



An
Bord
Pleanála

Inspector's Report ABP-311883-21.

Development	Alterations and extension to house and the construction of 2 no. 3 storey houses.
Location	4/5 Lower O'Connell Street, Town-Plots, Kinsale, Co. Cork.
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	21/5301.
Applicant(s)	JOAL Developments Ltd.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellant(s)	David & Angela Doyle
Observer(s)	None.
Date of Site Inspection	27/01/2022.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The application site is located to the south of Kinsale town in County Cork and on the western side of Lower O'Connell Street. The main water side street in Kinsale, Pier Street, is located to the east of Lower O'Connell Street, with the Ramparts located to the west. The roads in this area of Kinsale generally run in a north-south direction and rise from Kinsale Harbour (Pier Street) towards the Ramparts (east to west). Lower O'Connell Street is very narrow one-way street.
- 1.2. O'Connell Street / Lower O'Connell Street is located within an ACA and comprises of mixed residential and commercial development. The buildings are predominantly two and three storey in height. The appeal site is bounded to the south by a vacant 2 storey stone building and by an existing residential dwelling to the north. The site is located at a point where it offers views over Kinsale Harbour through the Actons Hotel site (to the east) and its associated leisure centre and car park.
- 1.3. The site has a stated area of 0.0616ha, is generally rectangular in shape and relatively level. The site is currently occupied by a late C19th / early C20th detached two storey house, with a stated floor area of 110m² and its associated out-building. The building does not appear occupied and fronts onto Lower O'Connell Street. I note that the front door and the windows have been replaced with uPVC at some point. The brownfield site backs onto a high rock face (towards the Ramparts to the west) with the adjoining properties on the Ramparts located at a substantial height above the current site levels.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for development consisting of:
 - (A) Alterations and two storey extension to existing dwelling house
 - (B) The construction of 2 no. three storey dwelling houses with ground floor courtyards, first and second floor terraces and all associated site works,

All at 4/5 Lower O'Connell Street, Town-Plots, Kinsale, Co. Cork.

- 2.2. The application included a number of supporting documents including as follows;

- Plans, particulars and completed planning application form,
- Design & Conservation Statement

2.2.1. Following the submission of the response to the PAs further information request, an amended front façade was submitted together with a schedule of proposed works and material specification for the retained structure.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant planning permission for the development subject to 4 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, planning history and the Development Plan policies and objectives. The report also includes a paragraph with regard to Appropriate Assessment and a preliminary EIA Assessment.

3.2.3. The planning report notes the previous application for development at the site and the proposed re-design, as well as the proposal to retain the existing house on the site. The report considers the scale and proportions of the current proposed development to be a considerable improvement on the refused application. Minor revisions are required by way of FI. In terms of heritage impacts, the report considers the current proposal an improvement and will preserve the residential amenities of adjoining neighbours.

3.2.4. The report notes the concerns of the Area Engineer with regard to parking and concludes that the requirement for AA has been screened out having regard to the scale and nature of the development and the lack of any physical or hydrological connection between the site and any European Site. The report concludes that further information is required with respect to amenity, ownership issues, heritage impact on ACA and architectural detailing.

- 3.2.5. Following receipt of the response to the FI request, the Planning Officers report considers that the amendments to the design are acceptable, that there is no issue with regard to landownership and that the submitted sections show the relationship between the proposed development and adjacent properties. It is considered that the potential for overlooking is limited. With regard to the issue of car parking, the report concludes that to seek more would be fatal to the feasibility of the scheme and would undermine or overly dominate a key objective of creating a street.
- 3.2.6. The Planning Officer recommends that permission for the development be granted. This Planning Report formed the basis of the Planning Authority's decision to grant permission.

3.2.7. Other Technical Reports

Area Engineer: Concern raised regarding the lack of car parking for the development which is well below standard.

Following the submission of a response to the FI request, the AE restates their concerns regarding car parking.

Archaeologist Report: The report notes that the proposed development site is located within the Zone of Archaeological Potential in the historic town of Kinsale which is subject to statutory protections in the RMP. The report sets out the Archaeological Objectives contained within the Kinsale Development Plan 2009, and it is recommended that an Archaeological Impact Assessment be prepared to assess the potential impact on archaeological remains in the area. Further information is required.

Following the submission of a response to the FI request, the Archaeologist noted that no AIA was requested as part of the FI request. The report recommends the inclusion of a condition to preserve any potential subsurface archaeology.

Conservation Officer: Notes the location of the site within an ACA, and that numerous pre-planning was undertaken on foot of ABPs refusal of planning permission. The report sets out the relevant policies and objectives of the Cork County Development Plan and the Kinsale Town Development Plan.

The assessment concludes that the current proposal is a significant improvement on the previous proposal for the site but notes that further information is required. The façade treatment requires further finesse, including roof profiles to be altered a simplified façade treatment is required with animation and an alternative layout to address the visual impact of the upper floor. A detailed schedule of proposed works for the existing structure is also required.

Following the submission of a response to the FI request, the Conservation Officer notes the amendments to the development and advises no objection, subject to conditions.

3.2.8. Prescribed Bodies

Irish Water: No objection.

3.2.9. Third Party Submissions

There is 1 third party submission noted on the Planning Authority file from David & Angela Doyle. The submission is summarised as follows:

- The submitted plans show an inaccurate boundary on the west side of the proposed unit 3.
- The drawings appear to indicate that the build will extend almost to the vertical reinforced concrete wall which forms the joint boundary.
- The privacy and residential amenity of their property is impacted as the top floor would close to and directly overlook their garden and ground floor rooms.
- Concerns that the large scale of the development on a small site appears to be the same scale and a little taller than the previously refused proposal.

Photograph and diagram enclosed.

4.0 Planning History

The following is the relevant planning history pertaining to the subject site:

ABP ref: 302817-18 (PA ref: 18/6043): Permission refused by Cork County Council for the Demolition of existing, detached dwelling and rear domestic shed and
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wall, Construction of residential development which includes a lift and access staircore, bike storage and bin storage at ground level, surface car parking for 12 cars at ground level, 1 no. 2 storey dwelling, 2 no. 2 bedroom apartment units at first floor, 2 no. 2 bedroom apartment units at second floor and 1 no. 3 bedroom apartment on the third floor level and all associated site works, all at the subject site.

The Board upheld the decision to refuse permission following a first party appeal.

The reasons for refusal were as follows:

1. Having regard to the location of the house within a designated Architectural Conservation Area in Kinsale, to the fact that the late 19th century dwelling on the site which is proposed for demolition is in fair and original condition (albeit with reversible alterations), and to Policy Objectives ACA 1 and ACA 2 of the Kinsale Town Development Plan 2009 which seek to protect all buildings which are an inherent part of the streetscape and which contribute to the area's heritage, diversity and history, the board considered that the demolition of the house as part of the proposed development would materially conflict Policy Objectives ACA1 and ACA2 of the Kinsale Town Development Plan 2009. The proposed development was therefore not in accordance with the proper planning and sustainable development of the area.
2. The proposed development by virtue of its scale, mass, height, design and external finishes including an unsuitable 'dead' ground level frontage will not lead to successful renewal of Lower O'Connell Street and shall not conserve or enhance the character or appearance of the Architectural Conservation Area, and therefore conflicts with Policy Objectives ACA 2 and TCEP 11 in the Kinsale Town Development Plan 2009, which seeks to achieve a high standard of urban design.

Adjoining Sites:

Site to the south:

PA ref: 13/53014: Permission granted for renovation, alterations to fenestration including first floor balcony on front elevation, erection of first floor terrace to rear, and change of use of former workshop premises to dwelling unit and associated site development work, all at 5 Lower O'Connell Street, Kinsale.

The Board will note that it appears that the current application includes the ground floor area below the first-floor area of open space to the rear of this permitted development.

Site to west:

ABP ref ABP-304451-19 (PA ref: 18/6956): Permission was refused following a third-party appeal to ABP for the partial demolition of existing dwelling, construction of extensions including a rear balcony, refurbishment of existing house, new retaining walls, upgraded vehicular entrance and all associated site works, all at Mini Manor, the Ramparts, Town-Plots, Kinsale, Co. Cork. The Board refused for the following reason:

Having regard to the pattern of development in the area and the considerable level differences both within the subject site and with adjoining sites, it is considered that the proposed development, because of its scale, bulk and proximity to site boundaries, and its height relative to the ground levels of adjoining houses and their private open space areas, would seriously injure the residential amenities of those properties by reason of overlooking and significant overbearing impact. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

ABP ref ABP-306920-20 (PA ref: 19/6861): Permission was granted following a third-party appeal to ABP for the partial demolition of existing dwelling including rear balcony, the refurbishment and alteration to existing elevations and construction of a new rear extension to the dwelling, new retaining wall to boundaries, upgrading vehicular entrance and all associated site works, all at Mini Manor, the Ramparts, Town-Plots, Kinsale, Co. Cork.

Site to north-west (appellants property):

ABP ref ABP-312022-21 (PA ref: 21/6141): This is a current appeal. It is a third-party appeal following the granting of permission by Cork County Council for the following:

- 1) The demolition of the existing carport platform at the North side of the existing dwelling on Level 3.

- 2) The construction of an extension to the dwelling on Level 1 and Level 2 at the North side of the existing dwelling.
- 3) The reconstruction of a carport platform and associated perimeter protection on Level 3 at the North side of the existing dwelling forming a roof to the extension also.
- 4) The construction of a domestic lift to serve levels 1,2 and 3.
- 5) The replacement of an existing timber railing with a new glass balustrade.
- 6) All associated works.

All at Half Wall, The Ramparts, Town-Plots, Kinsale, Co. Cork.

A decision in relation to this appeal is due on the 6th of April 2022.

5.0 Policy and Context

5.1. National Planning Framework – Project Ireland 2040, DoHP&LG 2018

National Planning Objective 13 provides that “in urban areas, planning and related standards, including, in particular, height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected”.

5.2. Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2009):

- 5.2.1. These statutory guidelines update and revise the 1999 Guidelines for Planning Authorities on Residential. The objective is to produce high quality – and crucially – sustainable developments. The guidelines state that car parking standards need to be set at realistic levels, having regard, *inter alia*, to proximity to public transport.
- 5.2.2. The guidelines promote the principle of higher densities in urban areas as indicated in the preceding guidelines and it remains Government policy to promote sustainable

patterns of urban settlement, particularly higher residential densities in locations which are, or will be, served by public transport under the *Transport 21* programme.

5.2.3. Section 5.6 of the guidelines suggest that there should be no upper limit on the number dwellings permitted that may be provided within any town or city centre site, subject to the following safeguards:

- compliance with the policies and standards of public and private open space adopted by development plans;
- avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours;
- good internal space standards of development;
- conformity with any vision of the urban form of the town or city as expressed in development plans, particularly in relation to height or massing;
- recognition of the desirability of preserving protected buildings and their settings and of preserving or enhancing the character or appearance of an Architectural Conservation Area; and
- compliance with plot ratio and site coverage standards adopted in development plans.

5.3. Architectural Heritage Protection Guidelines for Planning Authorities (Department of Arts, Heritage and the Gaeltacht 2011).

The subject site is located within an Architectural Conservation Area. As such, the '*Architectural Heritage Protection, Guidelines for Planning Authorities*' are considered relevant. These guidelines are issued under Section 28 and Section 52 of the Planning and Development Act 2000. Under Section 52 (1), the Minister is obliged to issue guidelines to planning authorities concerning development objectives:

- a) for protecting structures, or parts of structures, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social, or technical interest, and
- b) for preserving the character of architectural conservation areas.

The guidelines provide guidance in respect of the criteria and other considerations to be taken into account in the assessment of proposals affecting protected structures. The guidelines seek to encourage the sympathetic maintenance, adaption and re-use of buildings of architectural heritage.

Chapter 13 deals with Curtilage and Attendant Grounds and Section 13.8 of the Guidelines relate to Other Development Affecting the Setting of a Protected Structure or an Architectural Conservation area and the following sections are relevant:

- Section 13.8.1
- Section 13.8.2
- Section 13.8.3

5.4. Design Manual for Urban Roads and Streets (DEMURS), DoTTS, March 2013

- 5.4.1. In terms of the design of the proposed development, including the entrance and access to the site, it is a requirement that they be considered against the Design Manual for Urban Roads and Streets (DEMURS), DoTTS, March 2013. This Manual replaces DMRB in respect of all urban roads and streets and it does not differentiate between public and private urban streets, where a 60kph speed limit or less applies. The implementation of DMURS is obligatory and divergence from same requires written consent from relevant sanctioning authority (NRA, NTA or DTT&S). The Manual seeks to address street design within urban areas (i.e. cities, towns and villages) and it sets out an integrated design approach.

5.5. Development Plan

- 5.5.1. The Cork County Development Plan 2014 is the relevant policy document relating to the subject site. Policy Objective HE 4-5 of the Plan relates to developments in Architectural Conservation Areas.

5.6. Kinsale Town Development Plan, 2009-2015 (as extended)

- 5.6.1. The subject site is located in an area zoned TC 4 'Established town centre' incorporating mixed used development in keeping with the unique character of the

area, in the KTDP 2009. The zoning objective is ‘to protect, preserve, enhance and develop the special physical and social character of the existing town centre, to support appropriate infill development, use of upper floors for residential and other uses and to provide for new and improved ancillary services.’

- 5.6.2. In terms of the proposed extension to, and refurbishment of, the existing house on the site, the following policy is considered relevant:

Policy ERR 1: Proposals for extensions to a dwelling will be permitted if all the following criteria are met:

- (i) Respects scale and character,
- (ii) Adequate on-site parking, and
- (iii) No adverse effect on residential amenity of adjoining occupiers.

- 5.6.3. It is also located within an Architectural Conservation Area and as such, Section 16.7 states that it is the stated goal ‘To protect the special character of the designated Architectural Conservation Area in Kinsale and to ensure that future development will enhance this character and contribute to the creation of a distinctive sense of place.’

The stated objectives for ACAs, Section 6.18, are noted as follows:

- 1. To conserve, restore and rehabilitate the existing building stock in the area.
- 2. To ensure that all proposed developments are carried out in a manner sympathetic to the special character of the area.
- 3. To ensure a high standard of urban design within Architectural Conservation Areas.

The ACA policy statements, ACA1 – ACA4 are also noted.

- 5.6.4. Chapter 7 of the Development Plan deals with Development Management and Land Use Standards.

5.7. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the Sovereign Islands SPA (Site Code: 004124) which is located approximately 5.6km to the south-east. In addition to the above, the Old Head of Kinsale SPA (Site Code:

004021) lies approximately 9.4km to the south, Courtmacsherry Estuary SAC (Site Code: 001230) and Courtmacsherry Bay SPA (Site Code: 004219), approximately 11.8km to the south-west and Seven Heads SPA (Site Code: 004191) approximately 15km to the south-west.

Cork Harbour SPA (Site Code: 004030) lies approximately 14.4km to the east of the site.

5.8. EIA Screening

5.8.1. The application was submitted to the Board after the 1st September 2018 and therefore after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018.

5.8.2. Item (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units
- Urban development which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere.

(In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

5.8.3. The proposed development comprises an extension to an existing house and the construction of two further houses on an urban site with a stated area of 0.0616ha. The site is located on zoned lands within the development boundary of Kinsale. Given the nature of the surrounding mixed-use development, albeit primarily residential, together with the Town Centre zoning afforded to the site, it is reasonable to consider the proposed development site as being located within a ‘business district’. In this regard, I am satisfied that the site area is substantially below the 2ha threshold for ‘business district’. It is therefore considered that the development does require mandatory EIA.

5.8.4. In accordance with section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class

specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

5.8.1. Having regard to:

- (a) the nature and scale of the development,
- (b) the location of the site within the development boundaries of Kinsale,
- (c) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

It is concluded that 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.

6.0 The Appeal

6.1. Grounds of Appeal

This is a third-party appeal against the decision of the Planning Authority to grant planning permission for the proposed development. The issues raised are summarised as follows:

- Impact of the design as submitted on the conservation area of an historic tourist town
- The height and scale of the development – units 1 and 3 exceed the height of the adjacent houses in the street and are also taller than the buildings in the plan rejected by ABP in 2018. The grounds for refusal included scale, height and mass of the original plan.

- The planning policy for the area is cited with regard to infill development and it is submitted that the height and form of the proposed development creates an incongruous blocky structure rising above the pitched roofline of the conserved Victorian houses and will be prominent in the views from Lower O'Connell Street and the Ramparts.
- It is submitted that the visual impact of the development could be improved by the removal of the viewing rooms at the top floor level of units 1 and 3 and would be more in keeping with the adjoining homes.

6.2. First Party Response to Third-Party Appeal

The first party has submitted a response to the third-party appeal. The submission is summarised as follows:

- The submission highlights an initial design, and not the further information submitted which addressed the PAs concerns regarding the impact on the ACA.
- Prior to submitting the response to FI, the applicant liaised with the Conservation Officer and County Architect.
- The proposed development positively contributes to the ACA and to the existing dwelling houses significance to the historic streetscape.
- The streetscape of Lower O'Connell Street is predominantly 3 storeys with a number of 2 storey structures, including the existing house to be retained. The upper floors of the new houses are set back from the street elevation and the roof lines match the existing structures.
- The infill development is sheltered by the cliff face and the flat roofs of the upper floors are at a comparable level to the height of the cliff.
- The third-party submission refers to 'a significant gap in the streetscape directly across the road from the development site'. This referenced site is associated with a permitted development comprising a three storey extension to Actons Hotel which will effectively screen the subject site from Pier Road.

6.3. Planning Authority Response

The Planning Authority submitted a response to the third-party appeal, the content of which is summarised as follows:

- The PA reiterates that the proposed development is a sympathetic and balanced approach to the challenges presented by combining infill development with sensitive refurbishment of the main dwelling.
- A development granted permission opposite the site, 19/6900, will substantially screen the development from Pier Road.
- The height of the upper storey will not be visible from the street, being significantly recessed back into the plot. It will be partially visible from limited viewpoints against a considerable rock outcrop and will be much lower than the development behind it.

6.4. Observations

None.

7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development & Planning History
2. Design, Scale & Visual Impacts
3. Impacts on the Architectural Conservation Area
4. Other Issues
5. Appropriate Assessment

7.1. Principle of the development & Planning History

- 7.1.1. The subject site is located within the town of Kinsale, on Lower O'Connell Street and on lands zoned TC4 'Established Town Centre'. The area comprises a mix of uses and it is the stated objective of the zoning, 'to protect, preserve, enhance and develop the special physical and social character of the existing town centre, to support appropriate infill development, use of upper floors for residential and other uses and to provide for new and improved ancillary services.'
- 7.1.2. The existing site comprises an unoccupied, detached two storey late 19th / early 20th century dwelling, which has been somewhat modernised with the inclusion of uPVC windows and doors. The house is not identified as a protected structure or included on the NIAH. However, the site does lie within the Architectural Conservation Area for the town of Kinsale and it is a stated goal of the Kinsale Town Development Plan 2009 as extended, 'to protect the special character of the designated ACA in Kinsale and to ensure that future development will enhance this character and contribute to the creation of a distinctive sense of place.'
- 7.1.3. In addition to the above, the following policy objectives are also considered relevant in this instance:
- **Policy Objective ACA1:** seeks to protect all buildings, structures and sites which are an inherent part of the streetscape, and which contribute to the Plan area's heritage, diversity and history.
 - **Policy Objective ACA2:** states that proposed development within or adjacent to conservation areas will only be permitted if it would conserve or enhance the character or appearance of the area. The demolition of non-listed buildings will be granted within the ACA if they do not contribute positively to the character or appearance of the ACA.
 - **Policy Objective RPS3:** encourages appropriate reuse, renovation and rehabilitation of older building's which are not listed, but have some architectural, historical or heritage merit, subject to development standards at Section 7.
 - **Policy TCEP11:** seeks to Support the renewal of Lower O'Connell Street.

- **Policy IH1:** seeks to encourage infill housing developments on appropriate sites where the proposals respect the existing scale and character of the area.

7.1.4. Having regard to the planning history of the site, the Board has previously determined that the existing house on the site is in fair and original condition, albeit with reversible alterations, and that it comprises an inherent part of the streetscape in which it sits, contributing to the area's heritage, diversity and history. It was therefore, previously concluded that the demolition of this house would materially conflict with policy objectives ACA1 and ACA2 of the Kinsale Town Development plan and would not be in accordance with the proper planning and sustainable development of the area.

7.1.5. In terms of the above and given that the current proposal seeks to retain and refurbish the existing house on the site as part of the overall development of the site, I consider that the principle of the proposed residential development at this site can be considered acceptable. The matter of design, scale, height and visual impacts of the proposed development is discussed further below.

7.2. Design, Scale & Visual Impacts

7.2.1. The proposed development includes the restoration and extension of the existing house on the site, and the construction of a three-storey house on either side. It is submitted that the proposed development has used the proportions, scale and original materials of the existing house as a starting point for the design of the two contemporary houses which will bookend the existing house.

7.2.2. In terms of the existing house, the scheme proposes the following:

- The uPVC windows will be replaced with timber sash windows
- The uPVC door will be replaced with a timber door
- The slate roof is to be retained and repaired
- The uPVC rainwater goods will be replaced with cast iron goods
- The external render will be repaired.
- Internally, the broad plan form and timber staircase are to be retained.

7.2.3. In addition to the above, the Board will note the intention to construct a two-storey extension to the rear. The proposed extension will include a ground floor ensuite bedroom, utility and hall, while the first floor will comprise an open plan family and dining room, accessed off the first-floor kitchen. An external staircase will provide access from the first floor to the rear garden. A full schedule of repairs and specifications for the works to be carried out are presented in the applicants' response to the PAs request for further information. Overall, I have no objections to this element of the proposed development.

7.2.4. With regard to the proposed two new houses, the Board will note that the design provides as follows:

Unit 1: A ground floor access to 3 ensuite bedrooms, a utility room and storage area. The design also includes a small courtyard area with provision to park one car. Access to the car port will be via a sliding timber gate.

At first floor level, the house will provide for a large kitchen/living/dining area which will have extensive glazed areas and access to a large west facing (rear) terrace, occupying 30m². A WC is also proposed at this level.

A small second floor, located to the rear of the building, is also proposed. This area will be occupied by a separate living room and a further east (front) facing terrace with an area of 35m².

Unit 2: A ground floor access to 3 ensuite bedrooms, a utility room and a small internal courtyard. The design also includes provision to park one car. Access to the car port will be via a sliding timber gate.

At first floor level, the house will provide for an open plan kitchen/living/dining area which will include a further internal courtyard area as well as access to a large west facing (rear) terrace, occupying 28m².

A small second floor, located centrally within the building, is also proposed. This area will be occupied by a separate living room and a further east (front) facing terrace with an area of 8.4m². A WC is also proposed at this level.

- 7.2.5. In terms of the overall design, there were amendments sought by way of further information from the Planning Authority. The amendments primarily comprised alterations to the roof profiles and a simplified façade treatment. I note that the Cork County Council Conservation Officer raised no objections to the proposed amended development in this regard.
- 7.2.6. The Board will note that the third-party appellant has raised concerns in terms of the proposed development, citing the height and scale of the development as well as the previous refusal of permission on the site. In this regard, I would consider that the current scheme is very different from the previously permitted development.
- 7.2.7. In terms of the second-floor levels proposed within the two contemporary houses, I consider that their location within the building, and to the rear of the roof ridges, together with their nominal scale and material finishes, will not represent a significant visual impact within the streetscape or from the wider area. The ridge level of the proposed buildings will be comparable to the height of the rock wall which frames the site and due to the extensive use of glazing, I am satisfied that these elements will represent a light physical feature in the roofline. I do not consider that these elements, being set back from the front façade of the buildings, will be prominent in the views from Lower O'Connell Street and the Ramparts.
- 7.2.8. Overall, I am satisfied that the proposed development is acceptable and would accord with the policy objective provisions of the Kinsale Town Development Plan 2009, as extended, as it relates to developments within ACAs and infill development.

7.3. Impacts on the Architectural Conservation Area

- 7.3.1. The subject site lies within the Architectural Conservation Area for the town of Kinsale, as detailed in the Town Development Plan. The Plan provides a clear goal for ACAs which is 'to protect the special character of the designated Architectural Conservation Area in Kinsale and to ensure that future development will enhance this character and contribute to the creation of a distinctive sense of place.' I have noted the relevant policy objectives in the plan as they relate to ACAs above in Section 7.1 of this report, and the stated objectives for ACAs, Section 6.18 of the TDP, are noted as follows:

1. To conserve, restore and rehabilitate the existing building stock in the area.
2. To ensure that all proposed developments are carried out in a manner sympathetic to the special character of the area.
3. To ensure a high standard of urban design within Architectural Conservation Areas.

7.3.2. In terms of the above, I am satisfied that the current proposal before the Board seeks to fully comply with item 1 above, in that the development, if permitted will see the conservation, restoration and rehabilitation of the existing house on the site. In terms of the proposed 2 new houses, policy objective ACA2 states that development within or adjacent to conservation areas will only be permitted if it would conserve or enhance the character or appearance of the area. As such, new development is required to have regard to the nuances and special character of the ACA to achieve a high standard of urban design in such locations.

7.3.3. I have addressed the overall design and scale of the proposed development above and I am satisfied that the amended scheme, as permitted by Cork County Council is both acceptable and sympathetic to the special character of the area. I consider that the contemporary units proposed represent a high standard of urban design and will enhance the character of the ACA in which the site lies.

7.3.4. Overall, I consider that the proposed second floors, due to their set back, size and finishes, are appropriate to this location and will not negatively impact on the character of the ACA.

7.4. Other Issues

7.4.1. Residential Amenity Issues

I note the proximity of the subject development site to adjacent residential properties, and in particular, those to the west, including houses on The Ramparts. The cliff wall to the rear of the subject site rises between approximately 9.5m to 12m and the proposed development will be constructed to within 1 to 3m of the base of the cliff wall. In terms of the residential amenity of future residents however, I am satisfied that the scheme has been designed so as to maximise the quantity and quality of

private amenity space with the provision of first and second floor terraces, as well as a ground floor level garden area for the existing house. Overall, I am satisfied that the residential amenity of future residents has been adequately catered for.

In terms of the residential amenity of existing properties in the vicinity of the site, the Board will note that the overall height of the proposed scheme is approximately 1m below the height of the top of the cliff wall. I am generally satisfied that the potential for significant overlooking of properties backing onto the site is limited due to the context and characteristics of the site. In addition, I note the proposed works to the property immediately to the west, (currently on appeal, ABP ref: ABP-312022-22 (PA ref: 21/6141) refers) propose to upgrade their boundary with the subject site to include an opaque glazed balustrade, which will further prevent any potential for overlooking to occur. I am therefore satisfied that the development is acceptable in terms of residential amenity.

7.4.2. Roads & Traffic

The proposed development is to be accessed via the local road network in the area. I note that Lower O'Connell Street is a very narrow urban street with a one-way system in place, and that the Cork County Council Area Engineer has raised concerns in terms of the proposed car parking provision for the development. However, having regard to national policy, together with the town centre location of the site as well as the proposal to provide a car parking space for the proposed two new houses, I am generally satisfied that the proposed development is acceptable and I have no objections in terms of roads and traffic.

7.4.3. Water Services

The proposed scheme will connect to public services in Kinsale. I note no objections in this regard.

7.4.4. Development Contribution

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission.

7.5. Appropriate Assessment

Introduction:

- 7.5.1. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken for any plan or programme not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site in view of its conservation objectives. The site is not located within any designated site. The closest Natura 2000 site is the Sovereign Islands SPA (Site Code: 004124) which is located approximately 5.6km to the south-east.
- 7.5.2. Guidance on Appropriate Assessment is provided by the EU and the NPWS in the following documents:
- Assessment of plans and projects significantly affecting Natura 2000 sites – methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (EC, 2001).
 - Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (DoEHLG), 2009.
- 7.5.3. Both documents provide guidance on Screening for Appropriate Assessment and the process of Appropriate Assessment itself.

Consultations:

- 7.5.4. With regard to consultations, the Board will note that no issues relating to AA were raised by any party. I also note that the third-party appellant does not raise concerns in terms of AA.

Screening for Appropriate Assessment

- 7.5.5. The proposed development will connect to the public water services in the town, with the Kinsale WWTP being located to the west of the town at Commoge, with a discharge to the River Bandon. I note that there is capacity in the system to accommodate the proposed development.
- 7.5.6. The applicant did not prepare an Appropriate Assessment Screening Report as part of the subject application and did not submit a Natura Impact Statement. In terms of AA, the Board will note that the development is not directly connected or necessary to the management of a European Site. There are 6 Natura 2000 Sites occurring

within a 15km radius of the site, the closest one being the Sovereign Islands SPA (Site Code: 004124) located approximately 5.6km to the south-east. In addition to the above, the Old Head of Kinsale SPA (Site Code: 004021) lies approximately 9.4km to the south, Courtmacsherry Estuary SAC (Site Code: 001230) and Courtmacsherry Bay SPA (Site Code: 004219), approximately 11.8km to the south-west and Seven Heads SPA (Site Code: 004191) approximately 15km to the south-west. Cork Harbour SPA (Site Code: 004030) lies approximately 14.4km to the east of the site.

- 7.5.1. I am satisfied that the following 5 sites can be screened out in the first instance, as they are located outside the zone of significant impact influence because the ecology of the species and / or the habitat in question is neither structurally nor functionally linked to the proposal site. There is no potential impact pathway connecting the designated sites to the development site and therefore, I conclude that no significant impacts on the following sites is reasonably foreseeable. I am satisfied that the potential for impacts on the following Natura 2000 sites can be excluded at the preliminary stage:

Site Name	Site Code	Assessment
Old Head of Kinsale SPA	004021	Site is located entirely outside the EU site and therefore there is no potential for direct effects. No habitat loss arising from the proposed development. No disturbance to species. No pathways for direct or indirect effects. Screened Out
Courtmacsherry Estuary SAC	001230	
Courtmacsherry Bay SPA	004219	
Seven Heads SPA	004191	
Cork Harbour SPA	004030	

- 7.5.1. I consider that the following Natura 2000 site, located within 15km of the subject site, can be identified as being within the zone of influence of the project, for the purposes of AA Screening, as follows:

- The Sovereign Islands SPA (Site Code: 004124)

Qualifying Interests for Natura 2000 Sites within Zone of Influence

- 7.5.2. The subject development site is located within the urban centre of the town of Kinsale, Co. Cork, on lands zoned TC4. The site is not located within any designated

site. The site does not appear to contain any of the habitats or species associated with any Natura 2000 site.

7.5.3. The following table sets out the qualifying interests for the identified Natura site:

European Site	Qualifying Interests
Sovereign Islands SPA (Site Code: 004124) Located approx. 5.6km to the South of the site	<ul style="list-style-type: none">• Cormorant (<i>Phalacrocorax carbo</i>) [A017]

Sovereign Islands SPA (Site Code: 004124)

7.5.4. The Sovereign Islands are two very small marine islands located approximately 1 km off the coastline at the entrance to Oysterhaven Bay in Co. Cork. The islands are rocky stacks separated by a narrow sound of about 20 m width. The eastern island is flat-topped and rises to 24 m above sea level and the western one is more peaked and rises to 30 m. Both islands are largely devoid of soil apart from small amounts of organic matter trapped in cracks. Vegetation is sparse.

7.5.5. The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for the Cormorant. The islands are important for breeding seabirds, with most occurring on the eastern stack. A Cormorant colony has been known since the late 1960s and 156 pairs were recorded here in 1999. A more recent survey in 2008 recorded 89 pairs. Herring Gull and Great Black-backed Gull also breed, with 10 and 75 pairs respectively in 1999.

7.5.6. Sovereign Islands SPA is of ornithological importance mainly for the breeding colony of Cormorant, which is both the largest in Co. Cork and of national importance. The non-migratory population of Great Black-backed Gull is also of national importance.

Conservation Objectives:

7.5.7. The Conservation Objectives for the relevant designated sites are as follows:

European Site	Conservation Objectives
Sovereign Islands SPA (Site Code: 004124) Located approx. 5.6km to the South of the site	The NPWS has identified the following generic objective for the site:

	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA
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Potential Significant Effects

7.5.8. In terms of an assessment of Significance of Effects of the proposed development on qualifying features of Natura 2000 site, 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 Sites, no direct effects are anticipated. With regard to the consideration of a number of key indications to assess potential effects, the following is relevant:

- **Habitat loss / alteration / fragmentation:** The subject site lies at a remove of some 5.6km from the boundary of any designated site, and within a developed urban area. As such, there shall be no direct loss / alteration or fragmentation of protected habitats within any Natura 2000 site.
- **Disturbance and / or displacement of species:** The site lies within a developed urban environment. 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 species or habitats for which the identified Natura 2000 sites have been designated.
- **Water Quality:** The proposed development relates to the refurbishment of an existing house and the construction of two houses on an urban site, which will connect to public water services. Having regard to the scale of the proposed development, together with the separation distances between the site and the boundary of the SPA, I am generally satisfied that the development, if permitted, is unlikely to impact on the overall water quality of the Sovereign Islands SPA (Site Code: 004124).

I am generally satisfied that the potential for likely significant effects on the qualifying interests of the Sovereign Islands SPA can be excluded given the

distance to the sites, the nature and scale of the development and the lack of a hydrological connection.

In Combination / Cumulative Effects

- 7.5.9. Given the nature of the proposed development, being the refurbishment of an existing house and the construction of two houses on an urban site, I consider that any potential for in-combination effects on water quality of any of the Natura 2000 sites can be excluded. In addition, I would note that all other projects within the wider area which may influence conditions in the Sovereign Islands SPA via rivers and other surface water features are also subject to AA.

Conclusion on Stage 1 Screening:

- 7.5.10. I have considered the NPWS website, aerial and satellite imagery, the scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Qualifying Interests, the separation distances and I have had regard to the source-pathway-receptor model between the proposed works and the European Sites. It is reasonable to conclude that on the basis of the information available, that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the European Sites identified within the zone of influence of the subject site. As such, and in view of these sites' Conservation Objectives a Stage 2 Appropriate Assessment is not required for these sites.

8.0 Recommendation

I recommend that planning permission be granted for the proposed development for the following stated reason and subject to the following stated conditions.

9.0 Reasons and Considerations

Having regard to the pattern of permitted development in the area, to the provisions of the Kinsale Town Development Plan 2009, as extended, and to the layout and design as submitted, the Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of adjoining properties, would enhance the character

of the Architectural Conservation Area of the town of Kinsale, would not seriously injure the residential amenities of future occupants and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 20th day of September 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Works to the existing house shall be carried out in accordance with the method statement submitted by Jack Coughlan Architects and no house shall be occupied until such time as the said works are completed to the satisfaction of the Planning Authority.

Reason: In the interest of clarity and the protection of the character of the Architectural Conservation Area.

3. External finishes including all materials, colours and textures shall be in accordance with the details submitted to, the planning authority, unless otherwise agreed prior to commencement of development.

Reason: In the interest of visual amenity.

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

5. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

7. Site development and building works shall be carried out only between the hours of 0800 and 1800 from Mondays to Fridays inclusive, between the hours of 0800 and 1300 on Saturdays, and not at all on Sundays or public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In the interest of protecting the residential amenities.

8. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -
 - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

9. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of clarity, orderly development and amenity.

10. A construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic and parking during the construction phase, the location of the compound for storage of plant and machinery and for storage of deliveries to the site.

Reason: In the interests of public safety and residential amenity.

11. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to

commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

A. Considine

Planning Inspector

08/03/2022