the CFI request has not been adequately addressed. States no objection subject to 8no. conditions.

Archaeology (20 September 2022): States submitted Archaeological Assessment satisfactorily demonstrated there is no subsurface archaeology associated with the Castle CO111-009 within the site. No further archaeological input required.

3.3. **Prescribed Bodies**

None.

3.4. **Observations to the Planning Authority**

1no. observation was received by the planning authority. The main issue raised may be summarised as the observer outlines there is an easement to keep a water pipe across the property to convey water to his farm, re-routing the pipe is not feasible and requests condition be included in any decision to approve relating to this easement.

4.0 **Planning History**

Subject Site:

None stated.

Sites in Vicinity:

P.A. Ref. 20/4480: Permission granted in 2020 for a single-storey dwelling to north of the site. This dwelling house has been constructed. As viewed on the planning authority's online planning search, this permission includes for the site to be accessed from the west.

On site inspection I noted that there is a vehicular entrance to access this dwelling on L-3204-21, north of the northern boundary of subject site.

P.A. Ref. 15/5052: Permission granted in 2015 for shed at existing dwelling house at Rockhouse, Kilmacsimon. This site is located approx. 0.5km south of site.

5.0 Policy Context

5.1. Cork County Development Plan 2022-2028

In terms of rural settlement policy, the site is located within **Rural Area under Strong Urban Influence** in the Cork County Development Plan 2022-2028, which is described as one which is within easy commuting distance of Cork City. It is stated (Section 5.4.4) that these areas exhibit characteristics such as rapidly rising population, evidence of considerable pressure from the development of (urban generated) housing in the open countryside due to proximity to such urban areas / major transport corridors, pressures on infrastructure such as the local road network and higher levels of environmental and landscape sensitivity.

Objective RP 5-2: Rural Generated Housing Sustain and renew established rural communities, by facilitating those with a rural generated housing need to live within their rural community. Encourage the provision of a mix of house types in towns and villages to provide an alternative to individual rural housing in the countryside.

Objective RP 5-4: Rural Area under Strong Urban Influence and Town Greenbelts (GB 1-1): The rural areas of the Greater Cork Area (outside Metropolitan Cork) and the Town Greenbelt areas are under significant urban pressure for rural housing. Therefore, applicants must satisfy the Planning Authority that their proposal constitutes a genuine rural generated housing need based on their social and / or economic links to a particular local rural area, and in this regard, must demonstrate that they comply with one of the following categories of housing need:

(a) Farmers, their sons and daughters who wish to build a first home for their permanent occupation on the family farm.

(b) Persons taking over the ownership and running of a farm on a full-time basis (or part – time basis where it can be demonstrated that it is the predominant occupation), who wish to build a first home on the farm for their permanent

occupation, where no existing dwelling is available for their own use. The proposed dwelling must be associated with the working and active management of the farm.

(c) Other persons working full-time in farming (or part – time basis where it can be demonstrated that it is the predominant occupation), forestry, inland waterway or marine related occupations, for a period of over seven years, in the local rural area where they work and in which they propose to build a first home for their permanent occupation.

(d) Persons who have spent a substantial period of their lives (i.e. over seven years), living in the local rural area in which they propose to build a first home for their permanent occupation.

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

In relation to **Environmental and Site Suitability Requirements, Section 5.6.3** states that the planning and sustainable development criteria, against which an application is assessed, would include:

- Whether the siting, design and scale of the proposal is appropriate to the surroundings;
- Whether any proposed vehicular entrance would endanger public safety or give rise to a traffic hazard;
- Whether an excessive length of roadside hedgerow or trees need to be removed to provide an entrance.

It also states (**Section 5.6.5**) that those intending to build houses in rural areas are advised to consult the Cork Rural Design Guide for advice on site choice, design, and landscaping at an early stage in their preparations.

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

- a. Encourage new dwelling house design that respects the character, pattern and tradition of existing places, materials and built forms and that fit appropriately into the landscape.
- b. Promote sustainable approaches to dwelling design by encouraging proposals to be energy efficient in their design, layout and siting, finishes, heating, cooling, and energy systems having regard to the need to reduce reliance on fossil fuels and reduce carbon emissions.
- c. Foster an innovative approach to design that acknowledges the diversity of suitable design solutions in most cases, safeguards the potential for exceptional innovative design in appropriate locations and promotes the added economic, amenity and environmental value of good design.
- d. Require the appropriate landscaping and screen planting of proposed developments by retention of existing on-site trees hedgerows, historic boundaries, and natural features using predominantly indigenous/local trees and plant species and groupings.

Objective RP 5-24: Ribbon Development Presumption against development which would contribute to or exacerbate ribbon development.

Section 5.7.2 (Ribbon Development) states that is policy to discourage development which would contribute to or exacerbate ribbon development (defined by Cork County Council as five or more houses on any one side of a given 250 metres of road frontage).

The Planning Authority will assess whether a proposal will exacerbate such ribbon development, having regard to;

- Type of rural area and circumstances of the applicant;
- Degree to which proposal might be considered an infill development;
- Degree to which existing ribbon development would be extended or whether distinct areas of ribbon development would coalesce;
- Local circumstances including planning history of area and development pressures;
- Normal Proper Planning and Sustainable Development Considerations.

Development Plan Mapping:

The site is located within a High Value Landscape.

It is located on Scenic Route S65: Road between Innishannon to Ballinadee to Kinsale Western Bridge.

The site is within Flood Zone C. It is approx. 22m west of Flood Zones A and B at its north eastern end, which are located to east of the road.

5.2. **National Planning Framework**

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

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

5.3. **Sustainable Rural Housing Guidelines for Planning Authorities**

These guidelines differentiate between urban generated housing and rural generated housing and directs urban generated housing to town and cities and lands zoned for such development. Urban generated housing has been identified as development which is haphazard and piecemeal land gives rise to much greater public infrastructure costs. Rural generated housing includes sons and daughters of families living in rural areas and having grown up in the area and are perhaps seeking to build their first home near their family place of residence. Appendix 4 sets out that these Guidelines recommend against the creation of ribbon development for

a variety of reasons relating to road safety, future demands for the provision of public infrastructure as well as visual impacts.

5.4. Natural Heritage Designations

The site is not within or adjacent to a European site. The site is approximately:

- 8.7km north east of Courtmacsherry Bay SPA (Site Code 004219)
- 14.7km north west of Old Head of Kinsale SPA (Site Code 004021)
- 14.5km north west of Sovereign Islands SPA (Site Code 004124)
- 8.2km north east of Courtmacsherry Estuary SAC (Site Code 001230)

Proposed NHA Bandon Valley Below Inishannon (Site Code 001515) is located along Bandon River approx. 0.025km east of the site.

5.5. EIA Screening

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

6.0 The Appeal

6.1. Grounds of Appeal

The third party's grounds of appeal may be summarised as follows:

- Decision to grant permission is an infringement of easement/right to water which traverses the site. The revised site plan proposes to lay the driveway over this water pipe. It curtails third party's ability to have ready access to the entire water pipe to repair any leaks which must be dealt with urgently.

- Request that the proposed driveway be re-routed so that it does not infringe on or interfere with his legal easement/right to water.
 - Council failed to give due consideration to third party's observation of 31 August 2022. This is a critical source of water supply for his farm which has a piggery housing up to 700 animals. The sole source of water supply is the gravity flow water pipe which traverses this site.
 - No inspection of the water pipe and survey of its trajectory/route through the site was undertaken by the Council.
 - The grant of permission fails to set down any conditions concerning measures that must be taken to protect the water pipe during construction phase.
- Requests that grant of permission be amended to include such a condition.

6.2. Applicant Response

The applicants' response to the grounds of appeal is summarised as follows:

- Appellant claims he has a legal easement to a pipe across their land. Applicants' solicitor has confirmed that this is not the case.
- Appellant has recently laid a substantial driveway over this pipe, leading from his son's newly built house next to his site, showing it is possible to do so without damaging the pipe.
- Applicants do not want to interfere with neighbour's farms water supply, and are in contact with appellant and his solicitor. Applicants have been informed that protection of a pipe has nothing to do with grant of permission for house.
- Appellant's first map (of 31 August 2022) is very different from map submitted with appeal (of 26 May 2023), making the pipe look far closer to the proposed dwelling than it is. Pipe will only be under their driveway and they will strive to protect it during build.

6.3. Planning Authority Response

The planning authority is of the opinion that all relevant issues have been covered in reports previously forwarded to the Board and has no further comment.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local and national policies and guidance, I consider that a *de novo* assessment is appropriate in this instance, and that the substantive issues in this case to be considered are as follows:

- Legal Issues
- Traffic – New Issue
- Ribbon Development – New Issue

7.2. Legal Issues

- 7.2.1. The third party grounds of appeal state that the decision is an infringement of an easement, and requests that the proposed driveway be re-routed so that it does not infringe on or interfere with third party's legal easement/right to water.
- 7.2.2. At planning application stage, the observation received by the planning authority included mapping indicated to be approximate trajectory of water pipe on site. The FI response with regard to matters raised in the observation to the planning authority states that the proposed dwelling is a significant distance, to north west, of the water pipe, that they will protect the pipe during construction and if permission is granted they agree to legally formalise an easement to maintain the pipe.
- 7.2.3. The grounds of appeal include a drawing which indicates the approximate route of water pipe running along a roughly east/west axis, i.e., different to that lodged with the observation on the application. This drawing lodged with the appeal shows the pipe to run directly south of the southeastern corner of the proposed dwelling house.
- 7.2.4. On site inspection I noted that the site was overgrown, did not appear to be currently in agricultural use and the location of any pipe was not easily discernible.
- 7.2.5. Notwithstanding this, I am satisfied that the applicants have provided sufficient evidence of their legal interest for the purposes of the planning application and decision. Any further matters which may need to be resolved relating to the third party's stated legal easement is essentially a separate matter, and is outside the

scope of the planning appeal.

- 7.2.6. In any case, this is a matter to be resolved between the parties, having regard to the provisions of s.34(13) of the Planning and Development Act 2000, as amended, which states 'A person shall not be entitled solely by reason of a permission under this section to carry out any development'.
- 7.2.7. Accordingly, I consider that the third party's grounds of appeal are not matters to be assessed by the Board, would not constitute grounds for refusal, and in the event that the Board was minded to grant permission, on the basis of the information on file, conditions requiring the re-routing of the proposed driveway to facilitate a stated easement would not be necessary.

7.3. Traffic Safety – New Issue

- 7.3.1. The site is located on the outer side of a slight bend in the road. There is a continuous white line along this stretch of road, including at the existing agricultural entrance. This entrance is proposed to be modified to serve the new dwelling house. There are 4no. residential entrances to the south on the same (western) side of this road, and 1no. vehicular entrance approx. 15m south of the site on the opposite (eastern) side of the road serving a dwelling house.
- 7.3.2. For clarity, as outlined elsewhere in this report, I note the development permitted by P.A. Ref. 20/4480 provides a new dwelling house on the adjoining site to the north, to be served by a new vehicular entrance at the western boundary of that roughly wedge-shaped site, and the drawings show only an existing agricultural entrance to that site on this local road L-3204-21. While I noted on site inspection that this recently constructed dwelling house is accessed from a vehicular entrance on L-3204-21, i.e., to the north of the subject site, I have not taken this existing entrance into account in the assessment of traffic safety matters in the current case.
- 7.3.3. The proposed site layout & landscape plan drawing lodged with the application shows 90m sightlines to north and south of the modified site entrance, indicated to be taken 2.4m back from delineated road edge. The drawing states all vegetation to be maintained below 1.0m in sightline triangle. This drawing suggests that some of the roadside boundary to both north and south of the modified entrance would be required to be maintained below 1m to achieve sightlines.

- 7.3.4. The Area Engineer's report states sightlines showing 90m+ from proposed entrance, and the overall conclusion is that this is a reasonable suitable site once conditions are adhered to. This report referencing 90m+ sightlines would appear to be based on the lodged drawing. It does not appear to be based on application on the ground. The planning authority's Conditions 11 and 13 require sight distances to be unobstructed, and any utility poles to be outside sight triangles.
- 7.3.5. The L-3204-21 road on which the site is located connects Innishannon/the N71 with Ballinadee. While the local road classification does not appear to be stated on file, I note from a separate planning application elsewhere in the vicinity, that L-3204 is described in an internal report (by Area Engineer) as a busy local primary route (P.A. Ref. 15/5052 refers, which pertains to a site approx. 0.5km south of the subject site, as viewed on the planning authority's online planning search). Having inspected the site, and having regard to the existing development in the vicinity, and noting the road classification as local primary, I consider that a requirement for sightlines of 90m in both directions would be appropriate for this local road.
- 7.3.6. In terms of sight distances, on site inspection I noted that sight distances to the north would appear to be acceptable, subject to setting back of the existing roadside boundary, which would result in the loss of hedgerow. Notwithstanding that adequate sight distances could be achieved in a northerly direction, in the context of partial roadside boundary removal, having regard to the slight bend in the road, I would however have concerns regarding traffic turning movements for southbound traffic entering into the site, i.e., vehicles crossing the continuous white line, in the context of the bend, albeit a slight bend, at this location.
- 7.3.7. With regard to sight distances to the south, based on the information on file, I do not consider that the 90m sight distances can be achieved as shown on the proposed site layout. While the drawing states all vegetation to be maintained below 1m in sight triangle, in general the area of vegetation that would be required to be lowered is not delineated. This drawing indicates that vegetation is to be lowered over a linear distance of approx. 90m, but the depth of this area for vegetation removal appears limited. In contrast, I noted on site inspection that some of the vegetation along the roadside boundary in the area south of the modified vehicular entrance extends to the road edge.

- 7.3.8. In terms of details, I noted on site inspection that there is a utility pole along the roadside boundary a short distance south of the existing agricultural entrance. This is not shown on proposed site layout. Separately, the lodged drawing shows the red line boundary south of the vehicular entrance set back from the road edge. I note that site contours are indicated on this drawing, although levels indicated on the adjoining public road are not easily discernible.
- 7.3.9. On the basis of all information on file and having inspected the site, I consider that it has not been demonstrated that the proposed development, which includes modifying an existing agricultural entrance to serve a new dwelling, would be acceptable in terms of traffic safety. The winding nature of the local primary road, the southbound traffic turning movements to which it would give rise at a point where there is a continuous white line, the lack of adequate sight distances in a southerly direction, together with the multiplicity of existing vehicular entrances in the immediate vicinity of the site, combine to create a significant traffic hazard in my view. It is therefore considered that the proposed development would endanger public safety by reason of traffic hazard, notwithstanding the proposed improvements to the sightlines. Refusal of permission is recommended on this basis.
- 7.3.10. For clarity, on the basis of all information on file, and having inspected the site, I do not consider that the matter of traffic safety can be remedied by way of condition.
- 7.3.11. This is a new issue and the Board may, therefore, wish to serve a notice in order to consult the parties to seek their views, should it wish to rely on this issue as a reason for refusal.

7.4. Ribbon Development – New Issue

- 7.4.1. There are 4no. houses south of the site, on the western side of the local road. I note that the most southerly of these houses is however substantially set back from and at a right angle to the public road, such that it does not have as strong a visual presence as the more standard linear development of the 3no. houses to its north. The dwelling house recently constructed to the north (pursuant to P.A. Ref. 20/4480) is accessed from L-3204-21, as discussed previously.
- 7.4.2. The combined roadside frontage of the 4no. houses to the south is approx. 180m. The inclusion of the subject site's approx. 160m roadside frontage would amount to approx. 340m. The site entrance would be within 250m of the overall frontage of the

existing 4no. houses to the south (as measured from the most southerly of these houses on the planning authority's online planning search tool).

- 7.4.3. The Development Plan states (at Section 5.7.2) that it is policy to discourage development which would contribute to or exacerbate ribbon development, defined as five or more houses on any one side of a given 250 metres of road frontage. I consider that based on the site's roadside frontage, combined with the existing 4no. houses to the south, the proposed development would, if permitted, constitute 5no. houses along a continuous stretch of roadside frontage which exceeds 250m. On this basis therefore I consider that the proposed development would not be in compliance with the planning authority's policy to discourage development which would contribute to or exacerbate ribbon development.
- 7.4.4. For clarity, I note the dwelling house permitted by P.A. Ref. 20/4480 to the north includes that the site be accessed from the west. I have not taken account of the existing vehicular entrance on L-3204-21 which serves this dwelling house in the assessment of ribbon development in the current case.
- 7.4.5. However, I note also the visual prominence of this adjoining dwelling, located on a very elevated site, and accordingly due to its visibility, I consider it reasonable to include the dwelling (as distinct from its existing vehicular entrance) into account in the assessment of ribbon development. With the inclusion of this dwelling to the north, the proposed development would, if permitted, would result in a continuous stretch of 6no. houses overall.
- 7.4.6. In terms of rural settlement policy, I note that the planning authority considered that the applicant (Applicant 1) qualifies for consideration under Development Plan Objective RP 5-4(d). However, notwithstanding this, I consider that having regard to the pattern of development in the area, the site's proximity to the cluster of development directly to the south and 1no. dwelling directly to the north, the proposed development would extend the existing pattern of development and would contravene Objective RP 5-24 which states that there is a presumption against development which would contribute to or exacerbate ribbon development. Furthermore, the proposal would erode the rural character of the area, would lead to increasing demands for facilities and services which would result in unsustainable patterns of development. The proposal should therefore be refused.

- 7.4.7. However, this is a new issue and the Board may, therefore, wish to serve a notice in order to consult the parties to seek their views, should it wish to rely on this issue as a reason for refusal.

8.0 Appropriate Assessment

- 8.1.1. I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act 2000, as amended.
- 8.1.2. The proposed development is not located within or adjacent to any site designated as a European site, comprising a Special Area of Conservation (SAC) or Special Protection Area (SPA). The site is approximately:
- 8.7km north east of Courtmacsherry Bay SPA (Site Code 004219)
 - 14.7km north west of Old Head of Kinsale SPA (Site Code 004021)
 - 14.5km north west of Sovereign Islands SPA (Site Code 004124)
 - 8.2km north east of Courtmacsherry Estuary SAC (Site Code 001230)
- 8.1.3. The proposed development comprises construction of a dwelling house, installation of on-site wastewater treatment system and associated site works. A detailed description of the proposed development is set out in Section 2.0 of this report.
- 8.1.4. Knocknacurra Stream flows in a roughly west – east direction along most of the southern site boundary, which enters the Bandon River approx. 45m east of the site.
- 8.1.5. The lodged planning application proposed to discharge surface water to the stream. The Clarification of Further Information (CFI) response dated 12 April 2023 proposes a new soakpit north of the driveway, near the site entrance. Two separate locations for stockpiling building materials and stockpiling earth are also shown on the revised CFI site plan.
- 8.1.6. The CFI response refers to an enclosed Construction and Environmental Management Plan (CEMP). However, there does not appear to be a CEMP on file. In the event that the Board was minded to grant permission, the submission of a CEMP could be addressed by way of condition. I consider that a CEMP which contains standard construction practices that are an integral part of the proposed development that would be implemented by those carrying out the works at the same time and as part of the same process would be distinct from separate measures that

would be conceived and implemented to mitigate potential impact on Natura 2000 sites. Having regard to the nature and scale of the proposed development, I consider that on the basis of the information on file that the plans and particulars lodged as CFI are clearly not included as a measure to mitigate potential impacts on European sites. In reaching this conclusion, I have taken no account of mitigation measures intended to avoid or reduce the potentially harming effects of the project on any European sites.

8.1.7. I consider that in the event the proposed development resulted at either construction or operational stage in any surface water run off to the stream, and by extension to Bandon River, having regard to the nature of the receiving waters and the assimilative capacity of these waterbodies and distance to the nearest European site, the site would be at greater remove and subject to further dilution effects within the river such that significant effects from the proposed development are not considered likely.

8.1.8. I note that the proposed wastewater treatment system is in the northern portion of the site, approx. 70m from the stream.

8.1.9. The planning authority screened out any requirement for Appropriate Assessment.

8.1.10. No nature conservation concerns were raised in the planning appeal.

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

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

I conclude on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) under Section 177V of the Planning and Development Act 2000, as amended, is not required.

9.0 Recommendation

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

10.0 Reasons and Considerations

1. The site is located adjacent to a bend on a local road which is substandard in terms of alignment, at a point where there is a continuous white line and where sightlines are poor in a southerly direction. Together with the multiplicity of existing vehicular entrances in the immediate vicinity of the site, the proposed development would, if permitted, endanger public safety by reason of traffic hazard because of the additional traffic turning movements it would generate on this poorly aligned road network. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The site is located within a rural area, where there are established residential properties to the south and north of the site. The proposed development would, if permitted, contribute further to the pattern of ribbon development and thereby contravene Objective RP 5-24 of the Cork County Development Plan 2022-2028, which provides for a presumption against development which would contribute to or exacerbate ribbon development. 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.

Cáit Ryan
Senior Planning Inspector

12 August 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-317205-23		
Proposed Development Summary	Construction of dwelling house, installation of on-site wastewater treatment system and associated site works.		
Development Address	Knockroe and Rockhouse Tds., Kilmacsimon, Bandon, 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		Class.....	EIA Mandatory EIAR required
No	X		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)
No		N/A	No EIAR or Preliminary Examination required
Yes		Class 10(b)(i) of Part 2 of Schedule 5. Threshold is 500 dwelling units.	Proceed to Q.4

		Sub-threshold.		
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4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-317205-23	
Proposed Development Summary	Construction of dwelling house, installation of on-site wastewater treatment system and associated site works.	
Development Address	Knockroe and Rockhouse Tds., Kilmacsimon, Bandon, Co. Cork.	
<p>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.</p>		
	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>There is a recently constructed dwelling house to north of the site, and 4no. dwellings to the south. The nature of the proposed development is not exceptional in the context of the existing environment.</p>	No
<p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>No significant waste, emissions or pollutants would ensue.</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>New build comprises a single rural house and garage with on-site wastewater treatment system. Having regard to nature of proposed development and existing residential properties in the vicinity of the site, the size of subject development is not exceptional in this context.</p>	No
<p>Are there significant cumulative considerations having regard to other existing</p>	<p>There are no significant cumulative considerations having regard to other existing and/or permitted projects.</p>	No

and/or permitted projects?		
<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>The subject site is not located on, in or adjoining, nor has the potential to significantly impact on an ecologically sensitive site or location. The nearest European site is Courtmacsherry Estuary SAC (Site Code 001230), a distance of 8.2km from the site. Other European sites in the wider area and their approx. distance from the subject site are:</p> <ul style="list-style-type: none"> - Courtmacsherry Bay SPA (Site Code 004219): 8.7km - Old Head of Kinsale SPA (Site Code 004021): 14.7km - Sovereign Islands SPA (Site Code 004124): 14.5km <p>Knocknacurra Stream flows in a roughly west-east direction at the south of the site, and enters the Bandon River approx. 40m east of the site. The plans and particulars on file, including those submitted as Clarification of Further Information, show a proposed soakpit near the site entrance, and two separate locations for stockpiling of building materials and of earth.</p> <p>Having regard to the nature and scale of the proposed development, the separation distance to any European site, and in the absence of any direct hydrological or other connections to European Sites, it is not considered that the proposed development would be likely to have a significant effect on a European site.</p> <p>Proposed NHA Bandon Valley Below Inishannon (Site Code 001515) is located along the stretch of River Bandon approx. 0.025km east of the site. As noted above, a stream on the subject site flows into this river.</p> <p>Having regard to the nature and scale of the proposed development, the proposed development does not have the potential to significantly impact on an ecologically sensitive site or location.</p>	No
Does the proposed development have the potential to significantly affect other significant	Having regard to the nature and scale of the proposed development, the subject development does not have the potential to significantly affect	No

environmental sensitivities in the area?	other significant environmental sensitivities in the area.	
Conclusion		
There is no real likelihood of significant effects on the environment. EIA not required.	There is significant and realistic doubt regarding the likelihood of significant effects on the environment. Schedule 7A Information required to enable a Screening Determination to be carried out.	There is a real likelihood of significant effects on the environment. EIAR required.

Inspector: _____

Date: _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)