



An
Bord
Pleanála

Inspector's Report

ABP-320773-24

Development	Outline permission for construction of one dwelling, flood wall and associated site works.
Location	Kilnagleary, Carrigaline, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	245145
Applicant(s)	David & Ashley O'Regan
Type of Application	Outline Permission
Planning Authority Decision	Refuse Outline Permission
Type of Appeal	First Party
Appellant(s)	David & Ashley O'Regan
Observer(s)	None
Date of Site Inspection	16 th December 2024
Inspector	Matthew McRedmond

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1.0 Site Location and Description

- 1.1. The subject site is located at Kilnagleary, Carrigaline, Co. Cork within the south east corner of the existing Carrigaline GAA grounds. The site is accessed via an existing path within the GAA grounds and via a cul de sac lane from the main road (R612). The access via the GAA grounds is open with no boundary treatment, while the access from the lane is heavily vegetated and separated by a change in level where the site lies above the overgrown laneway. There are two existing residential dwellings located to the north of the site, also served by the lane from the R612. One additional dwelling is located further north, which is accessed directly from the R612. There is an existing stream located to the east of the site. Cork Harbour is located further to the north.

2.0 Proposed Development

- 2.1. The proposed development consists of outline permission for the construction of a dwelling and all other associated works including flood defence wall along the proposed access path.

3.0 Planning Authority Decision

3.1. Decision

On the 13th August 2024, Cork County Council refused permission for 4no. reasons as follows:

“1. The proposal to construct a dwelling on lands designated as ‘Green Infrastructure’ where it is an objective to ‘retain and provide for active recreational facilities with Green Active Areas’ and where there is a specific objective for ‘open space with provision for playing field and pedestrian walk’ as detailed in policy objective CL-GA-04 of the Cork County Development Plan 2022-2028, contravenes the land use zoning for this site. It is therefore considered that the proposed development would be contrary to policy objectives of the County Development Plan 2022-2028 and would contravene policy objective ZU 18-2 which seeks to ensure

development proceeds in accordance with the general land use objectives and any specific zoning objectives that apply to the proper planning and sustainable development of the area.

2. Having regard to the characteristics of the proposed site and based on the information submitted, the Planning Authority is not satisfied that the proposed development could be accommodated without adversely affecting the ecological and biodiversity value of the site, the wooded area along the laneway and the existing stream to the east. The proposed development would therefore be seriously injurious to the biodiversity value of the area, would materially contravene policy objectives of the County Development Plan 2022-2028 including ZU 18-13 which outlines that no development other than that which supports Green Infrastructure will be considered; BE 15-2 which seeks to protect areas of biodiversity value; GI 14-2 which requires new development proposals to contribute to the protection, management and enhancement of the existing green and blue infrastructure of the local area. The development would therefore be contrary to the proper planning and sustainable development of the area.

3. The proposed development including the access lane and junction of access lane and public road would be located in an area which is at risk of flooding, as per the zoning maps attached to the County Development Plan 2022-2028. Based on the information submitted, the Planning Authority is not satisfied that the proposed development complies with national policy as set out in The Planning System and Flood Risk Management – Guidelines for Planning Authorities (Nov. 2009) and would materially contravene development plan objective WM 11-16: Flood Risks- Overall Approach. It would also set a most undesirable future precedent for similar types of development adjacent to/within identified floodplains. Accordingly, the proposed development would be contrary to the proper planning and sustainable development of the area.

4. The documents and drawings submitted with the application for outline permission are unclear with respect to the relationship between the proposed flood defences and Kilnagleary Bridge, a protected structure (RPS ID2973). If the protected structure falls within the development site, the applicant is advised that in accordance with Article 21(b) of the Planning and Development Regulations 2001-2023 as amended, outline planning is not appropriate for a site that includes a

protected structure. Furthermore, based on the information submitted the Planning Authority is concerned that the proposed development in particular the proposed flood defence wall, would negatively impact on the protected structure and as such would be contrary to policy objective HE 16-14 (f) which seeks to ensure that development proposals are not detrimental to the special character and integrity of the protected structure and its setting. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Authority had regard to the National and Local Planning context, the setting of the site, the documents submitted with the application and any referral responses received. Their assessment included the following:

- Principle of proposed development would be contrary to the policies and objectives of the County Development Plan 2022-2028 including the zoning objective CL-GA-04 which is to provide for open space with playing fields, Objective ZU18-13 which is to retain active recreational facilities and Objective GI-14-5 where retention or enhancement of a facility can only be achieved by the redevelopment of a small portion of the site. The development of the site for residential purposes is not the only mechanism to raise funds for Carrigaline GAA Club, based on the information submitted.
- The proposed development has not demonstrated compliance with Objective WM 11-15 and has failed to pass the justification test in relation to flood risk.
- Conservation officer recommends refusal on the grounds of impacts on protected structure ID2973 – Kilnagleary Bridge. Details on the proposed flood wall are too vague to quantify impacts.
- The outline permission of a two storey house and resulting floor levels/roof levels would not be acceptable. Impacts from the GAA pitch would be apparent.

3.2.2. Other Technical Reports

- Area Engineers Report – Report was not available at time of planner’s report but a report on file simply states the proposed development would be located in an area which is at risk of flooding.
- Conservation Officer – Recommends refusal of permission as the relationship between the flood defences and Kilnagleary Bridge, which is a protected structure, are unclear.

3.3. **Prescribed Bodies**

None on file.

3.4. **Third Party Observations**

None received.

4.0 **Planning History**

Reg. Ref. 24/4401: Similar application for outline permission by the applicants, which was subsequently withdrawn.

5.0 **Policy Context**

5.1. **Project Ireland 2040 - National Planning Framework**

- 5.1.1. The NPF includes a Chapter, No. 6 entitled ‘People, Homes and Communities’. It sets out that place is intrinsic to achieving good quality of life. National Policy Objective 33 seeks to “prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location”.

5.2. **Section 28 Ministerial Guidelines**

- 5.2.1. The ‘Planning System and Flood Risk Management Guidelines’ 2009 are relevant to the subject proposal. These guidelines set out various elements of how to manage existing and future flood risk including appropriate uses within Flood Zones A, B and C.

5.3. Cork County Development Plan 2022-2028

Zoning

- 5.3.1. Volume Four of the Cork County Development Plan 2022-2028 (CDP) refers to South Cork and Section 1.3 refers to Carrigaline. The subject site is subject to two separate zonings. The proposed site of the dwelling is zoned CL-GA-04 in the CDP, which has the following objective:

‘Open space with provision for playing field and pedestrian walk. Parts of this site are at risk of flooding.’

Policy Objective ZU 18-13 in relation to green infrastructure is relevant:

“ZU 18-13: Green Infrastructure

Three subcategories of Green Infrastructure zonings have been identified to

a) Retain and provide for open space and recreational amenities within Green Recreational (Open Spaces/ Park) areas;

b) Retain and generally protect appropriate areas for their landscape, amenity or nature conservation value or their current or future flood management role, within Green Conservation (Landscape amenity/ nature conservation) area; and

c) Retain and provide for active recreational facilities within Green Active (Active Open Space) areas.

No development other than development which supports Green Infrastructure will be considered in these areas. Any proposals in Green Infrastructure areas will need to ensure the protection and enhancement of the integrity of biodiversity and to recognise the importance of wildlife corridors and sites of nature conservation and be in accordance with Article 10 of the Habitats Directive.”

Policy Objective 15-2 (c) is relevant in the context of biodiversity:

“c) Protect and where possible enhance areas of local biodiversity value, ecological corridors and habitats that are features of the County’s ecological network. This includes rivers, lakes, streams and ponds, peatland and other wetland habitats, woodlands, hedgerows, tree lines, veteran trees, natural and semi-natural grasslands as well as coastal and marine habitats. It particularly includes habitats of special conservation significance in Cork as listed in Volume 2 of the Plan.”

5.3.2. The proposed flood defence wall along the access laneway is zoned CL-T-01 – Existing Residential/Mixed Residential and Other Uses.

5.3.3. Policy Objective CL-U-08 also applies to the site and reads as follows:

“Provide pedestrian amenity walk from Mountain road east to join Greenway on the Crosshaven road. Future upgrades or extensions to the route will be considered/ designed/developed taking account of the birds that use the estuary as well as other values including landscape and biodiversity values.”

5.3.4. Policy objective GI 14-5 is also referenced in the application and appeal documents and reads as follows:

“GI 14-5: Replacement/Redevelopment of Leisure and Recreational Facilities

Protect and improve existing areas of public and private open space, including sports grounds, or other recreational facilities in accordance with the Council’s Recreation and Amenity Policy and any successor policy and protect such areas from development or change of use.

Where changes of use or redevelopment of existing leisure or recreational facilities are proposed, the following requirements must be clearly demonstrated:

- (i) That the existing facility is seriously inadequate and capacity constrained, and*
- (ii) Suitable replacement facilities of a higher quality than the existing facility are identified that are both accessible and benefit the community served by the facility being replaced, and*
- (iii) That the proposed alternative use(s) for the lands occupied by the existing facilities adequately address the loss of amenity to the area served by the existing facility and complies with the objectives of the County Development Plan.*

Partial Redevelopment of Leisure and Recreational Facilities:

Afford protection to leisure and recreational facilities from changes of uses or redevelopment which may result in the loss of an amenity.

In circumstances where retention or enhancement of a facility can only be achieved by the redevelopment of a small portion of the site, such developments

will only be considered where the location is appropriate to the development proposed and where no adverse affects on the sites community and environmental amenity value occurs.

Proposals will also be subject to normal planning and development considerations.”

Flood Risk

- 5.3.5. Objective WM 11-15 requires a flood risk assessment to be undertaken for all new developments in the County. Objective WM 11-16 and WM 11-17 are relevant and read as follows:

“WM 11-16: Flood Risks – Overall Approach

Take the following approach in order to reduce the risk of new development being affected by possible future flooding:

- Avoid development in areas at risk of flooding; and*
- Apply the sequential approach to flood risk management based on avoidance, substitution, justification and mitigation of risk.*
- Where development in floodplains cannot be avoided, applications for development must meet the definition of Minor Development or have passed the Justification Test for Development Plans in the updated SFRA and can pass the Justification Test for Development Management to the satisfaction of the planning authority.*
- Consider the impacts of climate change on the development.*

In areas where the Justification Test for Development Plans has not been applied, or has been failed, the sequential approach should be applied as follows:

- In areas where there is a high probability of flooding - ‘Flood Zone A’ - avoid highly and less vulnerable development as described in Section 3 of ‘The Planning System and Flood Risk Management – Guidelines for Planning Authorities’ issued in November 2009 by DoEHLG.*
- In areas where there is a moderate probability of flooding - ‘Flood Zone B’ - avoid ‘highly vulnerable development’ described in section 3 of ‘The Planning System and Flood Risk Management – Guidelines for Planning Authorities’ issued in November 2009 by DoEHLG.*

- *In areas where there is low probability of flooding – ‘Flood Zone C’ all uses may be considered subject to a full consideration of all flood risks.”*

“WM 11-17: Development in Flood Risk Areas

When considering proposals for development, which may be vulnerable to flooding, and that would generally be inappropriate as set out in Table 3.2 of the Guidelines, the following criteria must be satisfied:

1. The subject lands have been zoned or otherwise designated for the particular use or form of development in an operative development plan, which has been adopted or varied taking account of these Guidelines.

2. The proposal has been subject to an appropriate flood risk assessment that demonstrates:

a. The development proposed will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk;

b. The development proposal includes measures to minimise flood risk to people, property, the economy and the environment as far as reasonably possible;

c. The development proposed includes measures to ensure that residual risks to the area and/or development can be managed to an acceptable level as regards the adequacy of existing flood protection measures or the design, implementation and funding of any future flood risk management measures and provisions for emergency services access; and

d. The development proposed addresses the above in a manner that is also compatible with the achievement of wider planning objectives in relation to development of good urban design and vibrant and active streetscapes.

The acceptability or otherwise of levels of residual risk should be made with consideration of the type and predicted future use of the development and the local development context.

The development is assessed not to have the potential to give rise to negative or adverse impacts on the integrity of Natura 2000 sites or Natural Heritage Areas or proposed Natural Heritage Areas.”

Protected Structures

5.3.6. Objective HE 16-14 (f) is relevant in the context of Kilnagleary Bridge:

“...(f) Ensure that development proposals are appropriate in terms of architectural treatment, character, scale and form to the existing protected structure and not detrimental to the special character and integrity of the protected structure and its setting...”

5.4. Natural Heritage Designations

5.4.1. Cork Harbour SPA (site code 004030), lies circa 20m to the north of the boundary of the site.

5.5. EIA Screening

5.5.1. Having regard to the nature of the proposed development comprising outline permission for the construction of a dwelling, a flood defence wall structure and all associated site works, in an established urban area and where infrastructural services are available, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. See completed Form 1 and Form 2 at Appendix 1.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- The applicant puts forward in the appeal that the subject proposal can contribute to urban consolidation and infill development principles. The proposal can also contribute to County housing targets. The proposal is in keeping with existing residential to the north and any loss of trees is mitigated with replacement planting. Flooding is not a matter upon which the subject application should be refused.

- The applicant seeks to have the contravention of the zoning to be allowed under the provisions of Objective GI 14-5 that states such lands may be redeveloped in certain circumstances. The appeal states Objective ZU 18-13 is also supported as the re-development and sale of this portion of the land will allow the GAA grounds to continue operation. The GAA club supports the sale and development of this site for purposes other than recreation/leisure. The sale of the site will provide a much-needed capital boost to the GAA club that is under pressure from a rising population and rising playing numbers.
- The deliverability of a walkway on the lands under Objective CL-U-08 is also questioned due to ecological and biodiversity impacts. The walkway granted permission to the GAA club under Ref. 24/4776 is more appropriate than the route proposed on CDP maps.
- The impacts on ecology and biodiversity were not assessed by a Local Authority ecologist but by the Local Authority planner. A host of revised measures are proposed to ensure biodiversity net gain, including new native hedgerows and new tree planting, habitat connections and species diversity.
- The subject proposal was subject to almost no assessment by the Council's Area Engineer nor was there any detailed assessment of the proposed flood mitigation measures. The submitted Flood Risk Assessment (FRA) demonstrates that the subject site is not at risk of flooding. The proposed wall along the laneway will protect it from flooding and will be increased in height from 180mm to 540mm depending on location and will be increased in strength by adding an extra 100mm leaf of masonry.
- The proposed flood wall has no interaction with Kilnagleary Bridge (protected structure). The proposal will have no material impact on the character, scale or form of the protected structure or its setting. Recent works to the bridge including footpath widening and new roadside wall have already materially altered the heritage context of the bridge. The applicants would welcome a condition requiring a detailed construction methodology statement to illustrate no material impacts.
- The applicant provides a precedent example (Reg. Ref. 21/5416) where a residential dwelling was permitted on Golf Club lands, which were zoned as

‘Open Space’. The Local Authority Planner concluded on this case that the site did not form part of the Golf Club and was the site of an application for an extension to an existing dwelling previously. The applicant concludes that the subject site can be similarly considered for the proposed development without materially contravening the CL-GA-04 zoning.

- The First Party Appeal request that the decision to refuse permission by Cork County Council be overturned, and a grant of permission is issued.

6.2. Planning Authority Response

In a letter dated 2nd October 2024, the Planning Authority provided a response to the grounds of appeal as follows:

- No new or material information has been provided to warrant a reversal of the refusal recommended. The proposed development of a dwelling does not support Green Infrastructure as provided under objective ZU 18-13.
- The proposal does not demonstrate that the proposed development would result in a significant positive impact on local biodiversity as claimed by the applicant.
- Insufficient details are provided in relation to the proposed flood wall including foundation details.
- No commentary is provided in relation to the wall as indicated in a blue dashed line on the drawing at the end of the FRA, which shows the flood wall is to be extended to the south and north of the existing wall. It has not been demonstrated that the new section of wall will not negatively impact on the protected structure.
- The precedent example provided is under a different zoning and circumstances, including accessibility which is present from the GAA Club and was not in the Golf Club example.

6.3. Observations

None received.

6.4. Further Responses

None received.

7.0 Assessment

- 7.1.1. Having examined the application details and all other documentation on file, the reports of the Local Authority, having inspected the site, and having regard to the relevant local, regional and national policies and guidance, I consider that the substantive issues to be considered in this appeal are as follows:

- Principle of Development
- Ecology and Biodiversity Impacts
- Flood Risk
- Protected Structure
- Precedent Example

7.2. Principle of Development

- 7.2.1. The proposed outline permission for the development of a dwelling and flood defence wall is located within two separate land use zonings. The proposed dwelling is located within land use zone CL-GA-04 in the CDP, which has an objective for 'Open space with provision for playing field and pedestrian walk. Parts of this site are at risk of flooding.' The proposed flood defence wall along the access lane is located within land use zone CL-T-01, which is for existing residential and other uses, that generally comply with other uses in the area.
- 7.2.2. The proposed flood defence wall is a use that would be generally considered acceptable under the CL-T-01 land use zoning as a structure that is ancillary to the main residential use. The structure would provide mitigation to potential flood risks, and I consider this to be acceptable in principle in this land use zone subject to meeting other policies and objectives.
- 7.2.3. The proposed site of the dwelling is zoned CL-GA-04 in the CDP, which is explicitly for the provision of open space with playing fields and a pedestrian walk. Policy Objective ZU-18-13 in relation to green infrastructure provides an additional layer of

context to these areas and the subject site falls under sub-category (c) in my opinion, whereby the CDP seeks to retain and provide for active recreational facilities. ZU-18-13 further provides that no development other than development which supports Green Infrastructure will be considered in these areas.

- 7.2.4. Policy objective GI 14-5 is also referenced in the application and appeal documents where it is a requirement *‘That the proposed alternative use(s) for the lands occupied by the existing facilities adequately address the loss of amenity to the area served by the existing facility and complies with the objectives of the County Development Plan.’*
- 7.2.5. In relation to Partial Redevelopment of Leisure and Recreational Facilities, the CDP states that in circumstances where retention or enhancement of a facility can only be achieved by the redevelopment of a small portion of the site, such developments will only be considered where the location is appropriate to the development proposed and where no adverse affects on the sites community and environmental amenity value occurs.
- 7.2.6. The First Party Appeal states that the subject proposal will support Green Infrastructure, and by association be in compliance with the Land Use Zoning, by providing funds to the GAA Club as a result of the sale of the subject site to accommodate the proposal. The appeal states the proceeds of the sale will provide much needed capital to support the ongoing operation of the GAA Club.
- 7.2.7. The First Party Appeal also submits that Objective GI 14-5 allows for a departure from the typical land uses in this zone and the stated reasons of financial support are sufficient to allow a residential dwelling to be developed at the subject site.
- 7.2.8. On my visit to the site, I noted the site is divided into two main elements. The site of the proposed dwelling is very much a part of the GAA club lands with no boundary between the site and the edge of the playing pitches. Beyond the existing paved access to existing dwellings to the north, access to the site from this laneway is much more difficult, with an overgrown access lane, level differences between the access and down to the stream to the east, and no discernible access route from the laneway to the elevated patch of land that forms the location of the proposed dwelling.

7.2.9. As I noted above, the land use zoning CL-GA-04 is explicitly for the provision of open space with playing pitches and a pedestrian walk. Objective ZU 18-13 further provides that no development, other than development that supports green infrastructure will be permitted in these areas. I have reviewed the information submitted with the application and appeal and I do not consider that the subject proposal supports the CL-GA-04 land use zoning. The proposed dwelling is directly contrary to the main objective of the zoning which is to provide open space with playing pitches.

7.2.10. I have had regard to Policy objective GI 14-5 and, when reviewed in full, I do not consider there to be sufficient scope within this objective to allow the subject site to be developed for the purposes of a private dwelling under the existing zoning. I do not consider that the GAA Club development and operation can only be achieved by the redevelopment of this small portion of the site. Numerous additional sources of revenue are identified, and I do not accept that there is sufficient shortfall in revenue streams to justify a material contravention of the zoning in this instance. The location of the proposed development is not appropriate in the context of the existing playing pitches immediately adjacent, and I consider Objective 14-5, parts (i)-(iii) as three requirements that all need to be met, rather than it to be adequate for one of these elements to be satisfied in isolation.

7.2.11. In relation to parts (i)-(iii), the applicant has not clearly demonstrated that the existing facility is inadequate and capacity constrained, and that suitable replacement facilities of a higher quality have been identified, and that the proposed alternative use for the land occupied by the existing facility adequately addresses the loss of amenity to the area served by the existing facility. The club has high playing numbers and numerous streams of revenue. To allow residential development on this Green Infrastructure zoned land would set an undesirable precedent and I therefore recommend refusal of permission as the subject proposal is contrary to the provisions of the Cork County Development Plan 2022-2028 including Land use zoning objective CL-GA-04 and Objective ZU 18-13.

7.3. Flood Risk

7.3.1. The applicant has submitted a Flood Risk Assessment (FRA) with the application, which was amended at appeal stage to address reason for refusal no. 3. The FRA

notes the site of the proposed dwelling is located in Flood Zone C and is therefore not at risk of flooding. The applicant notes highly vulnerable development such as residential is considered acceptable in Flood Zone C. The access lane and junction with the R612 is identified to be in close proximity to Flood Zone A and consequently a justification test was undertaken.

- 7.3.2. In relation to the 'Planning System and Flood Risk Management Guidelines 2009', Box 5.1 is relevant, which consider proposals for development that may be vulnerable to flooding. Item 1 of Box 5.1 requires the lands to be zoned for the particular use. While the location of the proposed dwelling is not zoned for residential purposes, there are no specific flood risk measures proposed within this zone as it is in Flood Zone C. I therefore do not consider that item 1 of Box 5.1 applies to the CL-GA-04 portion of the site. The access lane is zoned for existing residential and other uses and therefore complies with item 1 of Box 5.1 – Justification Test.
- 7.3.3. In relation to item 2, the proposed flood defence wall would provide a local flood mitigation measure, raising the level of the existing wall between 180mm to 540mm in height, thickening the wall and extending it at either end by 24m north and 19m south. The presented flood maps illustrate minimal inundation on the access laneway and I am satisfied the proposed flood wall would not lead to additional flood risk elsewhere owing to the small flood storage capacity provided on the laneway.
- 7.3.4. The proposed flood wall is a specific measure to minimise flood risk to people that use the access lane, and could use the lane in the future, and I am therefore satisfied that the level of the wall at +3.1mOD will be sufficient to provide 300mm freeboard over the 0.5% AEP flood level of +2.77mOD as presented in the FRA. The proposal would minimise risk to people and ensure safe access into the future. I noted on my site visit parts of the existing wall are in a state of disrepair. The proposed enhancements to the wall would improve the visual appearance along the laneway and would therefore support wider planning objectives that include flood risk management and visual amenity.
- 7.3.5. I am therefore satisfied that the submitted FRA demonstrates compliance with items (i)-(iv) of Box 5.1 of the Flood Risk Management Guidelines in relation to the justification test.

- 7.3.6. Objective WM 11-15 is referenced by the Local Authority Planner in their assessment of the proposal. This objective requires the submission of a Flood Risk Assessment for all new developments in the County. A Drainage Impact Assessment is also required. Details in relation to soak pits and discharge to the existing foul sewer network are provided by the applicant. The subject proposal is for outline permission and I consider that a drainage impact assessment could be submitted as part of a permission consequent application at a later stage if appropriate. In general, I consider the applicant has complied with the provisions of Objective WM 11-15 by providing an FRA with the application, that appropriately demonstrates flood risk can be appropriately managed without negatively impacting on other areas.
- 7.3.7. Objective WM 11-16 is noted in reason for refusal no. 3. This objective requires that development in areas at risk of flooding should be avoided. The objective seeks to apply the sequential approach of avoid, substitute, justify and mitigate risk. Where development in floodplains cannot be avoided, the application must meet the definition of minor development or have passed the justification test for Development Management.
- 7.3.8. Given the access lane is in place to serve two existing dwellings and there is an existing low-level wall along the eastern boundary of the lane, I consider the principles of avoidance and substitution may be set aside. Proposed works are relatively minor and are primarily related to improving the existing wall with an extended length at either end. As outlined above, I am satisfied the subject proposal can pass the justification test for Development Management and the proposed flood wall would provide flood mitigation along the laneway for existing and potential future users.
- 7.3.9. In light of the above details, and without prejudice to the acceptability of the proposed flood wall under all planning considerations, I do not consider flood risk to be a reason for refusal in this instance and consider the submitted details in relation to flood risk to be acceptable.

7.4. Ecology and Biodiversity Impacts

- 7.4.1. An Ecological Impact Assessment (EclA) and Appropriate Assessment (AA) screening report were submitted with the application. A revised EclA was submitted

with the appeal to demonstrate biodiversity net gain. The appeal notes that the Council Ecologist did not provide a report on the application.

- 7.4.2. The Planning Authority reason for refusal no. 3 refers to the adverse effect the subject proposal would have on the ecological and biodiversity value of the site and would be contrary to Objectives ZU 18-13 which outlines that no development other than that which supports green infrastructure will be considered, BE 15-2 which seeks to protect areas of biodiversity value and GI 14-2 which requires new development to contribute to the management and enhancement of existing green and blue infrastructure in the area.
- 7.4.3. I have considered the merits of objective ZU 18-13 earlier in this report and note specifically that this objective is associated with the CL-GA-04 Green Infrastructure land use zoning for open space, with the provision of playing fields. The objective also requires that proposals in green infrastructure areas will need to ensure the protection and enhancement of the integrity of biodiversity and importance of wildlife corridors. Objective 15-2 (c) seeks to enhance local biodiversity value, ecological corridors and habitats and Objective 14-2 seeks to promote the corridor concept and promote connections between green spaces.
- 7.4.4. As discussed under Section 7.2 of this report, the proposed residential dwelling use does not comply with the Green Infrastructure land use zoning that applies to the subject site where the dwelling is proposed. The CDP provides an intricate policy and objective context for the preservation of green infrastructure and biodiversity within the County. The subject site forms part of this network, despite being surplus to requirements of the GAA club as stated in submitted documents.
- 7.4.5. The submitted EclA provides a survey of existing habitats on site that includes Grassy Meadows (GS2), Mixed woodland/Treelines (WD1/WL2), scrub (WS1) and mixed Riparian woodland along Kilnagleary Stream to the east of the site. These species are identified as 'significant at a local scale'. Five ash trees affected by ash dieback are identified for removal to provide the entrance to the proposed dwelling. Replacement planting with 10 semi-mature trees is proposed, along with other mitigation measures that include:
- 5m buffer of grassy meadow,
 - Planting native hedgerow along the western boundary,

- Planting of pollinator friendly species,
- Installation of bird and bat boxes,
- Hedgerow friendly fencing with mammal gaps,
- Vegetated mammal ramps at intervals along the proposed flood wall.

7.4.6. I consider the existing biodiversity value of the site to be limited to local significance. There is limited vegetation on the area of the site where the dwelling is proposed and removal of existing trees is limited to provision of an entrance, where existing ash trees of deteriorating health will be removed. The level of replacement planting, that includes native hedgerows, wildflower planting and pollinator friendly species, would offset any loss of vegetation and contribute positively to biodiversity of the area. The provision of hedgerows, bird and bat boxes mammal ramps and grassy meadow would assist with maintaining wildlife corridors at the site.

7.4.7. Based on the above details, I do not consider that the issue of biodiversity and ecology impacts is a reason for refusal in this instance. I consider the subject proposal for replacement planting to be consistent with Objectives 14-2 and 15-2 (c) by providing enhanced biodiversity planting and connections at the subject site.

7.5. **Protected Structure**

7.5.1. The subject proposal includes the provision of a flood defence wall that extends the existing wall 24m north in the vicinity of the Kilnagleary Bridge, which is a protected structure (RPS ID2973).

7.5.2. Objective 16-14 (f) of the CDP requires that proposals for development are appropriate in terms of architectural treatment, character, scale and form to the protected structure and not detrimental to the character of the protected structure and its setting.

7.5.3. The First Party Appeal sets out that the subject proposal will not have any impact on the protected structure as it is adequately set back and will not connect to the bridge or the parapet wall. The recent works previously undertaken surrounding and to the bridge are also noted by the applicant.

7.5.4. I have reviewed the details on file and in the submitted appeal documents. The nature of an outline planning application does not necessarily require details of

materials and construction methodology for a proposed flood wall. The details in relation to height, length, function and thickness of the wall are clear. However, given the proximity of the proposed flood defence wall that is proposed to be extended north to within 2-3m of the existing protected structure, a full assessment of the impacts on the protected structure is necessary.

7.5.5. Although I accept that there will be no integration of the proposed flood wall with the Kilnagleary bridge, without details of construction methodology, foundations and materials proposed, it has not been adequately demonstrated by the applicant that the new section of wall will not have a negative impact on the protected structure.

7.5.6. With regard to the foregoing, I recommend refusal of permission on the grounds of impacts on a protected structure, which is contrary to Objective 16-14 (f) of the CDP.

7.6. Precedent Example

7.6.1. The applicant provides a precedent example (Reg. Ref. 21/5416) where a residential dwelling was permitted on Golf Club lands, which were zoned as 'Open Space'. The Local Authority Planner concluded on this case that the site did not form part of the Golf Club and was the site of an application for an extension to an existing dwelling previously and was therefore acceptable.

7.6.2. In the first instance, the referenced application was considered under the life of the previous Cork County Development Plan, that had a separate set of policy objectives that were relevant at the time. I do not propose to review the permitted application under the terms of that assessment at this stage. Secondly, the land use zoning was 'Open Space' which is a separate zoning to 'Green Infrastructure' in the lifetime of the Current Development Plan and whereby there are a host of supporting objectives to ensure green infrastructure is protected within the County. I do not consider the precedent example provided is the equivalent of the subject proposal for these reasons and do not consider that permission should be granted based on the merits of a previous permission at a separate location.

8.0 AA Screening

- 8.1.1. The European site Cork Harbour SPA (004030) is located approximately 20m north of the proposed flood wall extension on the appeal site. The applicant has submitted an Appropriate Assessment (AA) screening report with the application, which concludes that a stage 2 Natura Impact Statement (NIS) is not required. The Planning Authority undertook their own AA screening exercise and concluded that the potential for negative impacts is uncertain due to the access laneway being located within Flood Zone A and proximity to the SPA.
- 8.1.2. Cork Harbour is a large, sheltered bay system, with several river estuaries - principally those of the Rivers Lee, Douglas, Owenboy and Owennacurra. The SPA site comprises most of the main intertidal areas of Cork Harbour, including all of the North Channel, the Douglas River Estuary, inner Lough Mahon, Monkstown Creek, Lough Beg, the Owenboy River Estuary, Whitegate Bay, Ringabella Creek and the Rostellan and Poul nabibe inlets. It is an internationally important wetland site, regularly supporting in excess of 20,000 wintering waterfowl.
- 8.1.3. The qualifying interests/special conservation interests of the designated site, are summarised as follows:

Cork Harbour SPA
Little Grebe (<i>Tachybaptus ruficollis</i>) [A004] Great Crested Grebe (<i>Podiceps cristatus</i>) [A005] Cormorant (<i>Phalacrocorax carbo</i>) [A017] Grey Heron (<i>Ardea cinerea</i>) [A028] Shelduck (<i>Tadorna tadorna</i>) [A048] Wigeon (<i>Anas penelope</i>) [A050] Teal (<i>Anas crecca</i>) [A052] Pintail (<i>Anas acuta</i>) [A054] Shoveler (<i>Anas clypeata</i>) [A056] Red-breasted Merganser (<i>Mergus serrator</i>) [A069] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141]

Lapwing (<i>Vanellus vanellus</i>) [A142]
Dunlin (<i>Calidris alpina</i>) [A149]
Black-tailed Godwit (<i>Limosa limosa</i>) [A156]
Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]
Curlew (<i>Numenius arquata</i>) [A160]
Redshank (<i>Tringa totanus</i>) [A162]
Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]
Common Gull (<i>Larus canus</i>) [A182]
Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183]
Common Tern (<i>Sterna hirundo</i>) [A193]
Wetland and Waterbirds [A999]

- 8.1.4. The Conservation Objective for Cork Harbour SPA (004030) is to maintain the favourable conservation condition of the bird species listed as Special Conservation Interests for the SPA and to maintain the favourable conservation condition of the wetland habitat in Cork Harbour SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.
- 8.1.5. In terms of an assessment of Significance of Effects of the proposed development on qualifying features of Natura 2000 sites, having regard to the relevant conservation objectives, I would note that in order for an effect to occur, there must be a pathway between the source (the development site) and the receptor (designated sites). As the proposed development site lies outside the boundaries of the European Site, no direct effects are anticipated. In terms of indirect effects, and with regard to the consideration of a number of key indications to assess potential effects the following matters, habitat loss / alteration / fragmentation and disturbance and / or displacement of species and water quality should be considered.
- 8.1.6. In relation to the matter of habitat loss / alteration / fragmentation, the subject site lies at circa 20m from the closest point of the boundary of the designated site with the main part of the site, where the dwelling is proposed located approximately 80m to the south. Accordingly, there would be no direct or indirect loss / alteration or fragmentation of protected habitats within any Natura 2000 site.

- 8.1.7. In relation to the matter of disturbance and / or displacement of species the site lies within the settlement boundaries of the Carrigaline, which includes three residential properties to the north and the GAA grounds to the west. The access laneway that is located within Flood Zone A, is already in place. The wider area to the south and east includes industrial developments and agricultural land further south. The environs of the site, therefore, can be described as being a mix of urban and rural. No qualifying species or habitats of interest, for which the designated site is so designated, occur at the site. As the subject site is not located within or immediately adjacent to any Natura 2000 site and having regard to the nature of the construction works proposed, there is little or no potential for disturbance or displacement impacts to land based species or habitats for which the identified Natura 2000 site have been designated.
- 8.1.8. Regarding the issue of water quality, the proposed development relates to the construction of a residential dwelling on lands within the settlement boundary of Carrigaline. Surface water will be managed via soakaways, as per BRE365 & BS8301 standards, which will ensure no direct pathway to watercourses that could form a conduit for water pollution during the construction phase. During the operational phase the development will drain surface water to soakaways, preventing any direct discharge to the nearby watercourse or the Cork Harbour SPA. Foul water will be directed to the public system and connect to the Cork Harbour WWTP (D0057) that services Carrigaline. I am generally satisfied that the proposed development is unlikely to impact on the overall water quality of any Natura 2000 site in proximity to the site due to connection to public services or during the operational phase of the development where water run off can be appropriately managed. A local stream is located circa 5m to the east of the boundary of the appeal site that discharges directly to the SPA to the north. With standard construction mitigation measures I do not consider any negative impacts will arise on foot of the proposed development. It is proposed that surface water arising from the development will discharge to the existing storm water network in Carrigaline, and I note no objections from Cork County Council Engineering Departments in this regard.
- 8.1.9. Accordingly, I am satisfied that the potential for likely significant effects on the qualifying interests of the identified Natura 2000 site can be excluded having regard

to the distance to the site, the nature and scale of the development and the lack of a direct hydrological connection, despite the proximity to the local stream.

- 8.1.10. In relation to the matter of in combination/cumulative effects, having regard to the nature of the proposed development, being the construction of a single dwelling, I consider that any potential for in-combination effects on water quality in Cork Harbour can be excluded. In addition, I would note that all other projects within the wider area which may influence conditions in Cork Harbour SPA via surface water features are also subject to AA.
- 8.2. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. (004030), or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

9.0 Recommendation

I recommend that outline permission is refused for the proposed development based on the following reasons and considerations.

10.0 Reasons and Considerations

- 1) The proposed development is located in an area where the Land Use Zoning Objective CL-GA-04 applies, as indicated in the Cork County Development Plan 2022-2028. This objective seeks to provide open space with provision for playing field and pedestrian walk. As specified under Objective ZU 18-13, no development other than development which supports Green Infrastructure will be considered in these areas. This objective is considered reasonable. Residential use is not listed as an appropriate use on such zoned lands in said Development Plan. The proposed development would, therefore, contravene Objectives CL-GA-04 and ZU 18-10 and be contrary to the proper planning and sustainable development of the area.

2) The proposed development is located in the vicinity of the Kilnagleary Bridge, which is a protected structure (RPS ID2973). The documents and drawings submitted with the application and appeal do not adequately demonstrate that the proposed flood defence wall will not have a negative impact on the protected structure and would therefore be contrary to Objective 16-14 (f) of the CDP, which seeks to ensure that development proposals are not detrimental to the special character and integrity of the protected structure and its setting. 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.

Matthew McRedmond
Senior Planning Inspector

20th December 2024

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-320773-24		
Proposed Development Summary	Outline permission for the development of a dwelling, flood defence wall and all associated works.		
Development Address	Kilnagleary, Carrigaline, 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	Tick if relevant. 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)?			
Yes	√	Part 2, Class 10 (b) (i)	Proceed to Q3.
No	Tick or leave blank		Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes	Tick/or leave blank	State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
No	√	The proposal for a single dwelling is less than the 500 dwelling threshold.	Proceed to Q4

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	√	The subject proposal for outline permission for a single dwelling is well below the 500 unit threshold set out at Class 10 (b) (i)	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	√	Screening determination remains as above (Q1 to Q4)
Yes	Tick/or leave blank	Screening Determination required

Inspector: _____ Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP- 320773-24	
Proposed Development Summary	Outline permission for construction of a dwelling and all associated works	
Development Address	Kilnagleary, Carrigaline, Co. cork.	
<p>The Board carried 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> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development. 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>	Proposed outline permission is not out of context at this urban location and will not result in any significant waste or pollutants.	No.
<p>Size of the Development 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>	Proposed outline permission for a single dwelling is not out of scale at this urban location and will not result in any cumulative considerations.	No.

<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, or protected species?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area, including any protected structure?</p>	<p>Site is adequately separated from the Cork Harbour SPA.</p> <p>Further details are required in relation to potential impacts of proposed flood wall on the protected structure Kilnagleary Bridge (RPS ID2973) but EIA requirements are not considered to be triggered in this instance.</p>	<p>No.</p>
Conclusion		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA is not required.</p> <p>v</p>	<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>Schedule 7A Information required to enable a Screening Determination to be carried out.</p>	<p>There is a real likelihood of significant effects on the environment.</p> <p>EIAR required.</p>

Inspector:

Date:

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)