



An
Bord
Pleanála

Inspector's Report

ABP-314742-22

Development

Residential development consisting of the following: (i) 42 no. dwelling houses, 3 no. apartment blocks each including 4 no. apartments, and 2 no. serviced sites, (ii) installation of playground, (iii) installation of 2 no. bin corrals and (iv) all associated site works including estate roads, footpaths, lighting, services and landscaping

Location

Dromleigh South , and Sheskin,
Bantry, Co. Cork.

Planning Authority

Cork County Council

Planning Authority Reg. Ref.

21/00833

Applicant(s)

Aiden McCarthy

Type of Application

Permission

Planning Authority Decision

Grant subject to conditions

Type of Appeal

Third Party v. Grant

Appellant(s)

Michael Collins

Angela Muckley

Con O'Leary

John Cotter

Observer(s)

Kristina Schröder

Ivan Smith and Marie McCarthy

Peter Sweetman & Associates and on
behalf of Wild Ireland Defence CLG

Date of Site Inspection

28 September 2023

Inspector

Cáit Ryan

1.0 Site Location and Description

- 1.1. The site is located in Bantry, approximately 80km south west of Cork City. This greenfield site is located on the southern periphery of Bantry, approximately 700m from the town centre via Chapel Street. It is located in the townlands of Dromleigh South and Sheskin.
- 1.2. It is an irregular-shaped site. There is a much variation in topography within the site itself and lands in the vicinity. The long, narrow northern part of the site is accessed from L-84713. This cul-de-sac road serves two schools, Coláiste Pobail Bheantraí/Bantry Community College and Gaelscoil Bheantraí, the HSE primary care centre and established residential areas. Due to the trees and overgrowth, the northern part of the site is largely screened from view from the cul-de-sac. On site inspection a large amount of rushes in this part of the site were noted. The drop-off and service entrance to Coláiste Pobail Bheantraí is located immediately to the east of this site boundary, and the entrance to the primary care centre is located approximately 16m to the north east.
- 1.3. To the south, south east and south west the site is bounded by narrow local roads. Rushes are evident across much of the site. This area on the periphery of the town is characterised by single dwellings on individual sites, some of which are very large sites. In general, the larger southern part of the site is 'bowl shaped', such that there is a fall from the roadside boundaries in a northerly direction. Along the southwestern boundary of the site, the L-4714 road slopes in a northwest direction. This local road continues in a northwest direction towards Bantry General Hospital, 500m to the north. This road generally comprises of single houses, mature tree-planted field(s), and the large Rehab Care premises.
- 1.4. A stream runs along the north eastern site boundary, where the site bounds the sports grounds of Coláiste Pobail Bheantraí. A more minor stream along a short stretch of the north western boundary flows into this stream. There is a bridge over this stream at the entrance to the HSE primary care premises.

2.0 Proposed Development

2.1. The proposal is for a residential development comprising 54 dwelling units and 2 serviced sites, as follows:

- 42 no. houses
- 12 no. apartments, in 3 no. blocks, each with 4 no. apartments
- 2 no. serviced sites

A playground, 2 no. bin corrals and associated site works including estate roads, footpaths, lighting, services and landscaping are also proposed. It is proposed to culvert an existing stream under a limited part of the internal access road. Site area is stated as 3.58ha.

2.2. The most northerly part of the site is stated to be owned by Cork County Council. A letter of consent and associated map from the Council for the inclusion of these lands in the proposed development was lodged with the application. The letter states that any potential disposal will be subject to consents and procedures required under Section 183 of the Local Government Act 2001.

2.3. The proposed development was subsequently re-advertised as Significant Further Information and Revised Plans. The number of proposed dwelling units remains unchanged at 54 no. (42 no. houses and 12 no. apartments) and 2 no. serviced sites. Significant changes are made to the site layout. The design of the apartment blocks and some dwellings are also amended. The 3 no. apartment blocks are two-storey in height with pitched roof. It is proposed to provide a bridge over the stream instead of culverting same.

3.0 Planning Authority Decision

3.1. Decision

The planning authority made a decision to grant permission subject to 50 no. conditions. Conditions of note are as follows:

Condition 1: Standard condition requiring development to be carried out in accordance with application lodged on 1 December 2021, as amended by documents/drawings received on 13 December 2021 and 29 July 2022.

Condition 2: Requires revised drawings showing deletion of pedestrian path running to rear of dwelling units 29 to 34 inclusive and Site 1, and curtilages of these dwellings to be extended to abut the L-4714 road. Provide pedestrian path to the south westernmost part of site from the turning head to L-4714 road.

Condition 3: Section 47 agreement required restricting all residential units to first occupation by individual purchasers.

Condition 6: Requires revised landscaping scheme.

Condition 8: Existing hedgerows along southern boundaries adjacent to L-4714 road to be maintained in their entirety.

Condition 21: Road boundary to be set back to facilitate future footpaths.

Condition 31: 5m wide wayleave shown on Drawing No. P2 116 ('Proposed Site Works – Existing and Proposed Watercourse Location') illustrating the surface water drain to be routed through the serviced site shall be registered in favour of the planning authority.

Condition 32: Stream/river along north eastern boundary shall be fenced off at a minimum distance of 3m from stream bank.

Condition 43: Requires site-specific proposal for bridge and compliance with OPW's requirements under Section 50 of EU (Assessment and Management of Flood Risks) Regulations SI 122 of 2010 and Section 50 of Arterial Drainage Act, 1945.

Condition 45: Works shall be in accordance with ecological protection/mitigation measures of Ecological Impact Assessment Report, submitted 1 December 2021.

Condition 49: Special contribution of €52,000 relating to Special Roads Contribution towards construction of 2m wide footpath on roadside boundary of site.

Condition 50: Development contribution of €49,055.02.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Basis for planning authority's decision -

Area Planner and Senior Executive Planner reports (dated 2 February 2022 and 9 September 2022)

First Area Planner's report notes the content of internal reports on file. Key issues are summarised as follows:

- Threshold is not met to justify submission of Traffic Impact Assessment (TIA).
- Traffic calming measures within scheme required.
- Radical reconsideration of site layout required. Too many dwelling units, overlooking, impacts on house to southwest and concerns regarding design and location of flats. 'Wasteland' areas at south western and south eastern perimeters.
- House design and scale requires amendment.
- Approximately 14 no. units back onto the watercourse at north eastern boundary. Issue raised regarding maintenance of watercourse.
- Issue of low water pressure is a matter between observers and IW. Oversizing of any new water supply pipe is required.
- Matters raised in Ecological Impact Assessment require to be addressed.
- Screened out Appropriate Assessment.

Further Information requested relating to 15 no. items reflects Area Planner's report

Senior Executive Planner's report concurs with the Area Planner's recommendation to request Further Information.

Second Area Planner's report includes:

- Notes internal reports on FI response
- Cork County Development Plan 2022-2028 came into effect on 6 June 2022. BT R-05 emphasises that new development should be set back from watercourses on the boundary of this zone.

- 10 no. Part V units to be provided for affordable use. Second Senior Engineer - Housing report states that developer is in discussions with an Approved Housing Body (AHB) for the development to be acquired for social housing.
- Pedestrian path running to rear of units 29-34 inclusive should be deleted. Exit point onto L-4310-0 could be made at the western part of the site.
- Dwelling units 29-40 inclusive have not removed all concerns, but revisions are sufficient.
- Distance of apartments from western boundary increased to 11.49m.
- Lands zoned for residential purposes in 2005 LAP and subsequent LAPs. Principal orientation of adjoining house to the west (approved under P.A. Ref. 01/1036) is west to east, not south.

Recommendation to grant permission reflects report. 48 no. conditions are recommended.

Second Senior Executive Planner's report concurs with Area's Planner report and recommends grant subject to 50 no. conditions.

3.2.2. Other Technical Reports

Area Engineer (dated 20 January 2022, 7 September 2022)

First Area Engineer's report

- Recommends Further Information on the matters raised in the two separate reports by Estates Engineer and Senior Executive Engineer (SEE).

Second Area Engineer's report

- sets out basis for special contribution of €52,000, relating to footpath provision the full length of the site boundary, approx. 360m.

States no objection, subject to conditions.

Senior Executive Engineer ((1) unsigned, undated report and (2) dated 6 September 2022)

First Senior Executive Engineer (SEE) report includes

- TIA not required. Number of residential units proposed is less than threshold in TII's Traffic and Transport Assessment Guidelines May 2014.
- Access to the site will be via extension to the public road L-84713-1.
- Works will be required at junction of L-84713 with L-4709.
- Special development contribution will be levied if permission granted.
- Special development contribution required for a short section of footpath on the existing road accessing the schools and primary care centre.
- Current timeline for Bantry Relief Road is estimated as
 - Phase 1: detailed design in 2022; construction in 2023, subject to funding
 - Phase 2: preliminary design in 2022; detailed design in 2023.

Recommends Further Information showing 13m wide access road, with 2m wide footpaths and 1.5m wide cycle paths.

Second SEE report

- Revised access road comprising 6m wide carriageway, 2 no. 2m wide footpaths and 2 no. 1.5m wide cycleways is acceptable
- Pedestrian access point should be relocated further to the north west, at a location to be agreed
- Site boundary line to be set back to provide for the future construction of a footpath, extent of which to be agreed with the planning authority.

States no objection, subject to 6 no. conditions.

Estates Engineer's reports (dated 22 December 2021 and 17 August 2022)

First Estate Engineer's report includes -

- Longitudinal road gradients should lie between 0.5% and 5%. Much of the estate road has a gradient of 10% (1 in 10).

- Watercourse flows into town centre downstream before discharging to inner harbour via a culvert in the town square. Vital that runoff from site is attenuated to the greenfield rate (Q_{bar}), as increased run-off intensity to the watercourse could impact on flood risk to properties to north and further downstream in the catchment.
- Entire surface water drainage proposals should be amended. 5 no. attenuation tanks are not practical. Proposal should not impede existing drainage channels and watercourses which drain the lands to the south.
- Any proposal to culvert the stream must be subject to an application to the OPW for consent under Section 50 of EU (Assessment and Management of Flood Risks) Regulations SI 22 of 2010 and Section 50 of The Arterial Drainage Act 1945.
- Concerns regarding House No.s 1-12, which back onto watercourse.
- Sufficient additional capacity should be provided in the surface water drainage pipes on the access road to cater for potential development of adjoining zoned lands to the north, i.e., Objective BT-R-13 in the current LAP.
- Landscaping proposals are not acceptable.

Further Information recommended.

Second Estate Engineer's includes:

- Revised longitudinal road gradients of 6.67% (1 in 15) are acceptable.
- Notes Dwg. No. P2116 'Proposed Site Works – Existing and Proposed Watercourse Location'. An existing stream passes under public road to south (L-4714) before passing through centre of the site is to be piped. Wayleave is required, to be transferred to the Council if/when the estate is taken in charge.
- No objection to 4m wide buffer zone to stream and to locked gate.
- No objection to the single attenuation tank comprising of 467m³ of storage.

- Proposed 450mm dia. surface water sewer along a section of the access road (from SW08 to SW13) is acceptable, to provide sufficient additional capacity to cater for potential development of adjoining lands.

Recommends 19 no. conditions be attached to any grant.

Ecology Unit (dated 28 January 2022, 12 August 2022 and 7 September 2022)

First Ecology Unit report includes

- Two un-named watercourses within the site form a direct hydrological link to the waters of Bantry Bay. Under the Water Framework Directive (WFD), Inner Bantry Bay and un-named watercourses are identified as being 'Not at Risk' of meeting their surface water environmental objectives.
- The development will impact primarily on habitats of local importance.
- Satisfied that the development poses no risk of causing impact to the qualifying habitats and species of Glengarrif Harbour and Woodland SAC, and concurs with the conclusion of the submitted screening report.
- There is high possibility that the site holds Common Frog, a protected species under the wildlife act.
- There is potential for snipe to breed on site given the habitats recorded.
- There are contradictions as to how the stream to northeast of site is to be crossed. Ecology Office is not in favour of realignment and/or culverting.

Recommends FI on 6 no. items.

Second Ecology Unit report states

- Unable to make informed assessment due to updated landscaping plan not located.
- Concerns regarding incorporation of majority of the site within the curtilage of dwellings. Open space area reduced and likely loss of semi-natural habitats.
- Restricted access 4m buffer zone to bank of stream is satisfactory.

- Bridging watercourse is satisfactory, subject to natural watercourses retained and protected during site works.
- Notes DixonBrosnan breeding bird survey, and states that while there will be a slight local impact on breeding birds, birds are likely to continue to breed within the retained treeline and hedgerow habitats.
- Notes DixonBrosnan Common Frog survey is based on surveys for breeding frog carried out on 7 April and 16 June 2022, which concludes no suitable breeding habitat for frogs was recorded, and while wet grassland, drainage ditches and stream margins at the site could potentially support adult frogs, none were recorded. While surveys were conducted outside optimal survey period (mid-February to March), it is happy with response.
- Proposals contained in DixonBrosnan's Invasive Species Management Plan to address invasive species are acceptable.

Report recommends Clarification of Further Information (CFI) for a biodiversity lead landscaping plan.

Third Ecology Unit report states that it has been advised that there is insufficient time for site landscaping matters raised in report dated 12 August 2022 to be addressed. States no objection to grant of permission subject to 3 no. conditions.

Environment Unit reports (dated 24 January 2022 and 8 August 2022)

- **First Environment Unit** report states waste management plan is acceptable, and no objection to grant of permission, subject to 1 no. condition.
- **Second Environment Unit** report refers to report of 24 January 2022, and states no objection. No conditions stated.

Public Lighting report (dated 10 January 2022)

- Diagrams showing lamp standard and lamp bollards don't seem to match lanterns shown in the design report. All lanterns are designed at 6m.

No objection subject to 4 no. conditions.

Senior Engineer – Housing reports (4 January 2022 and (email) 7 Sept. 2022)

First Senior Engineer (Housing) report notes:

- Applicant proposes to transfer 6 no. houses to local authority and includes a prior agreement in principle.
- Legislation relating to Part V has changed. Further Information recommended requesting 20% of the units to be transferred to meet Part V obligations. If applicant considers that he is exempt from 20% requirement, to provide sight of the deed of transfer of the lands into his ownership.

Second Senior Engineer (Housing) internal correspondence (email) states:

- There are no issues. The developer is in discussions with an Approved Housing Body (AHB) for the entire development to be acquired for social housing use.

Archaeological Unit report (dated 26 January 2022)

- No objection, subject to condition requiring archaeologist to monitor removal of section of townland boundary between Dromleigh South and Sheskin and to submit report to the planning authority.

3.3. Prescribed Bodies

- 3.3.1. **Irish Water/Uisce Éireann** in a letter dated 13 January 2022 states that the developer has liaised with IW and that confirmation of feasibility has issued. As the applicant proposes to connect to a public water supply/wastewater network operated by IW, it will be necessary to enter into a connection agreement prior to commencement of development. It would however be subject to the constraints of the IW Capital Investment Programme.
- 3.3.2. **Inland Fisheries Ireland** in a letter dated 20 December 2021 asks that Irish Water signifies there is sufficient capacity in existence so that it does not overload either hydraulically or organically existing treatment facilities or result in polluting matter entering waters. If granted, IFI request condition that no interference with bridging,

draining or culverting of the on site or any watercourse, its banks or bankside vegetation with prior approval of IFI. In addition, request that the proposed crossing of the watercourse be by means of span bridge as opposed to culvert unless it is proven the stream is non-fish bearing.

3.4. **Observations to the Planning Authority**

3.5. Nine no. observations were received by the planning authority on the application lodged on 1 December 2021. The matters raised in these observations are similar to those raised in the grounds of appeal and by observers to the appeal. The concerns relate to excessive density, roads, access and drainage, soil suitability, Environmental Impact Assessment (EIA) and Appropriate Assessment (AA) requirements not carried out, Water Framework Directive (WFD) not complied with, anti-social behaviour and adverse impacts on residential amenities.

3.6. Following the re-advertisement of Significant Further Information and Revised Plans, seven no. observations were received by the planning authority. The matters raised are similar to those raised in initial observations to the planning authority and the grounds and observations to the appeal. Concerns include proposal not scaled back and clarification required regarding social housing allocation.

4.0 **Planning History**

Planning history set out in First Area Planner's report includes 1 no. application on part of the subject lands, and 16 no. planning applications in the vicinity of the site and wider Bantry area, dating to 1998. Two of these applications only and a recent planning application at Bantry General Hospital are outlined below:

Subject Site:

***P.A. Ref. 10/445:** Planning permission refused in 2010 for a dwellinghouse, garage and wastewater treatment system at Dromleigh South, on the south western part of the current appeal site. The 2 no. refusal reasons relate to (1) location of the site

outside the Bantry development boundary and within mapped green belt, and (2) inappropriate siting and orientation would be out of character within rural area.

*Note: 10/00446 is stated in Area Planner's report. P.A. Ref. 10/445 is noted on planning authority's website. First Estate Engineer's report contains refusal reasons.

Sites in the Vicinity:

P.A Ref. 01/1036: Permission was granted in 2001 for two-storey house to the west of the subject site. This dwelling has been constructed.

P.A. Ref. 21/536: Planning permission was granted in 2022 at Bantry General Hospital for single storey extensions comprising endoscopy unit and stroke rehabilitation unit, and overflow car park. This site is approx. 170m north west of the current appeal site, on the opposite side of the primary care centre.

5.0 Policy Context

5.1. Cork County Development Plan 2022-2028

(Vol.1) Chapter 18: Zoning and Land Use and (Vol. 5) West Cork

Two land use zoning objectives apply to the subject site:

- Most of the site (2.3ha) is zoned Residential. Specific Development Objective BT R-05 (Vol. 5 West Cork) applies to this 2.3ha landbank.
- Two other separate parts of the site are zoned Objective ZU 18-9: Existing Residential/Mixed Residential and Other Uses, namely the approx. 0.78ha area at the northern part of the site, and an approx. 0.29ha land parcel bounding L-4714 to the west.

Objective ZU 18-9: Existing Residential/Mixed Residential and Other Uses includes the scale of new residential and mixed residential developments within the Existing Residential/Mixed Residential and Other Uses within the settlement network should normally respect the pattern and grain of existing urban development in the surrounding area. Overall increased densities are encouraged within the settlement network, in

particular within high quality public transport corridors, sites adjoining Town Centres Zonings and in Special Policy Areas identified in the Development Plan unless otherwise specified, subject to compliance with appropriate design/amenity standards and protecting the residential amenity of the area.

Objective ZU 18-9 is stated to include to apply to main towns, which Bantry is. Appropriate uses for this zoning objective include 'Residential development'.

Separately, lands to the south, south east and south west of the subject site, on the opposite side of local roads, are located in the greenbelt (GB 1-1).

Development Plan Mapping

The site is located within a High Value Landscape.

The site is within Flood Zone C.

The Landscape Character Type is Rugged Ridge Peninsulas.

Volume 1

Chapter 4 - Housing

Medium Density B applies to most (2.3ha) of the site, as set out in Vol.5 - West Cork (regarding Specific Development Objective BT R-05).

The Development Plan states (**at section 4.8.12 – Vol.1**) that an increased minimum threshold is recommended from 12 to 20 units /ha in this category and the maximum threshold from 25 to 35 units /ha which will overlap with the Medium A category. This revised Medium B density category would be generally applicable to suburban and greenfield sites of the smaller towns with a population <5000 providing for a tiered density structure and a mix of residential typologies.

Separate to Medium Density B which applies to most of the site, there are two distinct areas of the overall site to which ZU 18-9: Existing Residential/Mixed Residential and Other Uses zoning objective applies, as outlined above.

The Development Plan states (**at Section 4.9.8**) that proposals for increased densities within this category to optimise the development of lands within the built envelope of a settlement are generally supported, subject to protecting existing residential amenities and adhering to proper planning and development standards.

Chapter 11 – Water Management

Objective WM 11-1: EU Water Framework Directive and the River Basin

Management Plan includes:

- a) Protect and improve the County's water resources and ensure that development permitted meets the requirements of the River Basin Management Plan and does not contravene the objectives of the EU Water Framework Directive.
- c) Secure the objectives and facilitate the implementation of the associated Programme of Measures of the River Basin Management Plan 2018-2021 and any successor plan for ground, surface, estuarine, coastal and transitional waters in the Plan area as part of the implementation of the EU Water Framework Directive.
- g) Development may only proceed where appropriate wastewater treatment is available which meets the requirements of environmental legislation, the Water Framework Directive and the requirements of the Habitats Directive.

Objective WM 11-10: Surface Water, SuDS and Water Sensitive Urban Design

includes:

- b) Encourage the application of a Water Sensitive Urban Design approach in the design of new development or other urban interventions. Opportunities to contribute to, protect or re-enforce existing green infrastructure corridors or assets should be maximised.
- c) Optimise and maximise the application of Sustainable Urban Drainage Systems (SuDS) to mitigate flood risk, enhance biodiversity, protect and enhance visual and recreational amenity; all in the most innovative and creative manner appropriate and in accordance with best practices. Proposals should demonstrate that due consideration has been given to nature based solutions in the first instance in arriving at the preferred SuDS solution for any development.
- e) Where surface water from a development is discharging to a waterbody, appropriate pollution control measures (e.g, hydrocarbon interceptors, silt traps) should be implemented.

The Development Plan states (**at Section 11.10.10**) that the 'Planning for Watercourses in the Urban Environment' Guide (Inland Fisheries Ireland) outlines how to plan future waterside development in a manner which protects the

watercourse and integrates multifunctional considerations. It recognises the need to protect watercourses and their associated riparian zones and that this can contribute to the health and wellbeing of those living nearby. It is also stated (**at Section 11.10.11**) that all rivers and streams should be maintained in an open semi-natural condition, wherever possible and the use of culverts is discouraged.

Objective WM 11-11: River Channel Protection

- a) Ensure adequate protection measures along watercourses, keeping them free from development by ensuring development is kept 10m or other appropriate distance from stream and river banks is in line with best practice for riparian corridors. Development altering the hydromorphology of a watercourse will not normally be permitted, where it may result in the deterioration in the status of a water body through for example, impacts on water quality, quantity or flow rate, riparian habitat or protected species.
- b) There will be a presumption against the use of culverts and opportunities to actively remove existing culverts and re-naturalise/ daylighting watercourses will be encouraged in development proposals.
- c) Where river crossings are considered necessary, clear span river crossing structures shall be used on fisheries waters where possible. The Council will consult with Inland Fisheries Ireland in relation to any such proposals.

Objective WM 11-12: Surface Water Management includes manage surface water catchments and development adjoining streams, watercourses and rivers in such a way as to minimise damage to property by instances of flooding and with regard to any conservation objectives of European sites within relevant catchments.

Chapter 14: Green Infrastructure and Recreation

Section 14.5.10 states that open space provision cannot be judged solely by reference to the amount provided, the quality of the space and range of uses are also critically important.

Section 14.5.11 states that the Guidelines (Sustainable Residential Development in Urban Areas) emphasise qualitative standards to be considered in assessing the quality of provision (design, accessibility, variety, shared use, biodiversity, SUDs, allotments, etc). Generally, at least 12% to 18% of a development site excluding

areas unsuitable for house construction should be allocated to public open space. The need to achieve higher qualitative standards in terms of design and layout is particularly important. In exceptional circumstances where there is a high standard of private open space and where public open space is designed to a very high-quality standard a reduced minimum value of 10% may be applied.

Objective GI 14-6: Public/Private Open Space Provision includes

a) Public Open Space within Residential Development shall be provided in accordance with the standards contained in Cork County Council's Interim Recreation & Amenity Policy (2019) and any successor policy, the "Guidelines on Sustainable Residential Development in Urban Areas" and "Making Places: a design guide for residential estate development. Cork County Council Planning Guidance and Standards Series Number 2".

b) Promote the provision of high quality, accessible and suitably proportioned areas of public open space and promote linking of new open spaces with existing spaces to form a green infrastructure network.

The Council's Interim Recreation & Amenity Policy (2019) is further outlined elsewhere in this report.

Objective GI 14-12: General Views and Prospects includes to preserve the character of all important views and prospects, particularly sea views, river or lake views, views of unspoilt mountains, upland or coastal landscapes and views of natural beauty as recognized in the Draft Landscape Strategy.

West Cork – Volume 5

The Development Plan states (section 2.7.5) that a population of 2,722 was recorded for Bantry (Census 2016). For the Plan period, it has a population target of 3,622.

Specific Development Objective BT-R-05 applies to the 2.3ha landbank which comprises much of the subject site: 'Medium B Density Residential Development with appropriate access. New development should be set back from watercourses on the boundary of this zone.'

This Specific Development Objective requires Traffic Impact Assessment (TIA) and Road Safety Audit (RSA).

Specific Development Objective BT U-06: Identify Route for Bantry Relief Road Phase 2 including pedestrian and cyclist links during the lifetime of the plan to connect from the U-05 relief road to the N71.

The Development Plan states (at Section 2.7.52) that the Council have progressed plans for Phase 1 of Bantry relief road, and subject to funding it is envisaged that construction could commence in 2022. Proposals for Phase 2 are being progressed.

5.2. **Cork County Council Recreation and Amenity Policy – Interim Approach to Implementation - June 2019**

This documents includes:

- In accordance with Cork County Development Plan 2014 public open space should generally be at least 12-18% of a site.
- Open spaces within residential areas should in general be suitably overlooked/ passively supervised by surrounding residential areas and provide opportunities for informal children’s play and passive amenity.
- Recreational facilities shall be provided as part of new housing developments. A statement indicating how the recreational needs of different age groups/users have been taken into account in the design/ layout and provision of open space and recreational facilities shall be submitted in planning applications for residential development for schemes of 25 units or more. The statement should address how this interim policy been taken into account.
- For schemes of 25 to 99 units: Emphasis should be on the provision of quality landscaped public open space and the provision of accessible hard surfaced fenced neighbourhood/local play areas (100m² - 400m²) catering in particular for needs of young children. The size and number of such play areas shall be determined by the Planning Authority by reference to the scale of the development, house mix, location, site characteristics etc. On larger sites recreational walking/jogging routes may also be considered.
- No on-site provision: Having considered the extent of community facilities in the area, where deemed appropriate by the Planning Authority, an equivalent

financial contribution may be considered as an alternative where the delivery of facilities within the site is not feasible.

5.3. National Planning Framework (2018)

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

National Policy Objective 11 states that there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to appropriate planning standards and achieving targeted growth.

National Policy Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

5.4. Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (Cities, Towns and Villages), Department of Environment, Heritage and Local Government (2009)

The Guidelines state that new development should contribute to compact towns and villages. It states (at section 6.8) that the design of each residential scheme within a small town should include making the most effective use of the site, make a positive contribution to its surroundings, take advantage of its location through the use of site topography, provide for effective connectivity, especially by pedestrians and cyclists, and open space design to be guided by the principles of passive surveillance to encourage a safe sense of place, discourage anti-social behaviour and facilitate effective community policing.

5.5. Natural Heritage Designations

The site is not located within or adjacent to any Natura 2000 sites. The nearest Natura 2000 site is Glengarriff Harbour and Woodland SAC (Site Code 000090), approx. 9km to the north west.

5.6. EIA Screening

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

6.0 The Appeal

6.1. Grounds of Appeal

Four no. third party submissions have been received from:

Michael Collins

Angela Muckley

Con O'Leary

John Cotter

The matters raised in the grounds of appeal can be summarised as follows:

- No satisfactory consideration of impacts on existing road network, and no proper assessment of traffic, pedestrian and cyclist safety impacts. Applicant was not directed to provide traffic and transport assessment. Pedestrian and cyclist safety concerns at entrance adjacent to Bantry Community School.
- There have been many accidents on L-4714, which is narrow and badly surfaced, and used to access the viewing point. Road network and road usage is beyond capacity for periods each weekday. Proposal is a hazard.
- The road does not comply with relevant standard Ref. 2.7 of DoECLG's Recommendations for Site Development Works for Housing Areas.
- Inability to analyse the proposed 'recommendations' in advance of writing appeal letter. Worrying that many of the conditions seek re-design.

- Condition 2 requiring a revised site layout is unreasonable. It is very difficult to assess the exact trajectory of new footpath without revised plans, and in absence of revised landscaping plans to be submitted for Conditions 2 and 6, and other site development details required for Conditions 36 and 38.
- Concern whether existing stormwater drainage system has capacity to deal with additional stormwater. Extreme gradient and marshy area could prove a problem. Dromleigh South townland is all clay, springs and steep.
- Development Plan shows Flood Zone A at south eastern corner of the site.
- No adequate provision made for safely managing potentially mobile and waterlogged earth during construction or remaining earth banks on completion
- Non-compliance with BT-R-14 of the West Cork Municipal Local Area Plan August 2017 in respect of zoning status of the site.
- Applicant and planning authority appear to be under misapprehension that the entire site is zoned for housing.
- Very intensive development in a very sensitive environment. Density is excessive having regard to poor quality of site. The FI revised plans have not been scaled back as requested.
- Third party understands that this would be constructed to council's benefit as a social housing scheme. This should not trump an application that does not satisfy planning requirements.
- The 2m block wall to rear of houses 29 to 34 should be built inside the existing ditch to avoid area of wasteland.
- No timeframe for construction of 2 serviced sites, which could become an area for anti-social behaviour or ad hoc building.
- Developer should present measures to mitigate against significant and long term impact on the quality of life of existing residents.
- Onus is on planning authority to ensure that existing dwelling is not negatively impacted. Revised bin corral location is very close to third party's dwelling. No information provided on operation and management of bin corrals.

- No revised house Type 2B drawings submitted.
- Principle of residential development within the subject site is not disputed.

6.2. Applicant Response

The first party response has been prepared and submitted by DMCA Consultants Ltd. on behalf of the applicant and may be summarised as follows:

- A portion of the site is designated 'Existing Residential/Mixed Residential and Other Uses'. Its inclusion within the site is completely appropriate.
- Development Plan recommends residential densities in the range of 20 to 35 units/hectare in 'Medium B' residential zoned lands. Proposed 56 homes on 2.78ha (excluding access road) equates to 20.1uph. The achievable density is restricted by nature of the site which is bounded by steep bank to south and watercourse to the east. Proposal is not overdevelopment, as site is at lower end of recommended density range.
- Extensive ecological assessments carried out. Stormwater design includes diversion of minor drains, watercourse protection and stormwater attenuation.
- Two serviced sites broaden range of housing types and sizes. The previous West Cork MD Local Area Plan 2017 required development on these lands to include serviced sites (Objective BT-R-14).
- Maintenance and security of the serviced sites will be developer's responsibility until developed. Development on these sites will require planning permission. No entrance proposed to these sites from public road.
- Road servicing the secondary school and primary care centre was constructed to a high standard and provides good accessibility to the eastern side of town.
- Site will benefit from Bantry Relief Road, understood to be at design stage.
- Extensive traffic calming measures included within the site. Traffic Impact Assessment (TIA) is not considered necessary for developments of less than 200 houses. Site location is close to the town's main services and amenities.

- Significant reduction in extent of zoned residential lands in Bantry in new County Development Plan in accordance with OPR recommendations.

6.3. Planning Authority Response

The planning authority's response respectfully requests the third party appeals to be dismissed, and for its decision to grant permission to be reaffirmed. The response refers to 3 no. third party appeal submissions, and can be summarised as follows:

- This residential scheme is very much needed.
- All matters were addressed in 2 no. planning reports and all the engineering reports which included the provision of a new footpath to the south western part of the site. The Ecology Unit raised no objection subject to a revised landscaping scheme which can be conditioned.
- Compelling reason to refuse this development has not been submitted.
- There are justifiable reasons for supporting this development, as amended by further information.

6.4. Observations

Three no. observations have been received from Kristina Schröder, Ivan Smith and Marie McCarthy and Peter Sweetman and Associates and on behalf of Wild Ireland Defence CLG. A number of issues raised by observers were also raised by the third party appellants and are not repeated below. Additional issues are summarised as follows:

- Planning permission was refused some years ago for 2 houses on this site.
- The site accumulates water draining from the high ground above.
- Damage to biodiversity. Proposal will have a negative impact on environment.
- Amended scheme looks like density has moved closer to observer's side.
- Proposal is excessive to surrounding area, and out of character with the area.

- Low water pressure and no water for long periods previously due to new properties added.
- Impact on views
- An Bord Pleanála is required to record a view on the environmental impacts of the development pursuant to EIA Directive.
- Regarding Habitats Directive, cites cases including Kelly v ABP [2014] IEHC 400 (25 July 2014) and C-323/17 People over Wind and Peter Sweetman v Coillte Teoranta (CJEU).
- Deficiencies in developer's and planning authority's approach to application of the Habitats Directive, including wrong test pursuant to Article 6 applied.
- Mitigation provided for in screening assessments.
- DixonBrosnan Report in Support of Appropriate Assessment Screening identifies impacts and lacunae that would necessitate Stage 2 AA.
- Bird and bird breeding reports carried out over very limited number of surveys at wrong time of year. Necessary criteria not properly considered.
- No amphibian report. Common frog survey carried out at wrong time of year.
- In-combinations effects not properly identified. Sizeable extension at hospital not taken in account.
- Hydrological connection between the site and Bantry Bay identified, but issue not considered. AA triggered given the low threshold test for screening.
- Development must be assessed for compliance with Water Framework Directive (2006/60/EC). ABP is precluded from granting permission under the terms of ruling of Hyland J., in Peter Sweetman v An Bord Pleanála and Ors.
- Development is within Zone of Influence of several SACs.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all submissions received in relation to the appeal, and having inspected the site, and having regard to the relevant local and national policies and guidance, I consider that the main issues in this appeal are as follows:

- Compliance with Development Plan - Land Use Zoning and Density
- Site Layout
- Public Open Space
- Residential and Visual Amenities
- Access and Transportation
- Surface Water
- Ecology
- Water
- New Issue – Permeability
- Appropriate Assessment
- Other Issues

7.2. Compliance with Development Plan - Land Use Zoning and Density

- 7.2.1. As outlined previously in this report, two land use zonings apply to the subject site:
- The majority of the site (2.3ha) is zoned Residential, as indicated by Special Development Objective BT R-05 (Vol. 5 – West Cork).
 - Two other separate parts of the site are zoned Existing Residential/Mixed Residential and Other Uses, namely the approximately 0.78ha area at the northern part of the site, and an approximately 0.29ha land parcel bounding L-4714 to the west, as estimated from the planning authority's Development Plan mapping tool.

7.2.2. As the 'Residential' zoning objective which applies to BT R-05 lands includes 'residential development' as an appropriate use, and as zoning Objective ZU 18-9: Existing Residential/Mixed Residential and Other Uses allows for 'residential development', I consider that the provision of a new residential scheme on both land use zonings would be in compliance with the Development Plan.

7.2.3. With regard to densities, the applicant calculates the density of the proposed development, based on 2.78ha (excluding access road), as 20.1uph.

7.2.4. However, in terms of the detail of the overall site area and the areas of the site to which the two separate land use zonings apply, I note that -

- the overall site area is stated on the application form to comprise 3.58ha
- the exclusion of the 'access road' is stated to result in a 2.78ha site area.

In contrast, as measured from the planning authority's Development Plan mapping tool, I estimate that the overall site area is approximately 3.37ha. This is based on BT R-05 lands comprising 2.3ha and the two separate areas zoned Existing Residential/Mixed Residential and Other Uses comprising approximately 0.78ha and 0.29ha.

7.2.5. For the purposes of density calculation, I consider that the alternative estimated site area of 2.59ha should be the basis for the density calculation. This comprises the 2.3ha BT R-05 lands and the 0.29ha zoned Existing Residential/Mixed Residential and Other Uses lands to the west of the site, and excludes the 0.78ha northern portion. This would result in a proposed density of 21.6uph.

7.2.6. With regard to the exclusion of the approximately 0.78ha lands at the northern part of the site from the density calculation outlined above, I note that the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (DEHLG, 2009) state that a net site density measure includes access roads within the site. However, given that the 0.78ha northern portion of the site is essentially an approximately 212m access road with grassed areas on either side leading towards the main residential part of the site, I consider it reasonable to exclude this 0.78ha northern site area from the density calculation in this particular case. (For completeness, the density calculation based on the entire 3.37ha site area would be 16.6uph).

- 7.2.7. The Development Plan states that a Medium Density should apply to BT R-05 lands, which is a minimum threshold from 12 to 20uph, and a maximum threshold from 25-35uph. Separately, Objective ZU 18-9 relating to Existing Residential/Mixed Residential and Other Uses zoned lands states that the scale of new residential development on these lands within the settlement network should normally respect the pattern and grain of existing urban development in the surrounding area, and also that overall increased densities are encouraged within the settlement network.
- 7.2.8. With regard to the pattern and grain of existing development in the surrounding area, there is considerable variation in the immediate vicinity. This includes established detached houses on single sites, most of which are located on Greenbelt 1-1 zoned lands and outside the Bantry development boundary.
- 7.2.9. The site is also bounded by community uses, which in turn are bounded by established housing estates on Existing Residential/Mixed Residential and Other Uses zoned lands. Having regard to this pattern and grain of urban development within the town development boundary, the stated encouragement of overall increased densities within the settlement network, and indicative densities specified in the Development Plan for BT R-05 lands, I consider that a density of 21.6uph would be acceptable in this case, and in compliance with the Development Plan.

7.3. Site Layout

- 7.3.1. The FI site layout shows a significantly revised site configuration from that originally lodged to the planning authority. The overall number of proposed units remains the same at 54 no., and 2 no. serviced sites. I consider the overall FI site layout to be problematic on a number of grounds, as outlined in the following sections. Matters relating to site access are discussed separately under Access and Transportation.
- 7.3.2. A 4m wide buffer zone is proposed to the rear of House No.s 1-12 inclusive, between the rear gardens of these dwellings and the stream. A gate at the northern end would restrict access to this buffer zone. I consider that the site layout does not optimise its relationship to this water feature, albeit a stream, as the layout 'turns its back' to the watercourse, represents poor use of zoned urban land, resulting in land wastage.
- 7.3.3. The Development Plan references 'Planning for Watercourses in the Urban Environment' Guide by Inland Fisheries Ireland and states (at Section 11.10.11) that

all rivers and streams should be maintained in an open semi-natural condition, wherever possible and the use of culverts is discouraged. In this regard I note that while the stream itself is not proposed to be culverted, the extent of new development proximate to the stream would not result in an open character to the immediate environs of the stream within the subject site.

- 7.3.4. I consider that this proposed buffer zone would not benefit from passive surveillance from the houses which would back onto it nor from the existing playing pitches on the schools grounds to the north east. Furthermore, it does not appear to be indicated on the lodged documentation how access at the southern end of this buffer zone would be restricted, i.e., from the public road. There is currently a large amount of mature planting adjacent at the roadside boundary of the site, where the stream flows from the south under the road and into the site. In general, the site falls away from the roadside boundary at this location in a northerly/northwesterly direction, which would suggest that the public road is at a higher level than the lower levels within the site. I note that Condition 21 requires the road boundary to be set back to facilitate the future provision of footpaths. Based on the information on file, the absence of detailed drawings such as sections, etc., relating to the roadside boundary at the south easternmost point of the site, and the requirement by way of condition to provide a 2m wide footpath at this location, the extent to which the buffer zone would become more accessible from the public road is unclear.
- 7.3.5. In addition, Objective WM 11-11: River Channel Protection seeks to ensure adequate protection measures along watercourses, keeping them free from development by ensuring development is kept 10m or other appropriate distance from stream and river banks in line with best practice for riparian corridors. I note that the buffer zone is indicated to be taken in charge, and the Second Estate Engineer's report states that the taking in charge map is acceptable. However, the grounds on which the provision of a 4m wide buffer zone has been considered an appropriate distance in this case, which is substantially below the 10m distance stated in Objective WM 11-11, do not appear to be set out on file.
- 7.3.6. Furthermore, I note that Objective BT R-05 (Vol. 5 – West Cork) requires that new development should be set back from watercourses on the boundary of this zone. While a specific minimum set back dimension is not specified under this section of the Development Plan, I consider that based on the information on file, it has not

been adequately demonstrated how this requirement has been addressed in the proposed development.

- 7.3.7. I consider that the provision of the 4m wide buffer zone at the location shown, and its juxtaposition to the rear site boundaries of House No.s 1-12 inclusive in particular, would create an area which does not benefit from passive surveillance, does not comply with Objective WM 11-11, would result in a poor site configuration and would result in a substandard level of residential amenities for future occupiers of the proposed development. Refusal of permission on this basis is recommended.

7.4. Public Open Space

- 7.4.1. With regard to the quantum of public open space, the Development Plan states that generally, at least 12% to 18% of a development site, excluding areas unsuitable for house construction should be provided as public open space, and that in exceptional circumstances a reduced minimum value of 10% may be applied, where there is a high standard of private open space and very high-quality public open space.
- 7.4.2. As outlined previously, the overall site area is estimated to be approximately 3.37ha. It is considered reasonable in this particular case to disaggregate the 0.78ha northern portion of the site, comprising primarily of the access route, from the public open space calculation. The resulting site area of approximately 2.59ha (2.3ha relating to BT R-05 lands and 0.29ha lands zoned Existing Residential/Mixed Residential and Other Uses) would require public open space in the range of 3108sqm to 4662sqm. In this particular case, the lower requirement of 10% public open space is not considered appropriate, based on the quality of proposed public open space provision, which is discussed further in the following sections.
- 7.4.3. Public open space is indicated on FI drawing titled Proposed Site Works – Proposed Public open areas (Drawing No. P2 113) to comprise 6528sqm. The proposed playground area comprises 250sqm. However, much of the area shaded as ‘public open areas’ could not be considered to comprise genuine open space. For example, bin storage areas and space between the 3 no. apartment blocks and the rear site boundary, and narrow areas between the apartments’ gables, are included in this figure. Having regard to the information on file, I consider that the quantum of public open space is substantially below the minimum 3108sqm required in this case, and

would not be in compliance with the provisions of the Development Plan. Refusal of permission is recommended on this basis.

- 7.4.4. With regard to the quality of public open space, the Development Plan states that open space provision cannot be judged solely by reference to the amount of space provided, and that the quality of the space and range of uses it can accommodate are also critically important.
- 7.4.5. The requirement to provide public open space in accordance with the standards in the Council's Interim Recreation & Amenity Policy (2019) is referenced in Objective GI 14-6: Public/Private Open Space Provision. In schemes of 25 units or more, the Interim policy requires a statement to be submitted indicating how the recreational needs of different age groups/users have been taken into account in the design/ layout and provision of open space and recreational facilities, and how the Interim policy has been taken into account. Save for references in the lodged documentation to drawing(s) of the playground equipment, and some commentary in the FI cover letter regarding the play area, no such statement has been submitted.
- 7.4.6. The overall FI site layout provides for houses which back onto open space areas, such as House No.s 35 to 40 inclusive. While there would be some passive surveillance of this open space area by houses on the eastern side of the internal access route, there would be a poor visual interface between these rear boundaries and the adjoining open space area. This is noting also that these houses would be located at a higher ground level than the open space to the rear. In addition, the FI site layout shows that House No.s 29-34 inclusive and serviced site 1 would be bounded to the rear by a footpath leading to the local road L-4714, which would similarly result in a lack of passive surveillance. In this regard I note that Condition 2 of the planning authority's decision requires the omission of this footpath and the incorporation of this area within the curtilage of these properties.
- 7.4.7. Side gables of dwellings also face onto open space areas and narrow areas of incidental open space. With regard to the open space areas in the vicinity of the apartment blocks, the area extending from the rear yards of the ground floor apartments is in the range of approximately 11.5m – 11.9m from the western site boundary, and includes a path. While this area may be accessible to the public, I consider that these areas could not be considered as genuine public open space,

and while the first floor level apartments would overlook some of this area, there would be very limited passive supervision of same.

- 7.4.8. Having regard to the above, there are a number of areas across the site where houses back or side onto public open space areas, resulting in no or limited passive surveillance in various areas.
- 7.4.9. Furthermore, the overall site layout provides for the main internal access road to bisect the relatively limited areas of public open space. The roughly wedge-shaped area of open space to the east of the main access road (located north of bin corral 2 for houses 7-20) has limited dimensions, comprises approx. 20m at its widest point, and has a maximum length of 33m. It is surrounded on all sides by roads and the turning head to the cul-de-sac. The configuration of this space, the inclusion of a footpath traversing it and its limited size would not lend itself to active recreational use to serve a scheme comprising of overall 56 residential units.
- 7.4.10. I note that the overall topography of the site and the varying ground levels within the site, and the differing ground levels in the immediate vicinity of the site, particularly to the south and south east, represent challenges to developing a residential scheme for this site. However, notwithstanding this, I consider that the proposed development would result in both inadequate quantum and quality of public open space, arising from limited or no passive surveillance in places and poor visual relationship between the open spaces and dwellings. The absence of a statement required by the Interim policy as referenced in Objective GI 14-6 is not in accordance with Development Plan requirements. In addition, the proposed development does not comply with Section 6.8 Layout and Design Considerations of the Sustainable Residential Development in Urban Areas Guidelines (2009) which requires a design approach to public areas such as open spaces to be guided by the best principles of passive surveillance to encourage a safe sense of place and discourage anti-social behaviour. Refusal of permission is recommended on this basis.

7.5. Residential and Visual Amenities

- 7.5.1. The proposed development would result in new houses being located at various distances from existing dwellings in the immediate vicinity. The proposed site plan indicates that House No.s 34 and 35 are 23.46m and 30.12m respectively from the

existing two-storey house to the west. The 6 no. FI site sections submitted are limited in terms of the information presented.

- 7.5.2. However, I note the detail indicated relating to House No. 34. While the finished floor level (F.F.L.) of this proposed house is indicated as 70.90m, in contrast to F.F.L. 68.87m shown for the existing dwelling, I do not consider that this proposed dwelling would adversely impact on the residential amenities of the existing house in terms of undue overlooking, having regard to the separation distance between the two properties. This is noting also the location of the proposed development on zoned lands within the town development boundary.
- 7.5.3. First floor level balconies serving apartments would be located approximately 11.4m-11.9m from the western site boundary, whereby they would result in some overlooking of the residential properties which front onto L-4714. In this regard I note the significant rear garden lengths of these houses, and having regard to same I consider that the proposed development would not adversely impact on the residential amenities of these properties by reason of undue overlooking.
- 7.5.4. With regard to concerns raised relating to loss of views, the site is not located on a designated scenic route. While the proposed development would significantly alter the character of the area, and result in some loss or change to views, loss of views from some existing properties would be limited, due to lower ground levels within the site. I note that Objective GI 14-12 of the Development Plan seeks the character of all important views and prospects particularly sea views and coastal landscapes to be preserved. In this regard, I consider that the proposed residential scheme would not in general be in conflict with this objective of the Development Plan.
- 7.5.5. The proposed development comprises largely of 2-storey semi-detached houses of similar design, 3 no. apartment blocks of 2-storey scale and 2 no. serviced sites. The apartment blocks, as viewed externally, are similar to a 'house' design. External finishes for the houses and apartment blocks include render and stone cladding. In terms of design and scale, the proposed 2-storey houses and 2-storey apartment blocks are considered acceptable.
- 7.5.6. With regard to the serviced sites, I consider that in the event that Board was minded to grant permission for the proposed development, conditions could be attached relating to the management and maintenance of same pending their future

development, and parameters relating to the footprint and design of any future units on these sites to be subject of a separate planning application(s). However, refusal of permission for the proposed development is recommended on other grounds.

7.6. Access and Transportation

- 7.6.1. The location of the proposed housing scheme on zoned lands, directly adjacent to established community facilities, and approximately 700m from Bantry town centre, would be acceptable in principle. However, I would have concerns regarding the detailing of the proposed vehicular entrance to the scheme in terms of traffic safety, having regard to context of this site entrance accessed directly from L-84713, at a location where a number of vehicular entrances converge. This is discussed in further detail below.

Site Access – General

- 7.6.2. The L-84713 access road to the subject site provides access to 2 schools, a primary care centre and 2 no. relatively small housing estates. The Sidings and Árd na Gréine estates both terminate in cul-de-sacs. In addition, an area of established low density housing is accessed from the northern end of L-84713. This residential area on the eastern side of the road also connects to other local roads. Traffic lights are in place just north east of the main shared entrance to the schools.
- 7.6.3. In summary, 3 no. existing vehicular entrances converge at or near the proposed vehicular entrance to the site. These and other entrances further north east along the public road (L-84713) comprise:
- On the south eastern side of road:
 - The drop-off/service route entrance to Coláiste Pobail Bheantraí is immediately to the east. There is a yellow box directly outside this entrance.
 - The separate main shared entrance to Coláiste Pobail Bheantraí and to Gaelscoil Bheantraí is located approx. 60m to north east.
 - The entrance to Árd na Gréine is approx. 125m to north east.
 - On the north western side of road:
 - The entrance to the primary care centre is approx. 16m to north east.
 - The entrance to The Sidings is approx. 255m to north east.

- 7.6.4. The proposed development would effectively be a cul-de-sac scheme. The FI site layout proposes a separate pedestrian access to the south west, to access L-4714. Separately, it is noted that Condition 2 of the planning authority's decision requires this pedestrian entrance to be re-positioned to the south westernmost part of site (approximately northwest of House No. 34).
- 7.6.5. The Development Plan (Vol. 5 – West Cork) requires a Road Safety Audit (RSA) and a Traffic Impact Assessment (TIA) to be submitted in relation to lands to which Specific Development Objective BT R-05 applies. Notwithstanding that the entirety of the site is not within lands to which this Objective applies (i.e., the separate 0.78ha and 0.29h lands at the northern and western parts of the site respectively), this Objective relates to the majority of the site. Accordingly, I consider that having regard to the specific requirement in the current Development Plan for a RSA and TIA to be prepared in respect of lands to which Specific Development Objective BT R-05 applies, and to the multiplicity of existing vehicular entrances that converge at or near the proposed vehicular entrance to the subject site, I consider that both such assessments are required to be prepared for the proposed development, and that the proposal is therefore not in compliance with the Development Plan in this regard. Refusal of permission on this basis is recommended.
- 7.6.6. For clarity, I note that the operative Local Area Plan (LAP) at time of the planning authority's FI request (on 2 February 2022) was West Cork Municipal District LAP 2017. The Cork County Development Plan 2022-2028 came into effect on 6 June 2022, and the FI response was received by the planning authority on 5 August 2022.

Site Entrance (Detailed Design) and Parking Area for Apartments

- 7.6.7. I consider the detailing of the proposed entrance to the scheme to be deficient in terms of its connectivity to lands directly outside the red line boundary of the subject site, as shown on FI Proposed Site Works Road Junction Layout drawing (Dwg. No. P2 401; Rev. P02). On the north western side of the entrance, there is no detail regarding any potential or indicative tie-in with the existing footpath approx. 10.5m further to the north east, i.e., the footpath at the entrance to the primary care centre. The proposed cycle lane within the subject site is indicated to terminate at the red line boundary at the site entrance.

- 7.6.8. On the south eastern side of the site entrance, the proposed footpath narrows to approx. 1m at its narrowest point. No tie-in with the adjoining public road is shown. There is an existing approx. 2.4m wide gate south east of this footpath, to the north east of which is the approx. 7.5m wide drop-off/service entrance and a further separate pedestrian entrance to Coláiste Pobail Bheantraí grounds. The First Senior Executive Engineer report notes that a short section of footpath will have to be completed on the existing road accessing the schools and primary care centre, and that a special development contribution would be required for this. No condition requiring a special contribution in respect of same is included in the planning authority's decision. (For clarity, Condition 49 states that the special contribution relates to the provision of a 2m wide footpath on roadside boundary of the site).
- 7.6.9. While the absence of any details regarding tie-in with existing footpaths relates to lands outside the red line boundary, having regard to the nature and scale of the proposed development, and the close proximity of the proposed site entrance to the existing drop-off/service entrance to the school grounds and to the primary care centre in particular, I consider that deficiencies in the detailed design of the entrance to the scheme, would endanger public safety by reason of traffic hazard, particularly for pedestrians, cyclists and vulnerable road users. Refusal of permission is recommended on this basis.
- 7.6.10. The FI site plan does not show designated car parking spaces for the 12 no. apartments. The FI landscape drawing (Drawing No. P2 104) shows concrete surfacing forward of these blocks, bounding the footpath to the internal access road. I note that the planning authority considered that traffic calming measures proposed in the FI response were acceptable. However, I would have concerns regarding the lack of detailing for car parking spaces to serve the apartments, particularly given the curved nature of the internal access road at this location, and also given that no Road Safety Audit has been submitted, as required by Special Development Objective BT R-05.

Roadside Boundaries

- 7.6.11. The FI boundary treatment layout shows existing ditch and hedgerow to be retained along almost all of the south western, southern and south eastern site boundaries, as shown on drawing titled 'Proposed site works – Landscaping, Lighting &

Boundary Treatment Layout (3 out of 3)'; Drawing No. P2 106, Rev. P02. Save for additional planting along part of the south western boundary and within rear gardens, no new roadside boundaries are indicated.

- 7.6.12. Condition 21 of the planning authority's decision requires the road boundary to be set back to facilitate the future construction of footpaths, details of which are to be agreed. Condition 49 requires the payment of a special contribution of €52,000, towards the construction of a 2m wide footpath on the roadside boundary of the site. The Second Area Engineer's report (dated 7 September 2022) sets out the basis for the calculation of the special contribution, which includes the reservation of a strip of roadside lands for the full length of the site boundary, approx. 360m, for a footpath. This distance of 360m approximates to the combined south western, southern and south eastern perimeter of the site.
- 7.6.13. The future provision of a footpath along the roadside boundaries would alter the character of the area, from its current largely rural character with roadside boundaries comprising hedgerows, and some established single houses on mature sites. I consider that the provision of new footpath, in the context of a new residential development on zoned lands adjoining the existing built-up urban area at its northern end, would be generally acceptable in terms of traffic safety, particularly for vulnerable road users.
- 7.6.14. However, I would have concerns that the provision of this footpath set back would require the removal of much of the existing hedgerow along the south western, southern and south eastern site boundaries. This would appear to be inconsistent with the planning authority's Condition 8, which requires the existing hedgerows along the southern boundaries running adjacent to the L-4714 road to be retained in their entirety and maintained to form a feature of the proposed development. Separately, Condition 6 requires a revised landscape scheme to be submitted, to include *inter alia* details of all trees and hedgerows on site, specifying those proposed for retention.
- 7.6.15. I would agree with concerns raised that it is difficult to assess the exact extent of the required new footpath, in the context of the separate requirement to retain boundary hedgerows. This matter is considered particularly important in the context of the significantly higher ground levels at some locations on the public road, in contrast to

the lower ground levels within rear garden areas, for example, as shown on Site Section 4-4 for House No. 25.

- 7.6.16. The removal of some or all of the existing planting would result in some rear gardens being more exposed from the public road. There is no detail on file to indicate what, if any, new roadside boundaries would be provided, in order to create privacy and a measure of security to the rear of these houses from the public road. I would have concerns therefore that there is insufficient information on file to demonstrate the extent to which residential amenities of some proposed houses may be adversely impacted by the removal/partial removal of hedgerow along rear site boundaries.
- 7.6.17. However, in the absence of detailed drawings to demonstrate how these conditions precedent may be addressed, and having regard to the substantive reasons for refusal which are set out elsewhere in this report, it is not considered necessary to include the lack of clarity regarding roadside boundary treatment as a reason for refusal.

7.7. Surface Water

- 7.7.1. Concerns raised in the appeal include potential of the proposed development to exacerbate flooding in Bantry town centre, due to additional surface water arising, and noting that surface water from lands to the south drain through the subject site. As outlined previously in this report, the operative Development Plan at time of writing is the Cork County Development Plan 2022-2028.
- 7.7.2. I highlight for the Board's information that the Further Information request (Item 4 – 6th bullet point) sought sufficient additional capacity to be provided in the surface water drainage pipes on the access road to cater for potential development of the adjoining zoned lands to the north, with reference to Objective BT-R-13 in the West Cork Local Area Plan 2017. That objective of the previous LAP relates to an approx. 4ha land parcel to the west of the subject site stated as 'Medium Density B Residential Development including community housing'. For clarity, the current County Development Plan does not include any similar specific objective on those adjoining lands.
- 7.7.3. The FI response provides for 1 no. attenuation tank, in lieu of the 5 no. tanks originally proposed. It states that the attenuation tank will be provided with a single hydrocarbon interceptor upstream and a 'hydro-brake' or similar flow restrictor

downstream. The tank will have a minimum nett volume of 467m³ and the hydro-brake will have a discharge rate of 0.0164m³/sec. The sizing of the attenuation tank allows for a discharge equivalent to the Qbar rate for the site for a 1 in 100 year return period stormwater event. As the tank would be at a higher level than the approach road (on Council lands), it is not feasible to attenuate the stormwater generated from this road within the tank. It is proposed to discharge the stormwater generated from the approach road to the stormwater drainage system in the existing public road to the north east, to be catered for on a separate stormwater line (SW08 to SW13). With regard to the adjoining zoned lands, the applicant considers that an assumed potential contributing impermeable surface area of 8000sqm is a reasonable allowance. A 450mm diameter storm pipe from SW08 to SW13 is proposed.

- 7.7.4. The Second Estates Engineer report notes that the attenuation system will limit the run-off from the completed development to the greenfield (Qbar) rate of 16.4l/s, and states no objection to these proposals. With regard to the proposed provision of a 450mm diameter surface water sewer from SW08 to SW13, the report considers this proposal to be acceptable.
- 7.7.5. With regard to proposals to address surface water generated from within the site and the resultant Qbar rate outlined, and the proposals relating to potential surface water generated from the adjoining zoned lands to the west, I consider that these matters have been adequately addressed in the FI response and are acceptable.
- 7.7.6. However, I would have concerns regarding the detailing of the proposed 450mm dia. drainage pipe to traverse Serviced Site 2 in a south west to north east direction, as shown on FI drawing Proposed Site Works Existing and Proposed Watercourse location (Dwg. No. P2 116; Rev. P01). The surface water drain shown on this drawing is positioned generally along the eastern site boundary of Serviced Site 2, which bounds the site of House No. 28 to the east. The western elevation of No. 28 is in the range of approx. 2m-5m from its western site boundary to Serviced Site 2.
- 7.7.7. Condition 31 requires a 5m wide wayleave shown on this FI drawing to be registered in favour of the planning authority. The condition refers only to the wayleave to apply to the serviced site, i.e., there is no reference to a minimum wayleave distance to be retained either side of the proposed pipe, nor is there any requirement for the pipe to

be set back from the site boundary with No. 28. Having regard therefore to the proximity of the pipe to the site boundary with No. 28, I would have concerns that Condition 31 does not provide for a sufficient wayleave for this pipe, as it relates to this adjoining house site No. 28. However, having regard to the substantive reasons for refusal as set out below, it may not be necessary to pursue this matter.

7.8. Ecology

- 7.8.1. Documentation on file includes Ecological Impact Assessment (EclA) lodged with the application, and Common Frog Survey submitted as FI, both of which were compiled by DixonBrosnan environmental consultants. Surveys for breeding frog were carried out on 7 April 2022 and 16 June 2022. It states that within the wet grassland area there was no water suitable for breeding frogs, and while this area could be used as potential habitat for adult frogs, none were recorded. With regard to the streams along site boundaries, these are narrow, fast flowing with exposed bedrock and little in-stream vegetation. While the margins of the streams could potentially be used by adult frogs, the fast flowing nature of the waters make them unsuitable as breeding habitat. It concludes that while wet grassland, drainage ditches and the margins of streams at the site could potentially support adult frogs, none were recorded.
- 7.8.2. As outlined previously, the Second Ecology Unit report states that while surveys were conducted outside optimal survey period (mid-February to March), it is happy with the response.
- 7.8.3. I note in particular that the Common Frog survey outlines that the habitat is not suitable for breeding frogs, and also that the habitat could potentially support adult frogs. Notwithstanding that no frogs were recorded, I would have concerns that any potential limitations in the methodology of the survey, such as the timeframe during which the survey was conducted, have not been adequately set out in the survey.
- 7.8.4. However, having regard to the substantive reasons for refusal which are set out elsewhere in this report, it is not considered necessary to include insufficient detail regarding the Common Frog survey as a reason for refusal.

7.9. Water

- 7.9.1. The DixonBrosnan Report in Support of Appropriate Assessment Screening states that the 'Status' of Bantry_010 (located within sub-catchment: Mealagh SC_010) is

Unassigned, and that Inner Bantry Bay is Unpolluted. The source is indicated as wfdireland map system and www.catchments.ie.

7.9.2. The First Ecology Unit report states that the proposed development is within the Dunmanus-Bantry-Kenmare catchment, that two un-named watercourses within the development site form a direct hydrological connection to the nearby waters of Bantry Bay, and that:

- the Waterbody Water Framework Directive (WFD) status of Inner Bantry Bay and un-named watercourses are unassigned.
- Inner Bantry Bay and un-named watercourses are identified as being 'Not at Risk' of meeting their surface water environmental objectives.

7.9.3. I note the reports from prescribed bodies and internal reports on file. Irish Water states that confirmation of feasibility has issued, and raises no concerns regarding the proposal to connect to a public water supply/wastewater network, other than to state that it will be necessary to enter into a connection agreement, subject to the constraints of the IW Capital Investment Programme. Inland Fisheries Ireland sought the omission of the proposed culvert. Estates Engineer report confirms FI surface water proposals are acceptable, Ecology Unit report states no objection, subject to conditions, and Environment Unit raises no objections to the proposed development.

7.9.4. I note that the EPA's website (viewed on 22 November 2023):

- With regard to the stream along the north eastern boundary of the site
 - Identifies this stream as being part of BANTRY_010 (European Code: IE_SW_21B310750). Status is 'Good' [River Waterbody WFD Status 2016-2021].
 - States River Waterbodies Risk – Cycle 2: 'Not at risk'
- With regard to Inner Bantry Bay:
 - Assigns 'High' status (European Code IE_SW_170_0100) [Transitional Waterbody WFD Status 2016-2021].
 - States Transitional Waterbodies Risk – Cycle 2: 'Not at risk'

7.9.5. Separately, I note that www.catchments.ie (viewed on 22 November 2023) outlines that BANTRY_010 and Inner Bantry Bay are two of the four waterbodies of The

Mealagh_SC_010 sub-catchment (of Dunmanus-Bantry-Kenmare catchment). The sub-catchment assessment (WFD - Cycle 2) states that The Mealagh_010 is a High Status water body and is currently achieving its High Status Objective, and that all four waterbodies are not at risk. This assessment is dated 8 January 2019.

- 7.9.6. With regard to the 2 no. un-named streams on/along site boundaries, I note that the more minor stream along a short stretch of the north western site boundary (north of bin corral 1) connects to the un-named stream which runs along the north eastern site boundary, at a location just north west of the proposed bridge, i.e., the minor stream flows into the stream to which WFD Risk is categorised as 'Not at Risk'.
- 7.9.7. Having regard to the information viewed with regard to WFD status of the various waterbodies, the proposal for the scheme to be serviced by a waste water treatment plant, the surface water proposals outlined in the FI response, to include 1 no. attenuation tank and separate surface water proposals for the northern part of the site, I consider that the proposed development would not adversely impact on water quality and would be acceptable in this regard.

7.10. **New Issue – Permeability**

- 7.10.1. I note that adjoining lands to the west of the site are zoned Existing Residential/Mixed Residential and Other Uses, and that the matter of future development on these lands was raised in the FI request in the context of servicing these lands with regard to surface water. However, the matter of potential future connectivity from the subject site to these lands has not been provided for in the proposed development. These lands are currently heavily planted with mature trees. While the proposed development provides for a new pedestrian entrance at the south western site boundary (and as re-positioned by Condition 2), the matter of permeability would also be particularly important in the context of the potential for improved access from these adjoining lands to established community uses (schools and primary care centre) via the subject site.
- 7.10.2. This is a new issue and the Board may wish to seek the views of the parties. However, having regard to the other substantive reasons for refusal set out below, it may not be considered necessary to pursue this matter.

7.11. Appropriate Assessment

- 7.11.1. The planning authority screened out appropriate assessment. The First Ecology Unit report states that the proposed development site is 8.6km from Glengariff Harbour and Woodland SAC or approx. 10km via a tentative hydrological linkage.
- 7.11.2. A Report in Support of Appropriate Assessment Screening by DixonBrosnan was submitted with the application. It sets out 7 no. European sites within Zone of Influence, whereby it is stated that no pathway exists to 6 no. of these sites. It identifies a source-pathway-receptor between the proposed development site and Glengariff Harbour and Woodland SAC (Site Code: 000090), via a potential pathway comprising impacts on water quality, disturbance or spread of invasive species.
- 7.11.3. The submitted report outlines (at section 9.3 Potential Impacts from Surface Water Discharges) potential impacts on aquatic habitats and fish and invertebrate species during construction and operational phases. It states that while environmental control measures will be implemented during construction in line with standard guidelines, these measures have not been taken into consideration in the screening report.
- 7.11.4. Section 7.4 (Invasive Species) states that Giant Rhubarb (*Gunnera tinctoria*) was recorded within the development site, and that a single Himalayan Honeysuckle (*Lyccesteria Formosa*) was recorded on the eastern boundary, a plant which is still widely sold as an ornamental. Section 9.5 (Spread of Invasive Species) states that *Gunnera* was recorded at the proposed development site, and that given the distance and the weak hydrological connection, no significant risk from the spread of invasive species to Natura 2000 sites has been identified.
- 7.11.5. For clarity, I note that the separate FI submitted Invasive Species Management Plan states (at Section 6. Himalayan Honeysuckle) that there is no statutory obligation to remove Himalayan Honeysuckle.
- 7.11.6. The Appropriate Assessment screening report concludes that the proposed development either alone or in combination with other plans and/or projects does not have the potential to significantly affect any European site, in light of their conservation objectives.
- 7.11.7. In terms of detail, I note that the report submitted with the application on 1 December 2021 states (at section 9.2.1 Otter) that a single span bridge will be installed over the

stream on the eastern boundary over which the access road will pass. This is inconsistent with plans and particulars lodged with the application, which show the stream proposed to be culverted at this location. In contrast, the subsequent FI response proposes a bridge. Notwithstanding the content of the FI response, I note that the lodged AA screening report is not based on the development as originally proposed, and therefore cannot be considered accurate in this regard.

7.11.8. Separately, 5 no. attenuation tanks were proposed in the original application, which were subsequently amended in the FI response to 1 no. tank.

7.11.9. The threshold to be applied at the screening stage in determining whether appropriate assessment is required is whether the proposed development, individually or in combination with another plan or project is 'likely to have significant effects' on a European site.

7.11.10. The nearest European site is Glengariff Harbour and Woodland SAC (Site Code: 000090), approx. 9km to north west. The qualifying interests for this SAC are:

1024 Kerry Slug *Geomalacus maculosus*

1303 Lesser Horseshoe Bat *Rhinolophus hipposideros*

1355 Otter *Lutra lutra*

1365 Common Seal *Phoca vitulina*

91A0 Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles

91E0 Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (Alno-Padion, Alnion incanae, Salicion albae)*

**indicates a priority species under the Habitats Directive*

7.11.11. Based on the information on file, the site would appear to have a hydrological connection to Glengariff Harbour and Woodland SAC. I note the content of Status of QIs for this SAC (Section 8) and Potential Impact (Section 9) set out in the submitted Report in Support of Appropriate Assessment Screening.

7.11.12. It is stated (at Section 9.2.2 Lesser Horseshoe Bat) that the loss of an internal hedgerow/treeline may lead to the loss of *ex situ* foraging habitats for bats however the retention of external hedgerow/treeline will maintain connectivity with the wider landscape. I highlight that the planning authority's decision requires (Condition 8) the

retention of existing hedgerows along southern boundaries adjacent to L-4714, and also (Condition 21) road boundary to be set back to facilitate future construction of footpaths. As discussed elsewhere in this report, it is unclear as what extent of hedgerow would be required to be removed, in order to provide a footpath setback as per Condition 21. However, while these and other conditions are included in the planning authority's decision, I note that the provision of a footpath does not form of part of the scheme, as proposed by the applicant.

7.11.13. I note the content of all information on file, including the FI surface water drainage proposals, and the context of the receiving environment, including in particular the 2 no. un-named streams along site boundaries. During operation, the surface water infrastructure would maintain discharge rates to 'greenfield' levels. Separate surface water proposals are indicated for the northern part of the site, i.e., the area which incorporates the internal access road. I consider that the surface water drainage proposals do not comprise mitigation measures. With regard to potential construction impacts, the potential risk related to accidental spillage is likely to be localised to the immediate area, and should contaminants reach Bantry Bay having regard to assimilation and dilution capacity of the coastal waters, significant effects on a European site can be discounted. The planning history in the vicinity of the site is also noted.

7.11.14. Having regard to the nature, scale and location of the proposed development and the nature of the receiving environment, and the proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans and projects on a European site.

7.12. Other Issues

7.12.1. A third party highlights that no FI revised drawings for House Type 2(B) have been submitted. I note that while the drawing schedule on the FI response includes Type 2(B) Plans and Sections, this does not appear to be on file. However, having regard to the substantive reasons for refusal as set out below, it may not be necessary to pursue this matter.

8.0 Recommendation

8.1. Refusal of permission is recommended.

9.0 Reasons and Considerations

1. Having regard to the existing vehicular and pedestrian entrances to existing schools and entrance to the primary care centre which converge at the proposed site entrance, and also the deficiencies in the detailed design of the entrance, the proposed development would endanger public safety by reason of traffic hazard, in particular pedestrians, cyclists and vulnerable road users. Furthermore, no Traffic Impact Assessment nor Road Safety Audit was submitted with the application in accordance with Specific Development Objective BT R-05 of Cork County Development Plan 2022-2028. The proposed development would, therefore, be contrary to the provisions of the current County Development Plan and to the proper planning and sustainable development of the area.
2. The proposed development, by reason of its overall site layout, and in particular the proposal to create a restricted access, linear buffer zone along a stream and to the rear of proposed dwelling houses, would represent poor use of zoned urban land, would result in land wastage and would not be in compliance with Objective WM 11-11 of the Cork County Development Plan 2022-2028. Furthermore, the overall site layout would result in inadequate quantum and quality of public open space provision and would not be in compliance with Objective GI 14-6 of the Development Plan. In addition, 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' published by the Department of the Environment, Heritage and Local Government in May, 2009, requires a design approach to public areas such as open spaces to be guided by the best principles of passive surveillance to encourage a safe sense of place and discourage anti-social behaviour. Having regard to the proposed site layout, it is considered that the development would conflict with the objectives of the Development Plan and the provisions of the said guidelines, would seriously injure the residential

amenities of the area, and would be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Cáit Ryan
Senior Planning Inspector

4 December 2023

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-314742-22		
Proposed Development Summary	54 no. residential units and 2 no. serviced sites.		
Development Address	Dromleigh South , and Sheskin, Bantry, Co. Cork.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)	Yes	X	
	No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
		N/A	Conclusion
No			No EIAR or Preliminary Examination required
Yes	X	Class 10(b)(i): Construction of more than 500 residential units. Proposed development is for 54 no. units and 2 no. serviced sites,	Proceed to Q.4

		and is therefore below the stated threshold.		
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4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____