



An
Bord
Pleanála

Inspector's Report ABP 307669-20

Development	Construction of a corner terraced building consisting of 9 houses and 2 apartments
Location	Farrannakilla, Dingle, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	20/220
Applicant	Zinbar Grove Developments
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First party against refusal
Appellants	Zinbar Grove Developments
Observers	<ol style="list-style-type: none">1. Kevin Devane & Ors2. Nuala Ni Cheallachain3. Kathlyn Curran4. David & Theresa Sheppard5. Lillian Burton6. Seamus & Pilar O'Shea7. Brian Reddin

8. Diarmuid Begley
9. Anthony O'Shea
10. Thomas Stack
11. K. Phillips
12. Myles Vickers
13. J & C Conlon

Date of Site Inspection

2nd October 2020

Inspector

Mary Kennelly

1.0 Site Location and Description

- 1.1.1. The site is located on Goat Street in the centre of Dingle town. Goat Street is a continuation of Main Street which curves around the northern side of the main built-up area fronting the harbour. It is a mixed-use street which is predominantly commercial at the southern end and becomes increasingly more residential in nature to the north, eventually becoming rural in character, with a mix of agricultural lands, one-off houses and some small cul-de-sac developments. The site comprises part of an existing housing development at the northern end of Goat Street, on the western side of the street. The lands to the north are predominantly agricultural in use and there is a row of traditional terraced houses on the eastern side of the street, opposite the site. A new by-pass road has recently been constructed around the eastern side of Dingle which links Goat Street with Spa Road (Connor Pass Road) and John Street and links back to the N86 near the Community Hospital. The junction with this by-pass road is located just to the south-east of the appeal site.
- 1.1.2. The site is wedge-shaped and comprises the communal green space of a housing development known as 'Fairfield Close'. The housing development was constructed on foot of a planning permission granted by the Board in 2001 under PL08.120324. The application was for 18 no. houses and 20 no. apartments, with one shop and two apartments over. However, the permission required the omission of 2 houses, a block of 8 apartments and car parking along the eastern boundary. The housing development is at a lower level than Goat Street and is accessed from both the north and the south. Fairfield Close is laid out with a row of 2-storey terraced houses along the western side of the site which front onto the internal access road and the area of public open space, and a further row of similar houses along the southern access road. The houses have open plan front gardens with a strip of lawn and a single parking space per dwelling.
- 1.1.3. The site, with a stated area of 0.229ha, is long and narrow and slopes at a relatively steep gradient to the west. The eastern boundary of the site is with Goat Street and the western and northern boundaries are with the internal access road and a row of perpendicular parking bays. It is laid out as a lawn with the eastern boundary being defined by a random rubble stone retaining wall and a wire mesh and timber fence above (at street level).

2.0 Proposed Development

- 2.1.1. The proposal seeks to construct a residential scheme of 11 dwelling units, comprising 9 houses and 2 apartments, on the existing triangular green space adjoining Goat Street. The footprint would be aligned along the roadside boundaries with Goat Street and with the southern access road (line of proposed Phase 5 Dingle Relief Road). Six of the proposed dwellings would front directly onto Goat Street and a further three dwellings would front onto the access road. These two terraces would be linked by a 2-storey corner building which would contain the two apartments.
- 2.1.2. Access to the development is proposed from the existing vehicular access point on Goat Street at the northern end and from the southern access road. The layout incorporates three areas of open space, one to the west (108m² - immediately to the rear of the houses), one to the north (206m² - triangular area bounded by Goat Street, car parking spaces along internal access road and most northerly unit) and a small triangular area (30m²) immediately to the west of the south-western unit.
- 2.1.3. It is proposed to connect to the public water supply and to the public wastewater system.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The P.A. decided to **refuse** planning permission for the following reason:

The proposed development would be located on the permitted public amenity space serving the existing housing development to the south-east of the application site. Therefore, the proposed development would seriously injure the residential amenities and depreciate the value of existing residential property in the vicinity. Furthermore, the proposed development would contravene materially a condition attached to an existing permission for development, specifically Condition 1 of An Bord Pleanála Ref. PL08.120324, for the existing housing development to the south-east and would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's report noted the zoning of the site, the submissions from internal and external consultees and the observations of the 22 third party submissions. Concern had been expressed in the submissions from the third parties and from the Estates Unit that the proposed development would involve the construction of these houses on the existing green/amenity space serving the existing development at Fairfield Close which is in use as a recreational area, and as such should be refused. It was also noted that condition No. 1 of the parent permission granted by the Board (PL08.120324) was that the development be carried out in accordance with the plans and particulars submitted (as amended), and that the proposed development would contravene this condition.

3.2.2. It was considered that the proposed development would adversely impact the residential amenities of existing houses within Fairfield Close not only in respect of the loss of the public amenity space, but also in that the existing row of houses would face onto the rear boundaries of the proposed new dwellings along the Goat Street frontage. The design of the corner unit was also identified as being 'alien in design to the traditional streetscapes in the area and would not be appropriate to its focal point location'.

3.2.3. A **refusal of permission** was recommended.

3.3. Other Technical Reports

3.3.1. **County Archaeologist's report (16/03/20)** stated that site is located within the Zone of Archaeological Potential, as defined in the Records of Monuments and Places around the Recorded Monument (Ke043 224), the Medieval Town of Dingle.

Although parts of the site have been disturbed previously, an Archaeological Impact Assessment submitted with 08/2088 noted that there is potential for archaeological material on the site. Hence a condition requiring monitoring of all ground works by a qualified archaeologist should be attached to any permission.

3.3.2. **Biodiversity Officer report (19/03/20)** – It was considered that as the site is located in the built-up area of Dingle town and is a considerable distance from the Mount Brandon cSAC, which is predominantly designated for terrestrial upland annexed

habitat, and the absence of any connectivity between the site and the SAC, it was considered that no significant effects on the European site would be likely.

3.3.3. **Housing Estates Unit (25/03/20)** – the development on an existing green space serving an established housing development is inappropriate and would set a precedent for the development of open spaces elsewhere. The area of the green space has already been eroded by the widening for the relief road, the introduction of additional car parking spaces for the apartments in the southern corner and the eastern edge for the realignment of the junction and access road onto Goat Street. The combined effect of this is that the communal open space for the original Fairfield Close site is well short of the required communal open space requirements of the Kerry CDP. Refusal of permission is recommended.

3.3.4. **Roads (08/04/20)** – noted that Phase 4 of the Dingle Inner Relief Road was constructed in 2019 and adjoins the L-4100 with its junction with Upper Main Street (Goat Street). As part of the works, the L-4100 was realigned, new footpaths constructed, and additional parallel parking introduced. It was further noted that the preliminary corridor for Phase 5 of the Dingle Inner Relief Road will adjoin the existing road servicing the proposed development. It was considered that a planning condition should be attached in respect of this road proposal, as all vehicles exiting from Fairfield Close will have to exit right southbound onto the inner relief road. As southbound traffic on Goat Street will be able to turn right into Fairfield Close, it was considered that this would eliminate congestion at the junction of the relief road and Goat St.

3.3.5. **Fire Services** – No objection.

3.4. **Prescribed Bodies**

3.4.1. **Irish Water (09/04/20)** stated that IW records indicate the presence of water/wastewater infrastructure which may be impacted by the proposed development. FI was requested in respect of a Pre-Connection Enquiry in order to determine the feasibility of connection to the public water/wastewater infrastructure. Pending the outcome of this assessment, proposals by the applicant to build over or divert existing water or wastewater services shall be agreed with IW prior to the commencement of works.

3.5. Third Party Observations

Objections received by the planning authority are on file for the Board's information. Objections were received by the P.A. from 22 no. third parties. The points raised are similar to those raised in the observations to the grounds of appeal which are summarised below at 6.2. The issues raised included overdevelopment of the site, loss of existing green/open space which is used as recreational space and contravention of Condition 1 of the parent permission (120234). The proposal would be out of character due to excessive density and would result in serious injury to residential amenities, as well as impact on wellbeing due to the importance of a green area in light of the current pandemic. No justification for housing need. Impact on visual amenity, biodiversity and wall adjoining Goat Street which was the subject of a condition of a previous permission.

4.0 Planning History

4.1.1. **PL08.120324** – planning permission **granted** by the Board for a housing development comprising 16 houses and 12 apartments, with a shop and two further apartments in 2001, but the application had originally sought permission for 18 houses, 20 apartments and a shop with two further apartments overhead. The layout of the scheme subject of this permission included an area of public open space, which is the site of the current application/appeal. **Condition 2** required the following amendments to the scheme

- (a) Omission of two houses at eastern side (nearest Goat Street) and the ground thus released to be landscaped as public open space.
- (b) Omission of block of 8 apartments at the South-eastern end of the site and the ground released to be set out to provide for car parking and landscaped POS to serve the remaining apartments.
- (c) Omission of car parking along eastern side of green POS.
- (d) Redesign of façade treatment of proposed houses and apartments to reflect that of existing streetscape.

4.1.2. **PL08.221345** – planning permission was **refused** by the Board for the construction of 3 no. terraced blocks of apartments (17 no. units), 3 no. dwelling houses and 1 no.

shop on the public open space (site of the current application/appeal). The reason for refusal was based on a material contravention of An Daingean Local Area Plan 2006-2012 by reason of the zoning of the site as Recreational/Open space/Amenity.

- 4.1.3. **PL08.221570** – planning permission refused for (a) retention of administrator’s office attached to No. 16, (b) retention of an existing development of 16 no. dwelling houses, 15 no. apartments and 2 no. shop units all within revised boundaries. This represented an application for revision of the permitted scheme under 120324. Permission was refused for one reason which was based on overdevelopment of the site by reason of excessive site coverage, lack of adequate public open space, inadequate provision of off-street parking provision, which would result in a substandard residential development and would seriously injure the amenities of property in the vicinity.
- 4.1.4. **PL08.233381** – planning permission **granted** for construction of a building containing 5 retail units with 9 apartments overhead, including 25 new parking spaces and the redesign/relocation of a further 14 parking spaces within the housing development. The permission also included the construction of an access road to form part of the An Daingean Relief Road where it was proposed to pass through the Fairfield Close estate. The Inspector had recommended refusal on four grounds. These were (1) premature development pending finalisation of the road layout for the Inner Relief Road; (2) material contravention of Condition 2(b) and serious injury to residential amenity and loss of public open space; (3) the line of continuous car parking would give rise to serious injury to residential and visual amenity; and (4) Non-compliance with minimum floor space standards for apartments. However, the Board granted permission and stated in the direction that it was satisfied that the route of the relief road had been determined and that adequate public open space had been provided for within the development. It further stated that the remainder of the concerns could be addressed by means of condition. It is noted that condition 2 required the omission of 3 of the parking spaces at either end of the continuous line, i.e. Spaces 33-35 and 75-77, (although the Direction and Board Order stated Spaces 33-25, it is assumed that this was a typographical error).
- 4.1.5. **PA Ref. 20/380** – planning application for 2 no. two-storey dwelling houses – split decision in July 2020 on a site at the northern end of the terrace. The P.A. decided to grant permission for one house and to refuse permission for the second house.

Reason for refusal was based on overdevelopment of confined site, congested on-site parking and injury to amenity. The triangular shaped site formed part of public open space for the overall housing development and was the subject of three previous applications for development. The initial application (09/1277) had sought the construction of two houses and the P.A. granted one and refused the other. Subsequently, permission was granted for a single house with different designs on two occasions (10/001 and 13/732).

5.0 Policy Context

5.1. National Planning Framework (2018)

The NPF seeks to focus growth in cities, towns and villages with an overall aim of achieving higher densities than have been achieved to date.

NP 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.

NP Objective 35 seeks to increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased heights.

5.2. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)

In order for small towns and villages to thrive and succeed, it is stated that their development must strike a balance in meeting the needs and demands of modern life but in a way that is sensitive and responsive to the past. New development should contribute to compact towns and villages and offer alternatives to urban generated housing in unserviced rural areas. The scale should be in proportion to the pattern and grain of existing development. In terms of densities, centrally located development in small towns and villages could achieve densities of up to 30-40

dw/ha., whereas edge of centre sites should achieve 20-35 dw/ha. However, in order to offer an effective alternative to single houses in the surrounding countryside, it may be appropriate in a controlled situation to allow a density of 15-20 dwellings at the edge of a town or village, provided that it does not represent more than 20% of the housing stock of the village.

5.3. Kerry County Development Plan 2014

Chapter 3 – Housing – Dingle is designated in the Settlement Hierarchy as a Regional Town the function of which is to provide for strong economic growth and are economically vibrant. It sets out the housing policies and objectives including the following:

HS-2 - Facilitate the housing needs of people in their local communities through actively providing/assisting the provision of housing in settlements.

HS-4 - Have regard to and promote increased residential densities in the towns and other appropriate locations in accordance with the 'sustainable Residential Development in Urban Areas' Guidelines 2009 (DoEHLG).

US-1 – Ensure that future housing in urban areas in the County is located on lands zoned for residential use. In towns and villages residential development shall be located in town/village centres or immediately adjacent to town/village centres, on serviced lands, and in accordance with the Development Guidance of this document.

US-3 – Ensure that all new development within the County supports the achievement of sustainable residential communities. The Council will have regard to the provisions of the Guidelines on Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual.

US-4 – Promote development which prioritises walking, cycling and public transport use in a sustainable manner, both within individual developments and in the wider context of linking developments together and providing connections to the wider area, existing facilities and public transport nodes.

US-5 – Encourage and stimulate the sustainable re-development and renewal of the town and village cores.

US-7 – Ensure that all new urban development is of a high design quality and supports the achievement of successful urban spaces and sustainable communities.

Chapter 13 – Development Management Standards includes the following: -

Infill Sites – Infill development must have regard to the main adjoining existing uses, design features, building lines and heights, as well as the existence of any features such as trees, built and natural heritage and open spaces on the site or on adjoining sites. Proposals for infill development must demonstrate how they will integrate satisfactorily with the adjoining developments, without any loss of amenity.

Apartments – must comply with minimum size as set out in Sustainable Urban Housing Design of apartments 2007. Private open space to be provided at 5sq.m per apartment. Public/shared open space to be provided as 10sq.m per bedroom. Adequate space to be provided for communal and bin storage.

Building lines and private open space – A minimum of 22 metres shall generally be provided between directly opposing first floor habitable rooms. This may be reduced subject to good design and the individual design requirements of the site where it can be demonstrated that residential amenity and adequate light is not compromised.

Parking requirement - apartments – one space per bedroom

5.4. **Dingle Functional Area Local Area Plan 2012-2018**

The site is zoned '**Existing Residential**' in the LAP (Map 2a). The purpose of this zoning is to provide for new residential areas, to protect and improve existing residential areas and to provide facilities and amenities incidental to those residential areas. There is a presumption against the development of lands used as green spaces/amenity areas within residential developments (1.7.1). At 2.3.8.2, Future Residential Development, it is stated that future residential development will only be considered on infill or brownfield sites or on lands contiguous with existing residential areas in order to avoid leapfrogging of development and to ensure a compact urban form. The indicative corridor for the **Relief Road** is shown on **Map 2a**.

Relevant objectives include the following:

TC-6 - Develop a streetscape along the new relief road. The design, scale and bulk of the development will be of traditional form incorporating retail uses on the ground floor.

TM-1 – Facilitate the completion of the new Relief Road to relieve traffic in the town centre and waterfront road and to open up lands for development. The section of road from Goat Street to Strand Street will form a new residential street. This street will reflect the existing character of the town in terms of urban grain, character, usage and architectural qualities.

TM-3 – Provide a site for a Town Centre car park (including tour buses) at Fearann Ne Cille north of Strand Street and east of the relief road.

TM-4 – Facilitate the development of a pedestrian and vehicular East-West link between the new relief road, the proposed car park and Green Street adjacent to the RC church.

5.5. **Natural Heritage Designations**

Mount Brandon SAC (000375) is located approx. 400m to the north and Dingle Peninsula SPA (004153) is located approx. 2.7km to the south.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

This is a first party appeal against the planning authority's decision to refuse permission. The grounds of appeal can be summarised as follows:

- **Opportunity for reappraisal of site** – it is acknowledged that the site is located on public open space that had been identified in previous planning permissions. However, recent changes on the ground justify a reappraisal of the site and area. The area is in transition due to the addition of the Relief Road and significant change has occurred following the grant of several planning permissions subsequent to the parent permission, including one permission granted by the Board (233381) which omitted a section of public open space in the SE corner.

- **Poor quality of existing POS** – the existing open space area is substandard and does not lend itself to passive or active use. The appraisal of the merits of the scheme should not be confined to the quantum of open space. An area of POS should be usable, functional, readily accessible and integral to the setting in which it is located. The existing POS does not meet these requirements due to the gradient and configuration and it is unsuitable as a children’s play area due to its proximity to a busy public road.
- **Existing POS does not contribute to visual amenity of area** – The visual amenity of the area is not enriched by the existing open space area and it is not critical to the quality of the streetscape. The POS is not at street level and views from the houses on the northern side of Goat Street do not benefit from the open space for this reason.
- **Streetscape needs to be redefined and reinforced** – there is a need for a redefined and reinforced streetscape which logically should extend westwards along Goat Street and southwards along the line of the new road. The proposed development would achieve this by wrapping around the northern and eastern ends of the site and creating a sense of enclosure. This has become particularly relevant since the implementation of the new relief road.
- **No loss of residential amenity** – the new public open space areas, which combined would amount to 15% of the site area, would provide for a much enhanced area of amenity as it would be properly developed and landscaped and would be centrally located. Thus, there would be no loss of amenity or depreciation of value for existing residential property in the vicinity.
- **Development complies with all policies and objectives of national and local policy** – the proposal complies with the policies and objectives of the national and local planning policy framework. The proposal represents an appropriate response to density and provides a high standard of development. It is compliant with the Ministerial guidance on housing mix, private amenity space, traffic related matters and services. Any outstanding matters can be addressed by means of conditions should the Board be minded to grant permission.

- **Proposed development fulfils local housing need** - The proposed development would fulfil the housing need in Dingle. The site is located within the development boundary of the established settlement and is within walking distance of the town centre and all of its services and amenities.
- **Precedent created by PA Ref. 20/380** – The planning authority has recently granted permission for a dwelling at Fairfield Close, on lands that were originally identified as part of the open space provision for the overall development. This has created a further precedent.

6.2. Planning Authority Response

The P.A. responded to the grounds of appeal on 17th August 2020. The response was mainly in the form of reiteration of the points made in the planning reports. The main points may be summarised as follows:

- **Erosion of public open space serving a permitted development** – the proposed housing development is located on the public amenity space serving permitted residential developments in the area. This would have significant impacts on the residential amenities of the existing residential properties and potentially devalue these properties.
- **Contravention of conditions of previous permission** – the permission has been implemented with housing now built and occupied and the construction of houses on the green space for these houses would contravene these conditions.
- **Impact of Relief Road** – with the construction of the relief road, together with the increased traffic in the area, the need for such green space is heightened.
- **Current times** – the value of open space for public amenity in the current times is considered to be invaluable.
- **Planning permissions in vicinity** – since the grant of permission for the parent scheme, further residential units have been permitted which also avail of the said open space. The small section of ground the subject of PA Ref. 20/380 was not considered to be functional open space.

6.3. Observations on grounds of appeal

13 no. submissions have been received from third parties. The submissions can be summarised as follows:

(1) Public open space

- The existing open space is highly valued and utilised by the existing residents of Fairfield Close. It is functional, useable, accessible and integral to its setting. The houses were built 15 years ago, and a strong community bond has developed in the estate. The green area is used for summer picnics, for walking pets and for children's play. The space is ideally suited as a children's play area as it is safe and overlooked, and the gradient is not excessive. The nearest green space is over a kilometre away and its use is restricted by the local authority.
- The construction of houses on the open space serving an established housing development permitted by the Board under 120324 materially contravenes Condition 1 of this permission. This area was never intended as surplus land or a site for future development but was intended purely as open space to serve the permitted development.
- The area of open space is well below the required communal open space requirements in the Kerry County Development Plan. This is stated in the report from the Housing Estates Unit dated 25/03/20
- The road widening and provision of on-street parking on Goat Street has already reduced the area of open space significantly.
- In these times of Covid-19 restrictions, the open space affords the residents an opportunity to remain active, get fresh air and still maintain social distance.

(2) Inadequate parking provision

- The existing parking provision is at most 65 spaces, which is far below the minimum required. The existing parking provision is insufficient to meet the existing demand, particularly in the summertime and during festivals. Parking congestion in the area is very serious.

- The additional spaces provided for in the proposed development are located on Goat Street. These extra on-street parking spaces were provided by Kerry Co. co. on the existing POS in 2019, specifically to facilitate guests in the B&Bs at the top of Goat Street, opposite the proposed development.
- (3) **Boundary wall** - There was a hand-built stone wall along the boundary with Goat Street which was removed by the local authority when the relief road was constructed. The residents were assured that the wall would be reconstructed afterwards, but 12 months later, it has not been reinstated. The wall was required to be constructed by condition 3 of the 120324 and the construction of houses at this location materially contravenes this condition.
- (4) **Overdevelopment of site** - The proposal would constitute over-development of the site by reason of excessive site coverage, lack of adequate public open space, inadequate provision of car parking and would result in a substandard development which would seriously injure the amenities of property in the vicinity
- (5) **Loss of outlook** - the proposed development would ruin the view from the existing houses.
- (6) **Residential development previously refused in 2007** – a similar proposal was refused by the Board in 2007 on the grounds that it would materially contravene the LAP as the site was zoned Recreational/Open Space/ Amenity Area.

7.0 Assessment

I consider that the issues arising can be assessed under the following headings:

- Zoning and principle of development
- Material contravention of conditions of previous permissions
- Adequacy of public open space
- Impact on residential amenity
- Visual amenity and urban design
- Adequacy of parking

- Environmental Impact Assessment
- Appropriate Assessment

7.1. Zoning and Principle of Development

7.1.1. The policy context has been summarised in Section 5.0 above. The proposal would result in the development of lands in the centre of the town, close to the existing services and facilities which in principle would help to create a more compact settlement, and encourage the provision of further facilities and services within the town. This would be in accordance with national and local policies to focus development in district centres, and to encourage more sustainable development with increased densities in central areas. The site is zoned 'Existing Residential' and the Dingle Functional Area LAP (1.7.1) states that the purpose of this zoning is to protect and improve existing residential areas and to provide facilities and amenities incidental to those residential areas. Residential development will only be permitted in conjunction with the provision of necessary physical, social community, education and recreational facilities and services being provided. It is further stated that

“Lands used as green/amenity areas within residential developments have not been specifically identified as part of this plan but there is a presumption against the development of such lands.”

As the lands are used as a green amenity space which was originally developed as part of a permitted housing development as an area of public open space, there is clearly a presumption against the development of such lands, which would remove the open space serving that permitted development.

7.1.2. It is noted that similar proposals for the development of this green space for additional housing have been refused by the Board previously. The centrally located triangular green space was the principal area of public open space for the housing development granted by the Board in 2000 under the parent permission (120324). The Board required the omission of 10 units as part of this grant of permission and the laying out of the lands so released as additional public open space. This permission was duly implemented, and the houses were constructed generally in accordance with the permission.

- 7.1.3. Subsequently, in 2007, the Board refused permission (221345) for the construction of 20 additional units on the site on the grounds that it materially contravened the zoning of the site as Recreation / Open space / Amenity. A further planning application/appeal was determined concurrently by the Board in 2007, Reference No. 221570. This related to the retention of dwellings on two plots which had been granted under 120324. It involved the alteration of the boundaries as permitted under the parent permission in order to exclude all infrastructural and open space areas, but to retain the dwellings as built. Thus, the site area was proposed to be reduced by 60% by redrawing the boundaries of the site to exclude the POS, the car parking and the roads. The Board refused permission on the grounds of overdevelopment and that it would result in a substandard form of development, which would materially contravene condition 1 of the parent permission (120324).
- 7.1.4. In November 2009, however, the Board granted permission (233381) for the development of 9 apartments with 5 shops at GF level in the SE corner of the estate. This proposal was subsequently changed so that the 5 shops were permitted to be constructed as 5 further residential units. Thus, an additional 14 residential units were constructed on the former POS (1,145m²) in this south-eastern corner of the overall site, which resulted in an increase in density, with additional car parking provision and a reduction in public open space on the site. The planning authority has also granted permission recently for an additional dwelling house on a further peripheral area of open space in the north-eastern corner of the site (20/380).
- 7.1.5. The appellant has argued that the part implementation of the Dingle Inner Relief Road has given rise to a need to re-appraise the development of the site and area. However, it is clear from the planning reports and decisions made regarding this site, (including the original permission for 31 units and a shop), that the overall layout of that development was designed to accommodate and facilitate the proposed route alignment, as it was known at that time. This meant that the open space area was located alongside Goat Street, with the housing set back and fronting onto the green space, and the front wall was to be re-built allowing for road widening. Furthermore, the Board in its Direction on 233381, had decided not to accept the Inspector's recommendation to refuse permission (on grounds of prematurity pending determination of the road layout), on the basis that it was satisfied that the route of the relief road had been determined. It is considered, therefore, that there is no

justification for the redevelopment of the site based on the implementation and/or final determination of the route alignment for the relief road.

- 7.1.6. The implementation of the phases of the Dingle Inner Relief road to date has also impacted the size of the public open space area that constitutes the site of the current proposed development. This road project has taken a portion of the triangular open space along its northern boundary with Goat Street. The eastern boundary of the open space has also been eroded due to the proposed road alignment. Additional car-parking bays have been provided along the southern and eastern boundaries of the green space, following subsequent grants of permission, which have further reduced the size of the amenity area. The recent grant of permission for a house on a small area of POS to the NW of the estate further depletes the open space available to the residential estate, but was justified by the P.A. as it was considered to be small and peripheral.
- 7.1.7. Thus, the original planning permission for 31 dwelling units has seen densification with an additional 14 units, a reduced site area and considerable reductions in the public open space available to the residents of the existing established development. It is considered that the redevelopment of the remaining green space, which has been incrementally reduced over time, would amount to overdevelopment of the site and result in a substandard form of development which would contravene the provisions of the development plan for the area, as there is a presumption against the development of such green spaces.

7.2. Material contravention of Conditions of previous permissions

- 7.2.1. The original planning permission (120324) for the housing development included Condition 1 which required the permission to be implemented in accordance with the plans and particulars lodged with the P.A. and the Board, and Condition 2 which required certain revisions to the scheme. Condition 2(a) and 2(b) required omission of 10 units and the lands so released to be set out as landscaped open space and car parking, and 2(c) required the omission of the parking that had been proposed along the eastern side of the green open space. As the proposed development currently before the Board seeks to develop the central open space area serving the development of 31 residential units permitted under that permission, it is considered

that it would materially contravene Condition 1 of 120324 granted on the 11th day of January 2001.

7.2.2. Condition No. 4 of the parent permission had also required the demolition and re-building of the roadside boundary wall along Goat Street in accordance with traditional construction methods, in the interest of the historical importance of the wall and the visual amenities of the area. Third party observers have submitted that the current proposal also materially contravenes this condition. However, the wall appears to have been demolished as part of the road works and it is stated that the local authority intends to re-construct it in due course. Although the current proposal would undermine and impede such proposals to re-instate the wall, it would be difficult to argue that it would materially contravene a condition which required the wall to be re-built, as this condition was complied with at the time of the implementation of the said permission.

7.2.3. The Board granted permission on the 26th November 2009, under Ref. 233381, for a development of 5 retail units and 9 apartments, (later changed by omission of shop units and conversion of same to 5 no. apartments). This permission was granted subject to 19 conditions. I note that condition 1(a) requires the development to be carried out in accordance with the submitted plans and particulars and that 1(b) requires the omission of parking spaces nos. 33-25 and nos. 75-77, (although it is considered that the correct wording should have been Nos. 33-35), and the replacement of these 6 spaces with landscaping. The submitted layout had indicated a proposal to provide a continuous row of 45 parking spaces along the southern edge of the public open space (site of the current proposal). Condition 1(b) would have reduced this to 39 no. spaces. However, the current proposal seeks to increase this row of parking to 42 no. spaces, which would materially contravene this condition.

7.2.4. In conclusion, it is considered that the proposed development would materially contravene Condition 1 of the permission granted under 120324 and Condition 1(b) of permission granted under 233381.

7.3. **Adequacy of public open space**

7.3.1. The appellant claims that the quantity of the private and public amenity space meets the minimum standards of the development plan. However, this statement ignores

the open space requirement for the original 31 units, which was subsequently increased to 45 units (of which approx. half are apartments), and the fact that the original open space allocation for the overall development has been incrementally reduced by reason of densification, implementation of the relief road project and revision of the parking and roads layout within the development.

- 7.3.2. The quality of the existing open space is criticised by the appellant as not meeting the requirements of being useable, functional, accessible and integral to its setting. The third-party observers, who are largely the residents of the established housing at Fairfield Close, dispute this and have stated in their submissions that the open space is highly valued and well utilised by the residents of the estate. I would agree that the space is useable, accessible and of sufficient size and layout to provide for an appropriate area of amenity space to serve the needs of the existing development. The area of this section of POS was stated in 233381 as being 2,764m². Although it has been reduced in size, it is still a reasonable area and it forms a focal point and is overlooked by all of the houses and apartments in the development. It therefore meets the requirements for active and passive open space.
- 7.3.3. It also compares favourably to the pockets of open space that have been indicated to serve the proposed development, (combined area of 344m²). These consist of a triangular area of space (206m²) at the western end of the development and two small wedge-shaped areas of 108m² and 30m² respectively, at the southern end. The larger space would be bounded on the two long sides by the boundary wall/fence alongside Goat Street to the north and the line of car-parking to the south. The eastern boundary would be with the proposed concrete block wall of House No. 56. The smaller spaces would be sandwiched between the concrete block rear garden walls of the proposed houses and the car parking area.
- 7.3.4. Aside from the fact that the open space area serving the existing housing development would be displaced, the quality of the proposed open space amenity area is of a poor standard. The open space provision is fragmented, with the individual pockets having irregular shapes, and bounded by roads and parking spaces. The amenity spaces are not adequately overlooked and would not benefit from passive surveillance. Furthermore, they would not be of a sufficient scale to provide for active open space as provided for by the existing cohesive area of green

space. It is considered, therefore, that the proposed open space provision is inadequate and would provide for a substandard form of development.

7.4. Impact on residential amenity

7.4.1. The proposed dwelling units would benefit from private garden spaces to the rear, which would be south facing. However, the outlook from the 16 no. existing houses to the south (Units 16-31) would be significantly diminished by the placement of the row of houses to the north. Not only would these houses lose the outlook and use of the public amenity space opposite, but their view would be replaced by the rear elevations and rear garden walls of the proposed dwellings, which would be at a higher ground level.

7.4.2. The existing housing units are densely developed with small front and back gardens and the remainder of the existing development comprises apartments with very limited private amenity space. The front gardens are open plan in character with small lawns and integral parking spaces. The planning authority and several observers have made reference to the importance of access to a good quality area of open space in the current pandemic. In light of the circumstances outlined above, the existing centrally located public open space plays an enhanced role and critical function in the provision of residential amenity within the estate. It is considered that the loss of this space and its replacement with houses and a much reduced and fragmented green space would adversely affect the residential amenities of the existing residents. It is considered, therefore, that the proposed development would seriously injure the residential amenities of the area.

7.5. Visual amenity and urban design

7.5.1. The appellant considers that the proposed development would provide a much-needed reinforcement of the streetscape and a sense of enclosure following the implementation of the Relief Road. I would agree that the proposed development would, in Urban Design terms, provide an attractive streetscape along this part of Goat Street and along the line of the new road which will lead southwards through the estate towards the town. However, I would not agree that it is needed, or that in the absence of such a scheme, the visual amenity of the area would be harmed by the recent road works. It would appear from the planning history, that the widening of Goat Street at this location had been anticipated before planning permission was

granted for the Fairfield Close development. The original permission had required the stone wall to be demolished and re-built to facilitate road widening and following the completion of the roadworks, it was to be reinstated. It is assumed that the local authority will address this issue in due course. I consider that the existing green space contributes positively to the streetscape and enhances the visual amenities of the area.

7.5.2. It is considered, however, that the proposed development would adversely affect the visual amenities of the lands to south (within Fairfield Close) as the loss of the open space, which is overlooked by and integral to the whole estate, would adversely and fundamentally alter the character and appearance of the estate. Thus, the proposed development would seriously injure the visual amenities of the area.

7.6. Adequacy of parking

7.6.1. The original planning permission for 31 houses and a shop (120324) included a total parking provision of 71 spaces, as permitted by the Board, 16 no. of which were located in the central row of parking bays. A further two parking spaces were provided for in the front of each of the 16 no. houses to the south and a further 13 spaces were located in front of the apartments to the east, with 10 parking spaces located within the small cul-de-sac to the SE.

7.6.2. The second planning permission (233381) for 5 retail units and 9 apartments in the block to the southeast, proposed the provision of an additional 25 parking spaces. The permitted 16 spaces in the central row were compressed together, the 10 spaces in the cul-de-sac were relocated to the central row and a further 19 were added to this row (bringing the total to 45 proposed). However, the Board's permission (233381) required the omission of 6 of these spaces (Cond. 1(b)), reducing the central row to 39 spaces. The existing 13 spaces in front of the houses to the east and the 2 spaces in front of each of houses to the south (32 spaces) were proposed to remain as permitted. The permission also allowed for 6 on-street parallel parking spaces in front of the permitted SE block. This brought the total parking provision permitted to 90 spaces.

7.6.3. The appellant claims that there are 100 existing/permitted spaces on the overall site. It is further stated that following the grant of an exemption certificate in respect of a change of use of the 5 shop units granted under 233381 to 5 apartments, the parking

requirement was reduced from 15 for the shops to 5 for the apartments, providing for an additional 10 spaces on the site over and above the required number. It is submitted that the current proposal has a requirement of 26.5 spaces (based on 2 per dwelling unit and 0.5 spaces for visitors). The submission (on bottom of Drawing No. ZINBAR/05/03) states that if the parking demand is rounded down to 26, the 10 'released' spaces (from the exemption certificate) are utilised, and the 14no. on-street parking spaces on Goat Street are included, then the shortfall is reduced to 2 parking spaces. It is argued that this can be addressed by means of a condition of any permission, should the Board be minded to grant permission.

7.6.4. From my observations of the site, it is clear that the central row of parking spaces was not reduced fully in line with the Board's condition. This is reflected in the fact that the developer has proposed 42 spaces in this row (compared with the permitted 39 spaces). It was further noted that the front driveways of the houses along the southern side of Fairfield Close have been constructed such that it is only possible to accommodate one car parked within the driveway of each house. Thus, realistically, there are currently c.74 parking spaces available to the existing housing estate, which equates to c.1.6 spaces per unit for the 45 permitted units within the estate. The development proposes 3 additional spaces within the estate, bringing the total number of spaces to 77. The total number of dwelling units would be 56, (approx. 1.3 spaces per unit). This proposed parking provision would not meet the requirements of the Development Plan, (2 spaces dwelling unit, 0.5 spaces for visitor parking), would contravene the condition of the most recent planning permission, and relies on on-street parking provided as part of the road widening of Goat Street.

7.6.5. On the basis of the foregoing, it is considered that the proposed development falls well short of the required parking provision contained in the Development Plan. This further supports the view that the proposed development represents an overdevelopment of the site at Fairfield Close and would result in a substandard form of development.

7.7. Environmental Impact Assessment

Having regard to the nature and scale of the proposed development within the town centre and built-up area of Dingle on serviced lands, 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.

7.8. **Appropriate Assessment**

- 7.8.1. The site is located approx. 400 metres to the south of Mount Brandon SAC (000375) and c.2.7km to the north of Dingle Peninsula SCP (004153). There are no known hydrological links to the protected sites. Given the scale and nature of the development, the distances involved, that the site is located in an established urban area, on serviced lands, it is considered that no appropriate assessment issues are likely to arise.

8.0 **Recommendation**

Having regard to the foregoing I recommend that permission for the above described development be **refused** for the following reasons and considerations.

9.0 **Reasons and Considerations**

1. Having regard to the character of the housing estate, of which the centrally located public open space forms an integral part, to the zoning of the site as Existing Residential in the Dingle Functional Area LAP 2012 (as extended), wherein the zoning objective is to protect and improve such residential areas and there is a presumption against the development of such green spaces, and to the planning history of the site, in particular the quantum of accommodation within the estate and the use of this site as open space serving the overall development as granted by PL08.120324, it is considered that the proposed development would result in the loss of a significant amount of open space which would detract from the character of the estate and would seriously injure the residential and visual amenities of existing residents. The proposed development would therefore result in a substandard form or development, which would materially contravene the zoning objective for the site and would be contrary to the proper planning and sustainable development of the area.

2. The proposed development would be by reason of
 - (a) the development of residential units on an area of public open space, contravene materially a condition attached to an existing permission for development namely Condition no. 1 attached to permission granted by the Board on the 11th day of January 2001 under Appeal Reference No. PL08.120324 and
 - (b) the location of parking space nos. 75-77, contravene materially a condition attached to an existing permission for development namely Condition no. 1(b) attached to permission granted by the Board on the 26th day of November 2009 under Appeal Reference No. PL08.233381.

3. It is considered that car parking provision for the proposed development, in particular the lack of sufficient on-site parking spaces, would be seriously deficient and would be inadequate to cater for the parking demand generated by the proposed development, thereby leading to conditions which would be prejudicial to public safety by reason of traffic hazard on the public roads in the vicinity of the site.

Mary Kennelly
Senior Planning Inspector

24th November, 2020