



An
Bord
Pleanála

Inspector's Report ABP-312689-22.

Development	Permission to construct 65 dwelling houses, a creche with ancillary surface car parking, bicycle parking racks, bin stores and all associated site development works.
Location	Knockbrogan, Bandon, Co. Cork.
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	21/4059.
Applicant(s)	Castle Rock Homes (Bandon) Ltd.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	First Party against Condition 2
Appellant(s)	Castle Rock Homes (Bandon) Ltd.
Observer(s)	None.
Date of Site Inspection	12/04/2022.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The subject site is located within the settlement boundary of the town of Bandon, Co. Cork, which is located approximately 24km to the south-west of Cork City. The village lies approximately 300m to the north of the centre of the town and the Bandon River and to the east of the Cork Road. The Cork Road rises from Main Street towards the site, with the site located in an elevated position over the town.
- 1.2. The surrounding area comprises primarily residential development to the south, with low density housing, comprising of large one-off houses on large sites, to the west of the Cork Road in this area. There is further residential development to the north of the site, and an extensive area of land currently in agricultural use towards the north and east.
- 1.3. The site the subject of this appeal, has a stated area of 3.53ha and is currently greenfield in nature. The site is currently accessed via an established agricultural access, and it is noted that the site levels are substantially above the existing road level. The boundaries of the site on this road currently comprises a natural sod and stone ditch with trees/hedgerow above.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices, is for the construction of a residential development of 65 no. units and a two-storey crèche with ancillary surface car park, bicycle parking racks, bin stores and all associated site development works. The proposed development provides for the construction of 49 no. two storey dwelling houses (23 no. of which have an option for an alternative house type design) consisting of 7 no. 4 bedroom detached dwelling houses, 12 no. 4 bedroom semi-detached dwelling houses, 18 no. 3 bedroom semi-detached dwelling houses, 6 no. 3 bedroom townhouses and 6 no. 2 bedroom townhouses. The proposed development also consists of the construction of 16 no. 2 bedroom apartment/duplex units contained in 4 no. three storey apartment buildings. Vehicular access to the proposed residential development will be provided via a new junction from the Cork

Road (L-2040) with a separate vehicular entrance provided to serve the proposed crèche facility. A separate pedestrian access point is also provided to the south-west of the site. The proposed development also provides for upgrades to the Cork Road from the subject site to the junction of the Cork Road and Watergate Street to the south. Proposed upgrades include the provision of footpaths, a pedestrian crossing and traffic calming measures, all at Knockbrogan, Bandon, Co. Cork.

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

- Plans, particulars and completed planning application form.
- Housing Quality Assessment
- Architectural Design Statement
- Landscape Details
- Infrastructure Report
- Transport Assessment Addendum
- Planning Statement
- Part V Proposal
- Letter of Consent from Cork County Council re: proposed works to road and footpaths.

2.3. Following the request for further information, the applicant submitted proposals to address the issues raised by the Planning Authority. It is noted that a 3 month extension was sought, and granted on the period for which to respond to the FI request and that the response to the FI request was submitted to the Planning Authority on the day before the period expired.

2.4. The response has resulted in the amendment of the proposed development to omit the proposed creche, amendments to finished floor levels. The response also sought to address the issues relating to visual impacts and roads and transport matters, including pedestrian connectivity. Arguments are noted in terms of the provision of a 10m landscape buffer along the northern boundary as required by the PA and that the houses in the north-eastern area of the site are not reduced as requested.

2.5. In addition, the response to the FI request includes a number of additional documents and reports. I also note that unsolicited further information was submitted on the 11th of January 2022 in terms of the Irish Water Pre-Connection Enquiry, which had been omitted in the December 2021 response to the FI request.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority, following the submission of the response to the FI request, decided to grant planning permission for the proposed development subject to 52 conditions, including Condition 2 which states as follows:

2. Before development commences on site, detailed revised drawings shall be submitted for written agreement of the Planning Authority incorporating the following amendments:
 - Omission of units 12, 12A, 14 and 15 and associated car parking spaces in the north-eastern portion of the site and revised proposal submitted indicating that this area should be laid out as additional public open space with the provision of additional tree planting on the northern portion of the site;
 - Omission of units 28 and 49 and associated car parking spaces on the southern portion of the site and revised proposals indicating that this area should be laid out as additional public open space with additional tree planting.

Reason: In the interest of visual amenity.

3.1.1. Planning Reports

Pre-planning:

A pre-planning meeting is noted in the Planning Officers report and was held to discuss the proposed development with the Planning Authority to discuss the previous reason for refusal for development on the site. Issues discussed are noted

to have included density, inclusion of land to the south of the previously refused scheme, creche, visual impacts, the design of the link road and connectivity with the wider residential zoned land and existing residential developments.

Planning Officers Report:

The initial Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, third party submission, planning history, the County Development Plan policies and objectives and the Bandon Kinsale MD Local Area Plan. The report notes that a pre-planning meeting was held to discuss the proposed development. The report also considers third party submissions and includes a section on EIA and AA.

The Planning Report considers the proposed development under a number of headings and notes concerns in terms of density and visual impact noting that no photomontages were submitted as part of the Visual Impact Assessment. In terms of the design and layout, the report notes the topography of the site and the proposal to retain the mature treeline on the boundary of the site. Further information was required with regard to finished floor levels of the proposed dwellings and the rear garden depths in places due to the proposed difference in ffls. With regard to the proposed apartment units, a number of concerns are raised by the Planning officer.

The housing mix proposed was deemed acceptable and while the open space proposal complies with the minimum requirements of the Interim Recreation and Amenity policy, it was considered that the southern portion of the site has insufficient provision, with an additional pocket park required.

In terms of the proposed works to the pedestrian upgrade works, it was noted that Japanese Knotweed is present on third party lands adjacent. Control measures are required to prevent the spread of this species.

Part V proposals are considered acceptable.

A traffic and Transportation Assessment was required and while the phasing of development is acceptable, a question arises as to how the applicants propose to develop the remainder of the zoned land at the rear (east) of the subject site.

Further information is required in relation to the following issues:

- Visual Impact
- Site layout / Density
- Landscaping / Boundary Treatment
- Traffic / Transportation & Roads issues
- Water Services infrastructure and connections
- Phasing
- Public lighting
- Archaeology
- Construction Waste Management Plan.

The SEP noted the Planning officers report and endorsed it, recommending that FI be sought as indicated.

Following the submission of the response to the FI request, the planning officers report noted the response to the request issues, as well as the internal technical reports in relation to same. I note that the outstanding concerns arising relate to the visual impacts associated with the proposed development and while the report suggests that the 10m buffer zone to the north of units 1 and 11 may not be required, given the topography of the site, units 12 to 15 form an unwarranted intrusion in the landscape. It is concluded that that units 12 to 15 should be omitted and that this land should have a 10m landscaped buffer and additional public open space to help assimilate the development into the landscape and reduce the potential for skyline development on this important ridgeline above Bandon Town. This amendment would also be supported by the R-06 zoning objective for the site.

In addition to the above, concern remains in relation to the location of proposed unit 49 to the front of the building line of the duplex units in terms of overlooking, visual perspective and conflict with car parking. The Planning report concludes that the area should be left as open space. In addition, the report concludes that unit 28 should be omitted in order to provide additional public open space on the southern

portion of the site to integrate the development into the site while providing a better distribution of open space within the overall development.

The final Planning Officers report concludes that proposed development is acceptable subject to conditions omitting 6 units and recommends that permission be granted for the proposed development, subject to 51 conditions. The SEP noted and endorsed the planning officers report and recommended that permission be granted subject to 52 conditions.

These Planning Reports formed the basis of the Planning Authority's decision to grant planning permission.

3.1.2. **Other Technical Reports**

Public Lighting: Notes a number of shortcomings relating to the public lighting proposal. Further information required with regard to the following issues:

1. A revised public lighting design to a Class P3 and not P4.
2. Updated design to address lighting deficiencies in footpath element in front of a number of identified houses.
3. Plural lanterns, rather than singular are preferred on cul-de-sacs.
4. Updated design to include for amenity path along the southern boundary.
5. Other amenity areas should benefit from spill light at least.
6. Lighting connections / circuits shall be designed to fit into the proposed phasing of the development.

Following the submission of the response to the FI request, the subsequent report advises no objection to the proposed development subject to compliance with conditions.

Housing Officer: The report notes the proximity of the site to Bandon town centre and its suitability for social housing. There is significant demand for

housing in the area and the Council will have a need for 4 two bed units and 2 3 bed units to be purchased under the developers Part V obligations.

The layout of the scheme is noted and deemed cohesive and sustainable, and the proposed social units are designed and laid out in accordance with relevant guidelines.

There is no objection to the proposed development.

Estates: The report notes the planning history of the site and notes that the subject site is not located within a flood zone. While the report notes no objection in principle, a number of issues are required to be addressed by way of FI as follows:

1. Phasing issues in terms of the future development potential of zoned lands to the east – future construction traffic will be required to go through the current proposed development if permitted.
2. The layout in terms of access is considered to be an improvement of the previously refused scheme. Speed control proposals should be submitted.
3. Surface water run-off is to be routed southwards and westwards towards the adjoining public road and the existing public drainage network is to be extended towards the proposed entrance to the creche. No objection in principle but amendments required in terms of layout.
4. In terms of the foul sewer, again, there is no objection in principle to the proposed layout subject to amendments to ensure that the extended foul sewer is kept on the public road.
5. The water supply network, together with all other infrastructure, should be designed to cater for the masterplan residential development of the overall site, ie. the 17.4ha zoned site.

6. Landscaping plans should be amended to address the requirements of the above and the landscaping plan should provide details for the boundary treatment at the south of the site, surface treatment to be utilised throughout the estate and a naming and numbering scheme.

Following receipt of the response to the FI request, the Estates Section of Cork County Council submitted a further report which noted that while there are a number of omissions in terms of the FI requested, there is no further objection to permission being granted subject to compliance with conditions.

Archaeologist Report: The report notes that the development site is large in scale and given its scale and location, it is possible that subsurface archaeology may be impacted during the development where ground disturbance takes place. Further information is required to submit an Archaeological Impact Assessment.

Following the submission of the response to the FI request, which included an Archaeological Testing Report, the County Archaeologist notes that no Archaeological Impact Assessment has been submitted. The report notes however that the testing report provides an assessment which goes some way to addressing the issues raised but advises that while the FI response is not satisfactory, there is sufficient assessment in the report. The recommendation for the full excavation of the archaeological features identified in test trenches 1, 5, 9 and 15 are noted. It is recommended that as the nature and extent of archaeology is unclear, a condition for archaeological monitoring should be included. Conditions recommended.

Environment Report: The report concludes that further information is required with regard to the following:

1. A Construction Waste Management Plan is required to be submitted.

2. A detailed Surface Water Management Plan is required which shall include measures to be put in place to manage any potential silt/hazardous materials or eroding materials from earthworks/construction activities discharging into the nearby stream or surface waters.
3. A more comprehensive Environmental Management Plan is required to be submitted for the approval of the PA.
4. Clarification as regards onsite wastewater management facilities is required.

A second Environment Report is noted on the Planning file following the submission of the response to the FI request which advises that the Environment Section is not able to comment on the application until such time that information requested in previous report is submitted.

Area Engineer: Advises that the proposed two accesses onto the public road is not permissible. Full details of the access, including sightlines are required to be submitted. Proposals for widening of the L-2040 also to be submitted and advises that as the proposed right turn lane is a result of the proposed development, the total cost for the design and implementation is attributable to the applicant. Details of proposed pedestrian crossing and works on new and existing footpaths are required to be submitted.

Further information required with regard to the internal road layout and landscaping.

With regard to water services infrastructure, the applicant is required to liaise with IW and road opening licences will be required at all locations where excavation of public roads or other public areas is required. In terms of stormwater drainage, connection details to the existing system are required together with maintenance regime details for the attenuation tank.

A construction management plan is required to be submitted.

The initial Area Engineer report required further information.

Following the submission of the response to the FI request, there is no objection to the proposed development subject to compliance with conditions.

Conservation Officer: The report deals primarily with the visual impact assessment which addresses the proposed development from the ACA and prominent protected structures within the town of Bandon. It is noted that the submitted details do not include images of the proposed development – rather identifies the field only – and therefore, it is not possible to assess visual impacts. A full visual impact assessment which superimposes the proposed development on the site is required to be submitted in order to allow for a thorough and comprehensive assessment to be carried out.

In terms of the landscaping, it is considered very formal and that the scheme could benefit from allowing more open green spaces and naturalistic landscaping including bands/clusters of tree lines.

Following the submission of the response to the FI request, there is no objection to the proposed development subject to compliance with conditions.

Roads & Transport: The report notes the planning history of the site, the provisions of the LAP and that the Bandon TPREP report is finalised with recommended upgrade proposals in terms of the Norther Relief Road and North Main Street / Watergate Street / Bandon Bridge Junction Upgrade, which affect the site.

In terms of the Traffic Assessment Report (Addendum) submitted with the application, the Roads and Transport report note that there is no examination provided in the assessment for future years / traffic

growth, and that the report fails to consider any future development that might occur on adjacent lands.

Issues were also noted in terms of:

- Lack of assessment of impacts to the existing junction of North Main Street / Watergate Street / Cork Road.
- TRICS rates used are not a true reflection on car usage rates in Bandon.
- Creation of a new junction increases risk to road users and one entrance only should be provided.
- In terms of pedestrian connectivity, the 1.2m footpath proposed is below the minimum recommended in DMURS and there are no details of connectivity beyond the boundary of the site north.
- The applicant is required to include in their TTA, an assessment of the impact of construction traffic

The report requires that further information be requested prior to a decision issuing.

Following the submission of the response to the FI request, there is no objection to the proposed development subject to compliance with conditions.

3.1.3. **Prescribed Bodies**

Irish Water: Further information required and that a Pre-Connection Enquiry (PCE) be submitted in order to determine the feasibility of connection to the public water / waste water infrastructure.

Inland Fisheries Ireland: The report notes that the development proposes to dispose of septic effluent to the public sewer. IFI requires that IW signifies that there is sufficient capacity so that it does not overload either hydraulically or organically the existing treatment facilities or result in polluting matter entering waters.

3.1.4. Third Party Submissions

There are 2 third party submission noted in terms of the planning application submitted. The issues raised are summarised as follows:

- It is requested that the Council satisfy themselves that the development is fully consistent with DMURS.
- The proposed development site comprises part of a land bank identified in the Town Plan. The proposal is not making any allowances so as to comply with the stated objective in respect of the Link Road Objective.
- The submission that the proposed link road is not to have a strategic function linking the Old Cork Road and the new Northern Distributor Road has no legal standing. Any deviation from the Plan is a material contravention.
- The Traffic Assessment and Services Design has been designed with more than 65 units in mind. The indicative master plan in the Architects Design Statement has not been addressed in either the traffic study or services report.
- The residual lands that the developer has are in the region of 10.35ha – the overall landholding appears to be 13.67ha. EIA threshold for Urban Development is 10ha and the masterplan shows future development. Questions of project splitting arise.
- Issues of density indicated in masterplan also confusing as it would appear to suggest that 130 houses will be developed on 10ha.
- The Planning Report references the previous TTA to support the proposal which is inappropriate.
- In terms of density, the development proposes approximately 35 units per ha. No exceptional market requirements have been identified to support such density and would amount to a material contravention of the plan.
- This approach has already been determined by ABP – ref: ABP-308156-20 refers.

- Works to the footpath along Cork Road are not detailed and are to take place adjoining area of known infestation of Japanese Knotweed. Eradication plans have to be put in place and who will accept responsibility for any knotweed spread due to the works.
- While the scheme shows cycleways along the main road, no dedicated cycleway into Bandon itself is shown.
- Issues raised in the previous decision for refusal have not been considered or resolved (PA ref: 18/5043 refers) and constitutes haphazard and non-integrated development of the entire landholding subject to objective BR-R-06, is premature and constitutes piecemeal, disorderly development.
- The development will negatively impact future development potential of adjoining property due to overlooking.

4.0 Planning History

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

PA ref 18/5043: Permission sought for the construction of 73 no. dwellings on the site. The PA refused permission for the following stated reason:

The site is within an area zoned residential where it is the objective of the Planning Authority, as set out in the current Bandon Electoral Area Local Area Plan 2017 (BR-R-06), to provide medium density development with provision for a link road through the site from the proposed Northern Ring Road to the Cork Road at the western side, pedestrian and cycle links with other adjoining zoned lands, and an overall landscape plan to assimilate the scheme into the hillside and to include retention of mature trees and boundaries.

It is considered that the proposed development by reason of its site configuration, substandard layout and overall design, inadequate road and connectivity layout, would constitute a haphazard and non-integrated form of development which would militate against the comprehensive development of the overall land parcel governed by this objective.

The proposed development would, therefore, be premature and would constitute piecemeal, disorderly development which would seriously injure the residential and visual amenities of the area. Therefore, the proposed development is contrary to the stated objective and would, therefore, be contrary to the proper planning and sustainable development of the area.

5.0 Policy and Context

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

- 5.1.1. The National Planning Framework – Project Ireland 2040 is a high-level strategic plan for shaping the future growth and development of Ireland to 2040. A key objective of the Framework is to ensure balanced regional growth, the promotion of compact development and the prevention of urban sprawl. It is a target of the NPF that 40% of all new housing is to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites with the remaining houses to be delivered at the edge of settlements and in rural areas.
- 5.1.2. The NPF includes a Chapter, No. 6 entitled ‘People, Homes and Communities’. It sets out that place is intrinsic to achieving good quality of life. A number of key policy objectives are noted as follows:
- National Policy Objective 33 seeks to “prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location”.
 - National Policy Objective 35 seeks “to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights”.
- 5.1.3. 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:
- quality homes and neighbourhoods,
 - places where people actually want to live, to work and to raise families, and
 - places that work – and will continue to work - and not just for us, but for our children and for our children’s children.
- 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 a number of safeguards.
- 5.2.4. Chapter 6 of the guidelines deals with Small Towns and Villages and notes that in some cases, concerns have been raised about the impact of rapid development and expansion on the character of smaller towns and villages. The Guidelines specifically advise that development in smaller towns and villages must be plan led, and while higher densities are appropriate in certain locations, proposals for lower densities of development may be considered acceptable at locations on serviced land within the environs of the town or village in order to offer people, who would otherwise seek to develop a house in an unserviced rural area, the option to develop in a small town or village where services are available and within walking and cycling distance.

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

5.3.1. 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.

5.4. Cork County Development Plan 2014

5.4.1. Section 2.3 deals with the Network of Settlements and includes objectives which set out the broad strategic aim for each group of settlements in the network. Bandon is identified as a 'Ring Town' as detailed in the Plan and Objective CS 3-1 deals with the higher order settlements within the county.

5.4.2. Chapter 3 of the Plan deals with housing and section 3.4 relates to housing density. Objective HOU 4-1: Housing Density on Zoned Land is therefore relevant, and the subject site is located within an area where Medium 'B' density is applicable (12-25 units per ha). The objective requires as follows:

- Max Net Density extended to 35 dwellings/ha in smaller towns outside Metropolitan Cork.
- Normally applicable in smaller towns (less the 5,000 population).
- Can be applied in larger towns through LAP's where there is a requirement to broaden the range of house types.
- Densities less than 12 dwellings/ha will be considered where an exceptional market requirement has been identified.

- Densities between 25 and 35 dwellings/ha will be considered where an exceptional market requirement has been identified.
- Consider a lower standard of public open space provision where larger private gardens are provided.
- Must connect to public water and wastewater services.
- Broad housing mix normally required including detached/ serviced sites unless otherwise specified in relevant Local Area Plan

5.4.3. The following objectives are also considered relevant:

Objective HOU 3-1 – Sustainable Residential Communities

Objective HOU 3-2 – Urban Design

Objective HOU 3-3 – Housing Mix

5.5. **Bandon Kinsale Municipal District Local Area Plan 2017**

5.5.1. The Board will note that Bandon is identified as a Main Town in the LAP, and a Ring Town within the Greater Cork Strategic Planning Area. Section 3.2 of the LAP specifically deals with Bandon.

5.5.2. The aim of the LAP is to strengthen Bandon’s position as a premier market town through the creation of a unique sense of place by embracing its rich built and natural heritage and encouraging continued expansion of its employment and service function. The focus of the LAP is to address long-standing access and infrastructure barriers and Bandon has been allocated a population target of 7,765 in the 2014 CDP, representing an increase of approximately 1,000 people on the 2011 Census figures. There is, therefore, a requirement to provide an additional 892 houses.

5.5.3. The subject site comprises part of a larger land bank which have been afforded the zoning objective BD-R-06 which states as follows:

Medium B Residential Development. The development of this site should make provision for a link road through the site from the proposed Northern Relief Road to the Cork Road at the western side.

Development of this site should also make provision for pedestrian and cycleway links with existing residential areas and proposed development sites BD-R-09 and BD-R-17.

Proposals for this development are to include provision for an overall landscaping plan to assimilate the scheme into the hillside and should include retention of mature trees and boundaries.

5.6. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the Courtmacsherry Estuary SAC (Site Code: 001230) which is located approximately 10km to the south of the site. The Courtmacsherry Bay SPA (Site Code: 004219) lies a similar distance, also to the south of the site.

The Bandon Valley West of Bandon pNHA, lies approximately 1.5km to the west of the site and the Bandon Valley Above Inishannon lies approximately 2.1km to the north-east.

5.7. EIA Screening

- 5.7.1. 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.
- 5.7.2. 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.)

5.7.3. The proposed development comprises 65 no. terraced, detached and semi-detached houses, as well as apartments and duplex units on a site of 3.53ha. The site is located on zoned lands within the development boundary of Bandon and on a green field site. The site is located immediately adjacent to existing residential developments to the south, as such, might be described as ‘other parts of a built-up area’ rather than a ‘business district’. Main Street which is located approximately 400m to the south of the site and there is an existing footpath which connects the south-western corner of the site to the village. As such, I am satisfied that the site area is substantially below the 10ha threshold for ‘other parts of a built-up area’. It is therefore considered that the development does not fall within the above classes of development and does not require mandatory EIA.

5.7.4. 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.

5.7.5. Having regard to:

- (a) the nature and scale of the development,
- (b) the location of the site within the development boundaries of Kilworth,

- (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

6.1.1. This is a first-party appeal against the decision of the Planning Authority to include condition 2 in the grant planning permission for the proposed development. It is requested that the appeal be assessed in accordance with Section 139 of the Planning and Development Act 2000, as amended, and be restricted to consideration of the specified condition only which relates to a single issue – visual amenity – in respect of 6 dwellings. The appeal document sets out the context to the development and the appeal.

6.1.2. Condition 2 states as follows:

2. Before development commences on site, detailed revised drawings shall be submitted for written agreement of the Planning Authority incorporating the following amendments:
 - Omission of units 12, 12A, 14 and 15 and associated car parking spaces in the north-eastern portion of the site and revised proposal submitted indicating that this area should be laid out as additional public open space with the provision of additional tree planting on the northern portion of the site;
 - Omission of units 28 and 49 and associated car parking spaces on the southern portion of the site and revised proposals indicating that this area

should be laid out as additional public open space with additional tree planting.

Reason: In the interest of visual amenity.

6.1.3. The grounds of appeal are summarised as follows:

- The omission of units 12-15 is unjustified and will not result in injurious visual impacts on the ACA or key sites/landmark buildings in Bandon. This is accepted by the Councils Conservation Officer.
- The omission of unit 28 on grounds of relating to insufficient public open space is unwarranted. The proposed development is served by 12% useable public open space which is in accordance with the CDP.
- The PA do not appear to have fully assessed the RFI response regarding the omission of unit 49 which addresses the concerns raised.

6.2. Planning Authority Response

Submission advises as follows:

- The PA welcomes the development of residentially zoned lands and the provision of pedestrian linkages to the north and to the town centre.
- There is no master plan for the entire BD-R-06 zoned lands.
- The land rises steeply from 46m in the south-west corner of the site to 73.6m in the north-east corner, a level difference of 27.6m across the site.
- Condition 2 recommends the omission of 6 units as follows:
 - 12, 12a, 14 and 15 on the northern area and highest area of the site.
 - The zoning objective requires that proposals are to include provision for an overall landscaping plan to assimilate the scheme into the hillside and should include the retention of mature trees and boundaries.

- These units rise to 9.3m in height and as they are located at the highest point, have no visual background when viewed from a number of vistas.
 - The applicants were requested to submit revised proposals for this area but chose not to.
 - The provision of a landscaped buffer on the north-eastern portion of the site will help assimilate the overall development into the hillside over time and is justified to comply with BD-R-06 zoning objective for the site.
- Units 28 and 29 in the south-eastern corner of the site.
 - The provision of open space is between 12-13%, at the base level required in the CDP.
 - Due to site levels, the site is effectively cut in two by the distribution / link road with the majority of the useable open space located to the north of the road.
 - The applicant did not address the request in the FI to address this issue.
 - Both units are set forward of the building line established by the duplexes to the west.
 - The omission of the units will have a number of benefits from a visual perspective and will provide additional public open space.
 - Overlooking issues also noted.
- The development permitted, 59 units equates to a density of 27.3 units/ha and given the site levels and the requirements for an overall landscaping plan to assimilate the scheme into the hillside, the Council considers the scheme should be retained as permitted.

6.3. Observations

None.

7.0 Assessment

7.1. Introduction

7.1.1. Having regard to the nature of this appeal, and having undertaken a site visit, as well as considering the information submitted, and the proposed development, the Board will note that the appeal relates solely to the inclusion of condition 2 in the grant of permission. I am satisfied that the principle of the proposed development is acceptable given the location of the site and the zoning afforded to the area. In addition, I note the planning history of the site. As such, I consider it reasonable to treat this case under Section 139 of the Planning and Development Act, 2000 as amended and the merits of the inclusion of the condition should only be considered.

7.1.2. Condition 2 of the grant of permission states as follows:

2. Before development commences on site, detailed revised drawings shall be submitted for written agreement of the Planning Authority incorporating the following amendments:
 - Omission of units 12, 12A, 14 and 15 and associated car parking spaces in the north-eastern portion of the site and revised proposal submitted indicating that this area should be laid out as additional public open space with the provision of additional tree planting on the northern portion of the site;
 - Omission of units 28 and 49 and associated car parking spaces on the southern portion of the site and revised proposals indicating that this area should be laid out as additional public open space with additional tree planting.

Reason: In the interest of visual amenity.

- 7.1.3. In terms of the principle of the development, the Board will note that the subject site is located within the settlement boundaries of the town of Bandon, which is identified as a Main Town in the Bandon Kinsale Municipal District LAP. The current appeal site comprises part of a larger land bank which has been afforded the zoning objective BD-R-06 which states as follows:

Medium B Residential Development. The development of this site should make provision for a link road through the site from the proposed Northern Relief Road to the Cork Road at the western side.

Development of this site should also make provision for pedestrian and cycleway links with existing residential areas and proposed development sites BD-R-09 and BD-R-17.

Proposals for this development are to include provision for an overall landscaping plan to assimilate the scheme into the hillside and should include retention of mature trees and boundaries.

Medium 'B' density is therefore applicable to the site which provides for 12-25 units per ha.

- 7.1.4. The proposed development generally accords with the provisions of both local and national policy as it relates to residential development on zoned and serviced land.
- 7.1.5. The development of this elevated site which sits above the town of Bandon, would more appropriately be considered in the context of a master plan for the full block of zoned land in this area. Any development of the site will have a visual impact in the wider area, and I note that the zoning objective provides that 'proposals for this development are to include provision for an overall landscaping plan to assimilate the scheme into the hillside'. The Board will note that no overall landscaping plan for the land bank has been submitted. The omission of units 12 – 15 relate to the most elevated area of the subject site and I consider it both appropriate and reasonable, in the absence of a wider landscaping plan for the BD-R-06 zoned lands, that the inclusion of the PAs condition 2 goes some way to support this zoning objective. I therefore consider it appropriate that this element of Condition 2 be fully retained in the interests of visual amenity.

- 7.1.6. With regard to the omission of units 28 and 49, I note both arguments presented. In terms of density, the provisions of Objective HOU4-1 of the CDP and section 3.4 of the CDP, sets out the housing density standards applicable. In this regard, the subject site should support medium 'B' density development with 12-25 dwelling units per hectare. The originally proposed development includes 65 houses on a site covering 3.53ha, with the developable area identified as covering 2.1ha, which would result in a density of 30.1 units/ha. The as permitted development includes 59 houses with a density of 27.3 units/ha. While both layouts will exceed the stated applicable CDP density, I am satisfied that the provisions of Special Planning Policy Requirement 4 as detailed in the Urban Development & Building Height Guidelines 2018 as it relates to density are relevant. As such, I have no objections to the increased density at this site.
- 7.1.7. The omission of units 28 and 49 arises due to the layout of the development, and the distribution of public open space. Overall, the public open space provision amounts to 13% of the overall site area which is in accordance with the requirements of the CDP. The Board will note that the main areas of public open space lie to the north of the proposed estate road which will ultimately become the main link road through the wider zoned area, including BD-R-17, the zoning of which includes provision for a primary and secondary school, connecting the proposed Northern Relief Road to Cork Road. The proposed development provides for pedestrian and cycle connections from the site to Bandon Town centre on Cork Road. In this context, and while I accept that the provision of 13% open space is acceptable on paper, the topography and layout of the site, together with the planning potential and zoning objective requirements for the wider landbank in this area, would suggest that the southern side of the development is lacking with regard to active open space areas.
- 7.1.8. I would acknowledge the proposals along the southern boundary of the site, which will be landscaped and accessible as open space. However, the topography of the area will see an 8m fall over a distance of approximately 10m to 15m. As such, this area will not be available for active recreation, and in particular, for children to play. I do note that 2 number 6mx3m 'Woodland Play Platforms' are intended to be located to the south of the duplex units and an informal 20mx4m grassed kickabout area is

proposed immediately to the south of proposed unit 28. The applicant/appellant argues that adequate public open space has been provided within the overall scheme, which I accept, and taken with the recommendation to omit units 12 to 15 as discussed above, this is not in question. However, I am inclined to agree with the Planning Authority that the actual usable open space area to the south of the link road is restricted due to the topography of the site. In this regard, I consider that unit no. 28 should be omitted, and the area laid out as public open space as required by condition 2 of the grant of planning permission.

7.1.9. In relation to unit 49, this building will be located on the prominent corner in this area of the development and will be surrounded on two sides by the road and car parking to the rear. I would agree that the omission of this unit, and the introduction of additional landscaping would improve the visual impacts of the development in the wider landscape. I would also agree that the omission of this unit will improve the passive surveillance of the public open space in the southern area of the site. As such, I consider the PAs omission of unit 49 to be reasonable.

7.1.10. Overall, I consider that the inclusion of Condition 2 in the PAs decision to grant planning permission is both reasonable and acceptable. I am satisfied to recommend to the Board that it be retained in full.

8.0 Appropriate Assessment

8.1. Introduction:

8.1.1. The site is not located within any designated site. The site is not located within any designated site. The closest Natura 2000 site is the Courtmacsherry Estuary SAC (Site Code: 001230) which is located approximately 10km to the south of the site. The Courtmacsherry Bay SPA (Site Code: 004219) lies a similar distance, also to the south of the site.

8.1.2. Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the

nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site,

9.0 Recommendation

I recommend that planning authority be directed, in accordance with Section 139, Subsection (1) of the Planning & Development Act, 2000-2011, to RETAIN condition 2 of the grant of planning permission for the following stated reasons and considerations.

10.0 Reasons and Considerations

Having regard to the specific provisions of the Bandon Kinsale Municipal District LAP 2017 as it relates to Bandon, and in particular, the zoning objective BD-R-06 afforded to the subject site, the layout and design of the proposed development, planning history of the site and the topography of the site, it is considered that the inclusion of condition number 2, as set out in the planning authority's decision to grant planning permission for the residential development, is both reasonable and necessary to ensure the protection of the visual amenity of the wider area and the implementation of the zoning objective in terms of ensuring the assimilation of the scheme into the hillside.

In addition, it is considered that the inclusion of condition 2 will ensure appropriate levels of useable public amenity space in the southern area of the development, and to the south of the link road, in the interest of visual amenity and the proper planning and sustainable development of the area.

A. Considine
Planning Inspector
18th May 2022