



An
Bord
Pleanála

Inspector's Report ABP-315204-22

Development

The construction of a mixed-use business park comprising office, light industry and warehousing uses and all associated site development works.

Location

Clogheenavodig, Spring lane, Bandon, Co.Cork.

Planning Authority

Cork County Council

Planning Authority Reg. Ref.

22/4280

Applicant(s)

Top Scale Investments Ltd.

Type of Application

Permission

Planning Authority Decision

Grant subject to conditions.

Type of Appeal

First and Third Party

Appellant(s)

Sinead Long and Shane O'Donovan
David and Nicola Hamilton-Foott

Observer(s)

Michael Sands.

Date of Site Inspection

30 January 2024

Inspector

Cáit Ryan

1.0 Site Location and Description

- 1.1. The site is located in Bandon, approx. 25km southwest of Cork city. The site fronts onto Spring Lane, a short cul-de-sac road off the N71 relief road. The Glasslinn Road roundabout is approx. 300m north of the N71/Spring Lane junction. It is part of the principal entrance to Bandon on the approach from Cork city, and a key roundabout accommodating local and strategic vehicular traffic using the N71.
- 1.2. It is a greenfield site, currently in agricultural use and located directly south of Bandon Retail Park. Lands accessed from a private laneway off Distillery Road are also located to the north of the site. St. Mary's Cemetery adjoins the site to the south. This cemetery is indicated to be pauper's graveyard, dating from the Famine. Approximately 12 no. houses are located c.60m to the south, at the southern end of this cul-de-sac, most of which are in the small housing scheme Ashgrove Meadows.
- 1.3. The site has a stated site area of 0.88ha. It is a roughly square-shaped site, with a further very limited (approx. 17m) stretch of road frontage at its northernmost end. The site is bounded to the east by fields which in turn front onto Monarone Road, a local road. There are significant differences in ground levels between the subject site and adjoining lands, and within the subject field itself. The northern end of the site is substantially above the Bandon Retail Park site to the north, whereby the existing ground levels at the northern site boundary exceed the height of the two-storey scale retail park units. The ground levels on site fall towards the adjoining public road at the location of the existing agricultural entrance at the southern end of roadside frontage. Spring Lane itself slopes downwards from south to north.
- 1.4. Bandon Community Hospital, Hospital Lane, is located approx. 135m west of the subject site, on the western side of the N71 relief road. This premises is however accessed from local roads to the north. An ESB pole and associated equipment are located at the northern end of the site's roadside frontage.

2.0 Proposed Development

- 2.1. The proposed development is for a mixed use business park comprising office, light industry and warehousing uses and associated site development works. The proposed development as originally lodged comprises –

- Office space (Block 1) comprising 2-storey office building
- Light industrial space (Block 2) comprising 3 no. single storey units
- Warehousing space (Block 3) comprising 5 no. single storey units.

- 2.2. While Blocks 2 and 3 are described as containing single storey units, these buildings are of 2-storey scale. The GFA of the 3 no. blocks as originally lodged (11 February 2022) is 2227.2sqm.
- 2.3. The two-storey office building (Block 1) was amended in the FI response to single storey. The Further Information (FI) response shows a slight reduction in heights of Blocks 2 and 3, and a reduced footprint. The number of units in Block 3 is reduced from five to four. The GFA of the 3 no. blocks was reduced in the FI response (6 October 2022) to 1569.86sqm.
- 2.4. The proposed development will be accessed by a new vehicular and pedestrian entrance onto Spring Lane (L-20441) to be supported by local road widening and new public footpath along the western boundary of the site connecting into the existing footpath network to the north.
- 2.5. Ancillary site works include hard and soft landscaping, retaining walls, car parking, cycle and motorcycle parking, plant building, bin storage, relocation of ESB pole, public lighting and signage.
- 2.6. Documentation submitted with the application includes a Planning Statement, Civil Engineering Report, Construction, Demolition and Environmental Management Plan, Archaeological Assessment, Outdoor Lighting Report and Transport Assessment. A letter from ESB Networks to Top Scale Investments Ltd. was also submitted, stating that the MV Networks can be altered to cater for any proposed development and the ESB has no objection to the planning proposal.

3.0 Planning Authority Decision

3.1. Decision

The planning authority made a decision to grant permission subject to 45 no. conditions. Conditions of note are as follows:

Condition 1: Standard condition requiring development to be carried out in accordance with plans and plans particulars lodged 11 February 2022 and 6 October 2022, except where amended by conditions.

Condition 2: Submit revised drawings showing omission of office block and associated 9 no. car parking spaces No.s 1-9 and omission of east spur road adjacent to these spaces. Area of these parking spaces to incorporate additional tree planting to help screen Block 3 from the Famine Graveyard.

Condition 4: Existing road at Spring Lane shall be widened to not less than 6m to the proposed entrance as shown in FI layout drawings.

Condition 5: Light industrial and warehouse units shall not be constructed until N71/Spring Lane junction improvement works and widening of Spring Lane completed.

Condition 6: Submit revised site layout showing 3m wide shared active travel path serving the development from the junction of Spring Lane and N71.

Condition 7: Provide and maintain pedestrian and cycle connectivity through the development into wider zoned lands when adjoining lands are developed.

Condition 8: Submit revised landscape scheme and landscaping bond of €15,000.

Condition 22: Provide 75mm high raised tarmac platform at junction of public road and site entrance, details to be agreed and platform can only be provided where Section 38 of Roads Act, 1994 process is approved. This location supercedes that shown on FI layout. Should Section 38 approval not be granted, Council reserves right to seek additional safety improvement measures on public road.

Condition 37: Agreement from Irish Water to connect to the public water supply and foul sewer shall be given before any development takes place.

Condition 39: Any retaining wall structure on-site shall be designed according to relevant eurocodes by chartered structural engineer and construction overseen by chartered engineer.

Condition 41: Submit revised Road Safety Audit.

Condition 42: Developer shall be responsible for all costs associated with prohibiting a right turn movement onto Spring Lane off N71. Submit details for agreement.

Condition 43: Submit Road Safety Audit Stage 3 on all constructed development works in accordance with TII RSA guidelines. Agree any recommended measures with auditors and close out implementation of agreed measures.

Condition 44: Special contribution of €354,500 in respect of works proposed to be carried out for improvement works necessary for the junction of Spring Lane and the N71 and for a raised platform on the public road at Spring Lane.

Condition 45: General contribution of €19,891.80

3.2. Planning Authority Reports

3.2.1. Planning Reports

Basis for planning authority's decision:

Area Planner's reports (6 April 2022, 1 November 2022)

Senior Executive Planner report (6 April 2022) and **Senior Planner's** report (1 November 2022)

First Area Planner's report. Key issues are summarised as follows:

- Proposal does not warrant mandatory EIA having regard to Class 10(b)(IV). Site is agricultural land, but site to north is a commercial centre and would fall under a business district. Considers FI required to screen for sub threshold development as per Schedule 7A of the Planning and Development Regulations 2001, as amended.

- BD-B-04 Business Development of Cork County Development Plan 2014 does not specify that all these lands have to be accessed via Monarone Road.
- Specific circumstances to justify office development not demonstrated, would be contrary to town centre first principle and should be omitted.
- Office Block 1 will be visually prominent. Blocks 2 and 3 should be re-located to reduce visual impact.
- No tree survey submitted.
- Proposed development is immediately adjacent to Recorded Archaeological Monument CO110-035 – Burial Ground.
- No fundamental objection by Bandon Roads Office to accessing Spring Lane subject to resolution of matters raised in Area Engineer's report.

Further Information (FI) request relating to 9 no. items reflects Area Planner's report.

Senior Executive Planner's report concurs with recommendation of Area Planner's report to request FI.

Second Area Planner's report

- Proposal will be dealt with under County Development Plan 2014.
- Block 1 reduced to single storey. Recommends office space be omitted.
- Relocation and reduced size and height of Blocks 2 and 3 are acceptable.
- Requested photomontages taken from graveyard not provided.
- Revised landscaping plan and landscaping bond required.
- Indicative masterplan for BD B-04 lands with indicative access via Monaroane Road is acceptable.
- Roads Department of Cork County Council are willing to improve junction access. Special contribution of €350,000 required for improvement works necessary at junction of Spring Lane/N71. Stage 3 audit required by condition.
- EIA Screening determination concludes that EIAR is not required.

Recommends grant subject to 45 no. conditions.

Senior Planner's report

- States no material land use zoning policy change between County Development Plan 2022 and previous County Development Plan 2014 and Bandon-Kinsale Municipal District Local Area Plan 2017. Material contravention process is not considered appropriate in current application.
- Concurs with EIA screening determination carried out by Area Planner and recommendation to grant.

3.2.2. Other Technical Reports

Area Engineer (4 April 2022, 26 October 2022, 1 November 2022)

First Area Engineer's report includes

- Access onto Spring Lane seems obstructed on upper side. 50m sight distances in both directions required.
- Seeks confirmation that Irish Water water connection agreement is obtained prior to any development taking place.
- Traffic and Transport Study states that 80 extra vehicles using Spring Lane during AM peak hours and 65 vehicles during PM peak hours. Notes Bandon Roads Office accept this development. 10m long HGV seems acceptable. 16.5m HGV crosses centre line a bit if travelling westbound on N71. Site constraints in providing necessary pedestrian footpaths.

Recommends FI.

Second Area Engineer's report

- Sight distance slightly obstructed up road from 2.4m set back from edge. Recommends condition requiring raised tarmac platform at junction of L-20441-0 and entrance to development. It is only possible to put this crossing in place under Section 38 of Roads Traffic Act 1994 approval.
- No objection subject to 20 no. conditions.

Third Area Engineer's report

- Direction given by Director of Service Road and Transportation that special contribution of €354,500 is to apply:
 - Special contribution of €350,000 for improvement works necessary for junction of Spring Lane and N71. Should works undertaken be at a lesser cost then contribution shall be reduced to actual costs. Stated costs include Compulsory Purchase Order (CPO) land acquisition, accommodation works to landowner, road realignment and construction works.
 - Special contribution of €4,500 to cover cost associated with Cork County Council putting Section 38 of the Roads Act 1994 in place in order to allow a raised platform on the public road at Spring Lane to be constructed.
- Recommends grant subject to 1 no. condition.

Traffic and Transportation (email dated 6 April 2022, 1 November 2022)

First Traffic and Transportation report includes

- Requests complete analysis of Spring Lane/N71 junction including forward site visibility distance for vehicles stopping turning right onto Spring Lane.
- Concerns about proposed access being used to unlock remainder of zoned lands to east. Recommend that this development within the zoned landbank is the only permitted vehicular access to Spring Lane with only pedestrian/cycle access being considered in future.

Second Traffic and Transport report

- Area office will seek special contribution for junction realignment between N71/Spring Lane which will likely require acquisition of third party lands.
- Recommends that right turns are prohibited into Spring Lane off N71, that Road Safety Audit Stage 3 be completed post-construction and matters arising from RSA Stage 3 are addressed.
- Sightlines on plan at junction of Spring Lane/N71 are satisfactory.
- Recommends revision sought to audit based on updated site layout drawings and more detail in design.

- Active travel infrastructure proposed off N71 is inadequate. Recommends minimum 3m wide shared path is constructed to serve the site.
- States no objection, subject to 8 no. conditions.

Public Lighting (3 March 2022, 25 October 2022)

First Public Lighting report includes no objection, subject to 7 no. conditions.

Second Public Lighting report includes no objection, subject to 6 no. conditions.

Environment (25 March 2022) report states no objection subject to 5 no. conditions.

Archaeology (31 March 2022, 27 October 2022)

First Archaeologist's report

- Proposal is immediately adjacent to Recorded Archaeological Monument CO110-035 – Burial Ground
- Burial ground is mid-19th century associated with nearby workhouse, known as St. Mary's Cemetery, and has number of low uninscribed grave markers.
- Geophysical survey and Archaeological Impact Assessment (AIA) has demonstrated that development site will not impact on previously unrecorded subsurface archaeology.
- Concerns regarding indirect or visual impact on burial ground. Objective HE3-1 includes protection of setting of archaeological monument. Proposed 10m alleviates impact somewhat, but modification to scale and design and additional landscaping recommended.
- Recommends FI relating to redesign to reduce visual impact on burial ground, further landscaping along buffer zone and visual impact assessment of proposal with views to and from burial ground and surrounding area.

Second Archaeologist's report

- Main concern is visual impact on burial ground. Photomontage did not provide sufficient images of views to/from graveyard, therefore difficult to assess visual impact. Recommends condition for detailed landscaping if granted.

3.3. Prescribed Bodies

- 3.3.1. **Irish Water/Uisce Éireann (IW)** in a letter dated 16 March 2022 states that the developer has liaised with Irish Water and a Confirmation of Feasibility has issued. Irish Water have no objection to the proposal subject to the constraints outlined in the CoF and standard conditions. With regard to Water, it is stated as Feasible. With regard to Wastewater, it is stated as Feasible subject to upgrades. The section of existing foul network between the proposed development and Bandon relief road will need to be upgraded from 150mm to 225mm to cater for the proposal.
- 3.3.2. **Transport Infrastructure Ireland (TII)** in a letter dated 11 March 2022 states it will rely on the planning authority to abide by official policy in relation to development on/affecting national roads as outlined in the DECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012), subject to
- Proposed development shall be undertaken in accordance with recommendations of submitted Transport (Traffic) Assessment and Road Safety Audit, and any recommendations should be incorporated as conditions of the permission. Any additional works required as a result of the Transport Assessment and Road Safety Audits should be funded by the developer.
 - TII will entertain no future claims in respect of impacts on the proposed development.

3.4. Third Party Observations

12 no. observations were made to the planning authority. The issues raised in the observations are similar to those raised in the grounds of appeal and observation. The issues raised are summarised as excessive scale of development, traffic safety concerns, detrimental impact on famine graveyard, health and safety concerns, procedural matters, development at highest part of field, proximity to boundary, water pressure issues, services are not taken in charge, natural beauty area and wildlife habitat, and new school proposed on by-pass.

4.0 Planning History

Subject Site:

None

Sites in Vicinity:

I note on the planning authority's online planning search the following 2 no. planning applications in the vicinity of the subject site:

P.A. Ref. 21/4711: Permission was granted in 2022 for 43 residential units, comprising 42 apartments/duplexes and 1 house at The Mart House, Distillery Road, Monarone (townland), Bandon.

This site is approx. 57m east of the subject site. On site inspection it was noted that this permission has not been implemented. The decision to grant permission included a material contravention process, whereby the proposed development would contravene materially Objective BD-B-04 Business Development in the Bandon Kinsale Municipal District Local Area Plan, 2017. Objective BD-B-04 of that previous LAP 2017 relates to a 6ha site and states:

Business development. The development of this site will require the realignment of the road to the east of the site and should also include the provision of a pedestrian footpath and cycle lane to the town.

For completeness, under the Cork County Development Plan 2022-2028, the P.A. Ref. 21/4711 site is located on lands to which Special Policy Area Objective BD-X-02 Allman Quarter Mixed Use Opportunity Site applies.

P.A. Ref. 22/5800 & ABP Ref. PL04.318036: Permission is sought to demolish filling station and CVRT (Construction Vehicle Roadworthiness Testing) centre and partial demolition of car sales showroom, and construction of new filling station comprising retail store with net retail floor area of 161.5sqm with off licence, drive-thru restaurant, construction of car sales showroom, vehicle service and CVRT building, modifications to existing entrances at Glasslyn Road and N71/Bandon relief road to include decommissioning 1 no. entrance and widening 2 no. entrances, revisions to internal site layout and associated work.

The planning authority made a decision to grant permission subject to conditions. This decision is currently under appeal.

5.0 Policy Context

5.1. Cork County Development Plan 2022-2028

Vol. 1 – Main Policy Material

The site is zoned Business and General Employment, which is set out (at Section 18.3.39) as follows:

Objective ZU 18-15: Business and General Employment Areas Promote the development of New Business and General Employment Areas as the primary locations for the development of employment uses such as light industry, wholesale and non-retail trading uses, car showrooms and small/medium scale manufacturing/repairs/warehousing/distribution/logistics. Other uses that could be included in certain specific circumstances could include retail warehousing and office development not suited to town centre or edge of centre locations. Retail warehousing could be accommodated where the specific zoning objective allows. Uses specifically excluded from the business category would include waste management activities and general retail development.

Appropriate Uses in Business and General Employment Areas

Light industry wholesale and non-retail trading uses, car showrooms and small/medium scale manufacturing/repairs/warehousing/distribution uses, logistics, incubator units, childcare facilities, fitting and business to business activity. Retail warehousing and office development where not suited to town centre or edge of centre locations (see objective above)

Separately, lands directly south of St. Mary's cemetery, approx. 15m south of the subject site, are zoned **ZU18-9: Residential/Mixed Residential and Other Uses**. These lands include the approx. 12no. houses at the Spring Lane cul-de-sac.

Vol. 5 - West Cork

The subject 0.88ha site forms part of lands designated **Specific Development Objective BD-B-04: Business development**, which states that the development of this site will require the realignment of the road to the east of the site and should also include the provision of a pedestrian footpath and cycle lane to the town. TIA and RSA Required.

The area of the irregular-shaped Objective BD-B-04 site is stated (at Section 1.4.80) to be 6ha. In contrast, this landbank is stated to be 4.82ha on Development Plan mapping. The measuring tool used on this mapping also estimates this landbank to be 4.8ha. This site area includes St. Mary's Cemetery to the south of the site, which is indicated on OS mapping to be disused.

The overall Objective BD-B-04 landbank bounds Monarone road to the east. Save for St. Mary's Cemetery, the remaining lands on this landbank appear to be greenfield sites.

Separately, **Special Policy Area BD-X-02: Allmann Quarter Mixed Use Opportunity Site** is a large area comprising 13.35ha located to the north and east of the Objective BD-B-04 landbank. The subject appeal site is partially bounded by the BD-X-02 lands to the north. The objective is to encourage the co-ordinated redevelopment of this large site, and it is stated that the area is suitable as a new mixed use business, hotel and residential area adjacent to the town centre.

Elsewhere south west of the subject site, two of the three Specific Development Objectives relating to Business Development which front onto the Bandon Relief Road N71 are:

- **Specific Development Objective BD-B-05** is located on northern side of relief road.
- **Specific Development Objective BD-B-06** is located on opposite side of Spring Lane, and has extensive frontage to southern side of N71 relief road.

These are further outlined as follows:

Specific Development Objective BD-B-05: Business Development. Access to be from the local service road to the west of the site rather than off the Relief Road. TIA and RSA Required. Site area is 3.2ha.

Specific Development Objective BD-B-06: Business Development: Proposals to include the provision of a landmark building on this site, possibly a hotel. Careful consideration to be given to development on the more elevated lands. This is a prominent site and appropriate and well designed landscaping is considered to be important particularly along the southern and eastern site boundaries. Access to the site should be from the local road to the west of the site rather than off the relief road. TIA and RSA Required. Site area is 10.3ha.

General Objective BD-GO-01 is to plan for development to enable Bandon to achieve its population target of 8,773 persons.

General Objective BD-GO-05 is to ensure new development reinforces the primacy of the town centre and contributes to the vibrancy and vitality of Bandon.

Other relevant content contained in Vol. 5 relating to Bandon is outlined as follows:

Bandon is one of two Main Towns in the Bandon Kinsale Municipal District. The aim is to provide a new focus on compact growth through consolidation of the town centre and expansion of Bandon's residential and employment base in a manner that promotes sustainable travel and contributes to the town's sense of place and architectural character.

Economy and Employment: It states (at Section 1.4.23) that Bandon is the principal employment centre within the Municipal District. The Plan supports the continuing role of the town as a business hub for a large rural area and encourages the development of hot desking facilities, computer hubs, financial services and office development with the town centre and on suitably zoned land such as BD-X-02 and BD-X-04. It is stated (at Section 1.4.26) that review of existing employment land supply highlights that there has been no up-take in employment land since the last plan, and existing supply is largely focused on greenfield sites on the north east and south eastern fringes of the town and in Old Chapel village. The town has a high concentration of retail warehouse units along the Relief Road and on the approach roads to the town, with a small level of vacancy evident.

Movement and Public Realm: The Southern Relief Road has been partially completed to divert traffic around the perimeter. However, the steep gradient at western end of the route can present safety issues, especially for HGVs. The completion of the project is a priority for Roads Directorate and TII and in 2021 survey work and traffic modelling will be undertaken to progress the planning and design phase.

Water Management: Irish Water's Investment Plan makes provision for upgrading the Waste Water Treatment plant and network which is currently underway. There is capacity in the waste water treatment plant to facilitate planned population growth. The Investment Plan does not reference improvements to water supply but there are indications that plans are in place to rehabilitate water mains to improve water pressure and capacity. Leakage reduction measures in 2020 have created additional capacity for 500 units.

Vol. 1 – Main Policy Material

Chapter 12: Transport and Mobility

Objective TM12-2-1: Active Travel includes Deliver a high level of priority and permeability for walking and cycling to promote accessible, attractive, liveable, vibrant and safe settlements to work, live, shop and engage in community life, within a ten minute walk of one's home. Prioritise development in our settlements that is well located and design to facilitate walking, cycling and public transport trips. Promote equal access for all through the adherence to universal design in the external built environment.

a) New development areas will be permeable for walking and cycling, via safe, convenient and enjoyable routes, and the retrospective implementation of walking and cycling facilities shall be undertaken where practicable in existing neighbourhoods, to give competitive advantage to these modes. See DMURS (2020 or later revision) and National Cycle Manual and Permeability Best Practice Guide (NTA) for guidance.

Objective TM12-2-2: Promote and facilitate an active travel culture in the County where active travel is a viable choice, including

d) Support the development of a safe, coherent and continuous cycling infrastructure to cater for the needs of all groups of cyclists, especially new cyclists, school children and the elderly and support safe walking and cycle routes particularly in the approach to schools.

Objective TM 12-8: Traffic/Mobility Management and Road Safety includes

a) Where traffic movements associated with a development proposal have the potential to have a material impact on the safety and free flow of traffic on National, Regional or other Local Routes, the submission of a Traffic and Transport Assessment (TTA) and Road Safety Audit will be required as part of the proposal. Where a Local Transport Plan exists, it will inform any TTA.

d) Ensure that all new vehicular accesses are designed to appropriate standards of visibility to ensure the safety of other road users.

e) Improve the standards and safety of public roads and to protect the investment of public resources in the provision, improvement and maintenance of the public road network.

f) Promote road safety measures throughout the County, including traffic calming, road signage and parking.

g) Co-ordinate proposed zoning designations and/or access strategies in settlement plans with speed limits on national roads.

Chapter 16: Built and Cultural Heritage

Objectives HE 16-8: Burial Places Protect all historical burial places and their setting in County Cork and encourage their maintenance and care in accordance with appropriate conservation principles.

Development Plan Mapping

The site is not within a High Value Landscape.

The site is not on a Scenic Route. The nearest such route is Scenic Route Ref. 64: Road between Bandon and Inishannon. This route begins/terminates on the N71 at a point approx. 210m east of the Glasslinn Road roundabout.

5.2. Cork County Council Development Contribution Scheme

Cork County Council's Development Contribution Schemes were adopted on 23 February 2004. It is stated that the General Scheme, as adopted, is for a period of 20 years in line within the time periods for the Cork Area Strategic Plan and the North and West Strategic Plan. The Scheme applies to decisions to grant permission from 10 March 2004. The current General DCS rates date to 2014.

5.3. Spatial Planning and National Roads Guidelines for Planning Authorities, Department of Environment, Community and Local Government (2012)

The Guidelines state (at Section 1.4) that strategic traffic, in the context of national roads, primarily comprises major inter-urban and inter-regional traffic, which contributes to socio-economic development, the transportation of goods and products, both freight and passenger related. Any local transport function of national road bypasses and relief roads in respect of the urban areas they pass through is, and must continue to be, secondary to the role of these roads in catering for strategic traffic. The planning system must ensure that the strategic traffic function of national roads is maintained by limiting the extent of development that would give rise to the generation of short trip traffic on national roads or alternatively by ensuring that the trip demand from future development will primarily be catered for on the non-national network.

The Guidelines state (at Section 3.6) that planning authorities should generally require that applications, involving a new access to a national road or significant changes to an existing access, are accompanied by a road safety audit to aid the identification of any appropriate measures required to maintain safety standards.

With regard to development contributions, it states that development proposals requiring physical works on the national roads network should include making provision for payment of appropriate development contributions in line with planning legislation and local authority development contribution schemes.

Section 3.9 states that where a development which will impact on a national road or an area served by such a road is acceptable in principle and additional traffic to be generated by the proposed development requires upgrading of the roads concerned, the costs of appropriate upgrades should be met by the developer, and a condition should be imposed by the planning authority in respect of such development.

It also states that where a succession of small to medium scale developments will cumulatively have a significant adverse effect on national road network, it can be difficult to identify the point in time when improvements will be required, or proportion of costs that should be attributed to each development. These situations should be resolved where possible by the NRA and the relevant local authority.

5.4. Development Management Guidelines for Planning Authorities (2007)

The Guidelines state that 'special' contribution requirements in respect of a particular development may be imposed under section 48(2)(c) of the Planning Act where specific exceptional costs not covered by a scheme are incurred by a local authority in the provision of public infrastructure and facilities which benefit the proposed development. A condition requiring a special contribution must be amenable to implementation under the terms of section 48(12) of the Planning Act, and it is essential that the basis for the calculation of the contribution should be explained in the planning decision. It will be necessary to identify the nature/scope of works, the expenditure involved and the basis for the calculation, including how it is apportioned to the particular development.

5.5. Development Contributions Guidelines for Planning Authorities (2013)

With regard to a special development contribution, the Guidelines state that this may be imposed under section 48(2)(c) where specific exceptional costs, which are not covered by the general contribution scheme, are incurred by a local authority in the provision of public infrastructure or facilities which benefit very specific requirements for the proposed development, such as a new road junction or the relocation of piped services.

The particular works should be specified in the condition. Only developments that will benefit from the public infrastructure or facility in question should be liable to pay the development contribution.

5.6. Natural Heritage Designations

5.6.1. The site does not lie within or immediately adjacent to any designated European site. The 2 no. European sites in the wider area are:

- Courtmacsherry Bay SPA (Site Code 004219) is approx. 9.5km to the south.
- Courtmacsherry Estuary SAC (Site Code 001230) is approx. 8.8km to the south.

5.6.2. There are no Natural Heritage Areas in the vicinity of the site. The nearest NHA is the Sovereign Islands NHA (Site Code 000105) approx. 21km to the south east.

Three proposed NHAs in the vicinity are:

- Bandon Valley West of Bandon (Site Code 001034), approx. 2.3km to west
- Bandon Valley Above Inishannon (Site Code 001740), approx. 1.9km to north east
- Bandon Valley Below Inishannon (Site Code 001515), approx. 5.7km to east

5.7. EIA Screening

5.7.1. See Form 1 (Appendix 1) and EIA Screening Determination (Appendix 2).

5.7.2. The planning authority considered that while the site itself is used as agricultural lands, the site to the north is a commercial centre and considered that the site would fall under a business district. FI as per Schedule 7A of the Planning and Development Regulations 2001, as amended, was sought to enable the planning authority to screen for sub-threshold development.

5.7.3. The site area of 0.88ha is below the 2ha threshold set out in 10(b)(iv) of Part 2, Schedule 5, Planning and Development Regulations 2001, as amended, which relates to urban development which would involve *inter alia* an area greater than 2 hectares in the case of a business district. 'Business district' means a district within a city or town in which the predominant land use is retail or commercial. As outlined elsewhere in this report, Bandon Retail Park is located to the north of the site.

5.7.4. The EIA Screening report submitted concludes that there is no likelihood of significant effects on the environment arising from this sub-threshold development. The Second Area Planner's report determined that EIA is not required, and the Senior Planner's report concurred with this conclusion.

5.7.5. The EIA Screening Determination, as set out in Appendix 2, concludes that -

Having regard to the criteria in Schedule 7A, the information provided in accordance with Schedule 7A of the Planning and Development Regulations 2001, as amended, and the following:

(a) The subject site comprises 0.88ha, is located on arable land and the proposed development would result in a change to commercial land. A commercial development, Bandon Retail Park, is located to the north. The site is within the development boundary of Bandon, on lands zoned ZU 18-15: Business and General Employment Areas in the Cork County Development Plan 2022-2028, and forms part of lands to which Specific Development Objective BD-B-04 applies.

The proposed development includes some removal of hedgerow along boundaries. Works include soil excavation, and the project will cause noise during the construction and operational phases, and vibration during construction. A number of mitigation measures will be implemented during the construction and operational phases to reduce impacts on existing residential properties and biodiversity. The proposed development would be served by public water, wastewater and surface water infrastructure.

- (b) A Construction and Demolition Environmental Management Plan (CDEMP) was submitted with the application. It contains a number of measures to reduce/mitigate the impacts of the proposed development during construction phase, including measures relating to noise, dust, air quality, waste management and surface water management.

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are:

- First party appeal against Condition No.s 2 and 44 of the planning authority's decision to grant;
- 2 no. third party appeals against the planning authority's decision to grant.

6.1.1. First Party Appeal

- Omission of office element (Condition 2) and financial contribution amount (Condition 44) have significant implications for scheme's viability.
- Bandon is underperforming as Main Town in terms of jobs to worker ratio. No zoned employment land has come forward for development in last 12+ years.
- Office block will not prejudice the town centre and is not precluded at this location. It will contribute to vibrancy in the area, create conditions to attract high quality jobs and support envisaged population growth.
- Office use is justified under specific circumstances having regard to adopted policy, design intent, lack of suitable alternative floorspace and precedent.
- Office use permitted at locations on N71 bypass under P.A. Ref. 09/5780 and P.A. Ref. 20/4833. P.A. Ref. 20/4833 was for change of use of part of building

from bulky retail warehouse to offices on lands zoned general business, and equivalent distance to town centre as the subject site.

- The site is zoned for employment use.
- A significant landscape buffer has been established to paupers' graveyard and there will be no material visual or other interactions with the site.
- Special development contribution is excessive and does not accord with principles of reasonableness or proportionality, having regard to Development Contributions Guidelines for Planning Authorities 2013.
- Concerns regarding proportionality of costs which will contribute to addressing legacy issues relating to permitted housing on Spring Lane.
- Special contribution at €354,500 is in addition to general DCS condition which includes a roads component, and is a double charge.
- No basis provided for special contributions calculation, contrary to legislation and Development Management Guidelines for Planning Authorities 2007.
- An independent surveyor costed the upgrade as detailed on the permitted plans, relating to works in the area of the public road or the applicant's landholding. OCFPM confirms that the specified works can be completed at a cost of €188,008 ex. VAT (€213,389.08 incl. VAT)
- When General Development Contribution of €19,891.80 is taken from the €213,389.08 figure, the residual cost is €193,497.28.
- Applicant is happy to fund 75% of costs, an equivalent value of €145,122.96.

The first party appeal includes 2 no. drawings:

- Proposed: Site Layout Plan (Drawing No. 4248-P-01; Rev. 0) shows areas of proposed tree planting and 42 no. car parking spaces.
- Site Section D-D-, E-E (Drawing No. 4248-P-03; Rev. F) shows additional planting in the buffer zone area between the internal vehicular route and the graveyard.

6.1.2. Third Party Appeals

Two no. third party appeals have been received from Sinead Long and Shane O'Donovan and from David and Nicola Hamilton-Foott. The issues raised in the third party appeals are summarised as follows:

Access and Transportation

- Condition 42 prohibits right turn from N71 bypass onto Spring Lane. This was absent from original planning application. No consultation about this.
- Condition 42 does not indicate whether right turn limitation refers to heavy goods vehicles or all vehicles. If third party has to continue to very busy roundabout at Glaslyn Road to perform U-turn, this is unsafe and unfair.
- It will funnel more traffic onto insufficiently sized roundabout metres from playground, putting childrens' lives at risk and causing further congestion. There is a skatepark at roundabout.
- Size and scale of original application has completely changed. It should have been readvertised for public consultation.
- If not rescinded it will subject to judicial review as due process not adhered to.
- Information requested on P.A. Ref. 22/5458 made by Kevin O'Leary (Bandon) Limited due to traffic concerns. P.A. Ref. 22/5800 is also referenced.
- Right turn lane onto Spring Lane is one of at least 11 right turns off this stretch of N71.
- New school earmarked approx. 400m on N71 bypass on same side of Spring Lane, for approx. 1000 primary and secondary school children. As Council and TII are considering no-right turn here they will have to impose same condition on this.
- No right turn restriction to retail park 30m from Spring Lane/N71 junction.
- Area was originally zoned so that access would be via Monarone Road where zoned land of BD-B-04 was originally laid. It was never within original plans that industrial development could access onto Spring Lane.
- Council have erred in applying conditions to road widening which applicant is unable to comply with.
- The entrance to Spring Lane is 3.8m wide from ESB pole to opposite side of road to another third party's land. Applicant does not have possession of land below site. At north western boundary there is a drop of approximately 20m down into Bandon retail park.

- Impossible to meet conditions 4 and 6 to widen Spring Lane due to 7m cliff/drop on one side and encroachment on privately owned land on the other.
- Site entrance should be minimum 11m wide. The applicant has 3.8m.
- Impossible to make entrance wide enough to have 2 cars as applicant does not own the land to sufficiently widen it.
- Condition 4 requires Spring Lane to be widened to not less than 6m to proposed entrance. For 2 articulated lorries to pass 8m minimum required.
- Concrete piling on ground on opposite side of road will need to be kerbed and given proper foundation so lorries do not slide into field below it.
- Condition 4 will affect root protection zone identified in Condition 8.
- FI drawing N71/Spring Lane junction layout not checked for accuracy.
- Condition 44 requires a special contribution of €354,000 for works to junction at Spring Lane.
- Queries what if Road Safety Audit requested by Condition 41 identifies fundamental safety issue.
- Traffic study was done during Covid restriction period. It does not reflect true road usage of or impact on N71 or Spring Lane.
- It is already difficult for residents to enter and exit Spring Lane. It will be 80 vehicles trying to enter this junction at peak hours.
- Transport assessment concludes that junction will operate at significant level of spare capacity. How is this possible when narrow entrance is expected to take nearly 300 trips off busy bypass which is already choked with traffic?
- Artics coming out of junction take up whole junction. Cars on by-pass will be held up, grinding by-pass to a halt.
- Impossible for articulated truck to turn left onto N71 without crossing into two lanes of on-coming traffic – see page 52 of Traffic Assessment

Inadequate parking

- Adequate parking not provided and Condition 2 reduces this by 9 spaces, resulting in cars parking on narrow lane.

Landscaping and visual impact

- Condition requiring revised comprehensive landscaping plan should be considered material enough to be re-advertised. Proposed development will be on skyline. It is significantly higher than famine graveyard and any developments will overshadow it.
- An Bord Pleanála have duty of care to ensure that Council is safeguarding these protected, spiritual and historical places.
- Proximity to the famine graveyard. It will be exceedingly difficult to shield views of warehousing from graveyard as proposed buildings mainly earmarked for construction on rising slope.
- Graveyard is spiritual place of importance in Irish national history. The burial land was donated to help the most vulnerable. It is inappropriate and distasteful to approve this.
- Request to submit further landscaping including mature trees along edge of buffer zone in relation to famine graveyard has been ignored. This information was essential to enable Council to give further consideration to the application. It should have been impossible to grant permission in its absence.
- Spring Lane is short, picturesque cul-de-sac. Inappropriate scale of development.

Negative Impact on current residents

- Planning authorities usually require applicants to have written consent of property owners who will be impacted before granting permission.
- Industrial complex is going to impact residents significantly due to noise, pollution and road safety.
- Local council representatives in Bandon are completely against this.
- No human impact survey carried out.
- There are already issues with water pressure for residents of Spring Lane.

Local need for light industrial units

- There are several light industrial parks located directly off the N71, several of which are available. This demonstrates lack of need for new developments.

Procedural

- Original application was dated 11 February 2022, and validated by Council's website on 25 February 2022. Public not afforded sufficient time to review application.
- Due process was not adhered to.

6.2. Applicant Response

The first party response to the 2 no. third party appeals is summarised as follows:

- In the do-nothing scenario, it is an unsafe environment devoid of footpaths and public lighting. Proposed development will contribute positively to a number of local improvements including road widening to facilitate two-way traffic. This will promote modal shift away from private car.
- Potential new school on N71 relates to relocation of Bandon Gaelscoil, which is already accessed from N71 to behind Coláiste na Toirbhirte. Any application for this will be subject to detailed traffic assessment and is not a material consideration for the subject application.
- Permission granted for Ashgrove Meadows under P.A. Ref. 07/11025 by material contravention. Current traffic and road safety issues on Spring Lane are legacy problems related to that development.
- Spring Lane can be widened to cater for two lanes within the applicant and public ownership. The footpath network will tie-in with the existing path on eastern side of N71. There is no requirement to extend beyond the boundary railings, where levels change, between adjacent retail park and road network.
- The roundabout is part of N71 national road infrastructure, which is subject to routine capacity assessments. TII have confirmed no objections to the proposals. The inclusion of 'no right turn' will address an existing road safety issue on a steep downhill bend section of the N71 and will not discommode existing residents or local traffic in any material way.

- Development Plan zoning objective BD B 04 does not state that access should be from east only. It does not preclude access from Spring Lane and this has been verified by planning authority.
- First party appeal demonstrates that additional planting can be provided. There will be no material impact on graveyard's setting.
- The overall quantum of floorspace was reduced at RFI stage by 653.64sqm or 29.5% on that originally submitted. In not requesting proposed development to be readvertised, the planning authority have not erred procedurally.

6.3. Planning Authority Response

The planning authority's response to the grounds of appeal comprises 2 no. reports as follows:

Area Planner:

- Office element was not linked to light industrial/manufacturing element in initial planning application or development description.
- Proposal for agri-tech/precision engineering SME was submitted as FI response. Audit of office space put forward the case that office-based research and development needs to be supported by a light industrial/manufacturing function. Applicant discounted zoned land within Town Centre or edge of town. Applicants have not demonstrated specific circumstances which would justify inclusion of office development not suited to town centre or edge of centre locations.

Executive Engineer:

- It appears that proposed 6m road widening will extend to roadside face of ESB pole. Requests additional condition be considered by An Bord Pleanála:
It will be the developer's requirement to ensure that all footpath and road widening can be satisfactorily constructed within the boundary of the site and that all existing retaining structures are deemed adequate by a chartered engineer or any new required retaining structures are designed by a chartered engineer to eurocodes.

- HGV manoeuvre is tight but achievable when travelling westbound. Imagines barrier will not be constructed on N71.
- Bill of Quantities total value €213,389.08 (incl. VAT) in first party appeal is based on drawings submitted with application and listed in letter dated 25 November 2022 and does not have relevance to Special Contribution (€354,500 incl. VAT).
- Special Contribution relates to junction upgrade for more suitable alignment for HGVs turning southbound. This involves provision of new acceleration lane on significant steep hill for southbound traffic to reduce potential traffic hazard which exists in the current layout.
- The rationale for the special contribution is set out as follows:
 - As HGVs approach junction with N71 from local county road, county road needs to be widened to prevent rear of vehicles swinging across centre line of county road.
 - N71 and junction needs to be widened to safely accommodate HGV traffic. Acceleration lane is required to allow HGV traffic merge into a new climbing lane.
- FI RSM Road Safety Audit Stage 1/2 'Proposals to Reconfigure an Existing T Junction' recommended provision of ghost island. In order to accommodate a ghost island, the travel path of an articulated lorry would be safer should it not flow onto what is the current overtaking lane. Council is unable to commit to whether ghost island would be provided as TII approval required.
- RSM audit recommends 15m dwell length on local road. Any junction upgrade shall be considerate to minimise the width that pedestrians have to cross at the mouth of local road to any pedestrian refuge and shall be allowed for in costs submitted. Any junction upgrade outside the scope of the planning drawing layouts would necessitate TII approval of detailed design.
- Breakdown of special contribution including cost of acquiring the necessary land is as follows:
 - The total 700sqm land area required is described as land area on N71 (420sqm), land at junction (140sqm) and land on side road (140sqm). The

land has a high value due to zoning BD B 06: Business Development. Net value of land purchase is €118,000 attributed to road construction extents.

- Construction costs are €236,500, resulting in a total value of €354,500.
- 2 no. planning application drawings date-stamped 11 February 2022 are inserted into the report.

6.4. Observations

- 6.4.1. One no. observation has been received from Michael Sands. The main issues concur with the contents of the third party appeals.

The main points in the observation may be summarised as follows:

- Opposed to Condition 42 to prohibit right turns from N71 onto Spring Lane. If not rescinded will be subject to judicial review. Observer will have to continue to very busy roundabout at Glasslyn Road to perform U-turn.
- Revised plans should have been readvertised.
- Planning applications P.A. Ref. 22/5458 and P.A. Ref. 22/5800 at Kevin O'Leary (Bandon) Limited have been subject to FI requests.
- Works commencing shortly on new 1000 pupil (primary and secondary) school c.400m on N71.
- Area originally rezoned so that access would be via Monarone Road.
- Entrance to Spring Lane is 3.8m wide from ESB pole to opposite side of road. Impossible to make entrance wide enough as applicant does not own the land. Requirement of Condition 4 for road to be widened to 6m is insufficient.
- Condition 41 requires revised Road Safety Audits. If Council have road safety concerns this is significant enough for planning not to be approved.
- Special contribution of €354,500 is inadequate.
- Development is out of scale with site size and capacity of Spring Lane.
- Inadequate parking will result in cars parking on lane and nearby retail park.

- Traffic study done during Covid lockdown does not reflect true road usage of N71 or Spring Lane.
- Autotracking in transport assessment shows artics coming out of junction take up whole junction. Whole bypass will cease.
- Several light industrial parks located directly off N71 and several are available. Lack of need for new units.
- Council have improperly administered publication of documents and public not afforded sufficient time to review application.
- Water pressure issues on Spring Lane
- Council has duty of care to protect famine graveyard. Detrimental impact on graveyard. Removal of 2 no. ESB poles on boundary will uproot graves.

7.0 Assessment

7.1. I am satisfied that the main issues for consideration in this case include:

- County Development Plan Provisions and Land Use Zoning
- Access and Transportation
- Special Development Contribution
- Water Services
- Impacts on Visual Amenities
- Impacts on Residential Amenities
- Procedural Matters

7.2. County Development Plan Provisions and Land Use Zoning

7.2.1. The proposed development is for a mixed use business park comprising 3 no. blocks accommodating office, light industry and warehousing uses and associated site development works. The floor area of each block was reduced in the FI response as follows:

Block No.	Use	Original Application	Amended FI Proposal
Block 1	office block	637sqm	348sqm
Block 2	Light industrial; comprising 3 no. units	515sqm	426.6sqm
Block 3	warehousing space; comprising 4 no. units in FI response (previously 5 no. units)	1073sqm	795.26sqm
Car Parking Spaces		56no.	38no.

- 7.2.2. Condition 2 of the planning authority's decision requires the omission of the office block, associated car parking spaces, and the spur road east of these parking spaces, all to be shown on revised drawing to be submitted for agreement. Additional landscaping is to be provided in lieu of the office block and parking spaces. The stated reason is in the interest of clarity.
- 7.2.3. The subject site is zoned Objective ZU 18-15: Business and General Employment Areas in the Cork County Development Plan 2022-2028. Uses acceptable under this land use zoning include light industry and small/medium scale warehousing. I consider that the proposed light industrial use would be in compliance with the land use zoning objective. With regard to the proposed warehousing use, I consider that having regard to the 795sqm floor area of Block 3, that this element of the proposed development would come within the meaning of 'small/medium scale warehousing uses' and would also be in compliance with the land use zoning objective.
- 7.2.4. With regard to the proposed office use, I note that Objective ZU 18-15 states that uses that could be included in certain specific circumstances could include office development not suited to town centre or edge of centre locations. The subject site is located approx. 550m east of Town Centre/Neighbourhood Centre zoning (Objective ZU18-17).
- 7.2.5. An Audit of Office Space, Bandon, submitted as FI, states –

- The proposed office component represents just 22% of total proposed employment floorspace and is ancillary in nature, with a focus on clustering of employment types, i.e., where office-based research and development needs to be supported by a light industry/manufacturing function.
- Office space comprising 5 no. properties totalling 1,035sqm is available (July 2022), of which 431.5sqm is within the defined town centre. The largest unit is 275sqm at the Weir. The largest component of marketed vacancy is 604sqm of retail and office space at Bandon Bypass, a sizeable part of which was most recently occupied by Right Price Tiles.
- With the exception of The Weir, there are limited opportunities within Bandon Town Centre for clustered office based employment.
- Development of BD-X-02 and BD-X-04 lands are presently constrained due to presence of flood risk zoned within or immediately adjacent to the sites.
- The site is a central and accessible location where mixed employment including office development is appropriate.

7.2.6. I note the content of the submitted Audit of Office Space which indicates relatively limited availability of office space in Bandon, and stated constraints relating to development of other lands. I note also that the Development Plan states that there has been no up-take in employment land since the last plan. However, notwithstanding this, lands have been zoned elsewhere in Bandon which allow for uses which include office use, such as Specific Development Objectives BD-X-02 (Allman Quarter Mixed Opportunity Site) and BD-X-04 (Mixed Use Office, Retail and Residential Area), albeit with constraints as outlined in the Development Plan, in addition to Town Centre/Neighbourhood Centre zoned lands.

7.2.7. The applicant's appeal submission (date-stamped 29 November 2022) states that the existing available stock is not of a quantum or quality needed to diversify or grow the employment profile of the town.

7.2.8. The applicant references Section 8.7 of the Development Plan, which states that the development of micro enterprises (those with less than 10 employees) is seen as particularly relevant to the rural economy and it is important that all towns have the space to accommodate such uses. The applicant also states that independent

research and discussions with auctioneers have confirmed that R&D activities related to agri-tech, precision engineering and technological industries require both workspace and office space, and the proposed office element will cater for and directly support this.

- 7.2.9. In this regard I note that the description of development is for office, light industry and warehousing uses. The proposed office block as amended by way of FI is a single storey building located at the front of the site, comprising 2 hubs accessed by a shared lobby. There are no details on the lodged drawings to indicate that the use of the office block is linked to cater for and directly support any uses/occupiers of Block 2, which is a light industrial building comprising 3 no. units. Accordingly, having regard to the description of development and to the information on file, I do not consider that it has been demonstrated that the proposed office block is intrinsically linked to either of Block 2 (light industrial) or Block 3 (warehousing).
- 7.2.10. While precedent examples are cited in the applicant's grounds of appeal (date-stamped 29 November 2022), I consider however that the subject appeal should be assessed on its own merits having regard to *inter alia* the specifics of the proposed development, the County Development Plan, relevant Guidelines, etc. However, for completeness, the matter of a previous grant of permission cited in the grounds of appeal is discussed below.
- 7.2.11. The most recent case cited by the applicant relates to a grant of permission for P.A. Ref. 20/4833. I note from a search on the planning authority's website that of the information available online, that this application relates to a change of use of part of existing building permitted under P.A. Ref. 05/7109, from bulky retail warehouse to offices for accountancy, specialist advisory service and financial advisory service for the farming, food and agri sector and associated site works. The P.A. Ref. 20/4833 site is zoned Existing Built-up Area in the Bandon Kinsale MD LAP 2017, and is accessed off the N71 relief road.
- 7.2.12. However, I do not consider that the decision to grant permission under P.A. Ref. 20/4833 is comparable to the subject appeal. In particular, Bandon Kinsale MD LAP 2017 was in place at time of decision. For clarity, the Objective ZU 3-1: Existing Built Up Areas land use zoning which applied to that site is set out in the previous Cork County Development Plan 2014 as to normally encourage through the Local Area

Plans development that supports in general the primary land use of the surrounding existing built up area, and that development that does not support, or threatens the vitality or integrity of the primary use of these existing built up areas will be resisted.

- 7.2.13. Accordingly, having regard to the matters outlined above, and based on the information on file, I do not consider that the matter of precedent arises.
- 7.2.14. I note the importance given in the Development Plan (at Section 1.4.23 – Vol. 5) to Bandon being the principal employment centre within the Municipal District, and the stated support for the continuing role of the town as a business hub for a large rural area and encouragement for the development of hot desking facilities, computer hubs, financial services and office development within the town centre and on suitably zoned land such as BD-X-02 and BD-X-04.
- 7.2.15. In addition, **General Objective BD-GO-05** seeks to ensure that new development reinforces the primacy of the town centre and contributes to the vibrancy and vitality of Bandon.
- 7.2.16. While the quantum of office floor area proposed in the FI response is relatively limited at 348sqm in the context of some availability of office space in Bandon (overall 1,035sqm in July 2022), I note also the matters raised in the submitted office audit regarding the quality of available office accommodation. However, notwithstanding this, I consider that based on the information on file that it has not been adequately demonstrated that the proposed office development is not suited to town centre or edge of centre locations, and that it has not been demonstrated that there are grounds which would warrant a grant of permission for office use at this location in this instance. I consider therefore that the proposed development would not accord with the ZU 18-15: Business and General Employment land use zoning objective, and would not, if permitted reinforce the primacy of Bandon town centre, and would thereby not be in compliance with General Objective BD-GO-05.
- 7.2.17. However, while it is considered on the basis of the information on file that the office use as proposed would not be in compliance with Objective ZU 18-15 and General Objective BD-B-05 of the current County Development Plan, and having regard to the more substantive reasons for refusal relating to access and transportation matters, it is not considered necessary to include this matter as a reason for refusal.

7.3. Access and Transportation

Site Access and Specific Development Objective BD-B-04

- 7.3.1. The subject 0.88ha site forms part of the 4.8ha landbank identified as **Specific Development Objective BD-B-04: Business development** (Vol. 5 – West Cork). This Objective states that the development of this site will require the realignment of the road to the east of the site and should also include the provision of a pedestrian footpath and cycle lane to the town, and also that TIA and RSA Required.
- 7.3.2. The subject site at 0.88ha represents approx. 18.3% of the Objective BD-B-04 lands and does not include any lands at the eastern portion of this landbank. The applicant has indicated that they do not own other areas of the Objective BD-B-04 lands.
- 7.3.3. The proposed development does not include any realignment of the road to the east, that is, Monarone Road. I note that Objective BD-B-04 does not specifically state that access to these lands shall be from the road to the east of the site. In contrast, it is stated in respect of two other nearby landbanks (Specific Development Objectives BD-B-05 and BD-B-06), which have extensive roadside frontage onto the N71 relief road, that they are to be accessed from a local road rather than off the relief road.
- 7.3.4. I note also the wider context of the Objective BD-B-04 lands, which adjoin the more substantial 13.35ha Specific Development Objective BD-X-02: Allman Quarter Mixed Use Opportunity Site. This separate site includes the mart on the northern side of Distillery Road. The residential scheme comprising 43no. residential units permitted by P.A. Ref. 21/4711 (not implemented) forms part of the Objective BD-X-02 lands.
- 7.3.5. No concerns are raised in the First Traffic and Transportation report to the principle of the subject site being accessed from the N71, via Spring Lane. The FI response includes an indicative layout for the overall Objective BD-B-04 lands, whereby a vehicular entrance to facilitate sequential site development is shown from Monarone Road.
- 7.3.6. While the Development Plan requires road realignment to the east of the overall Objective BD-B-04 lands, the proposed development relates only to the western part of this landbank, and no vehicular connection is proposed from the subject site to the larger, remaining landbank to the east. Having regard to the site location, I consider that the Development Plan road realignment requirement would not be warranted in

this case. Accordingly, I consider that the matter of the access to the proposed development from Spring Lane, off the N71 relief road, may be considered on its merits.

- 7.3.7. With regard to the requirement in Objective BD-B-04 that the development of this site should also include pedestrian footpath and cycle lane provision to the town, this requirement would appear to relate to the realignment of the road to the east. The Monarone Road frontage of these lands extends to approx. 170m and adjoins the Objective BD-X-02 (Allman Quarter) site.
- 7.3.8. Having regard to the matters outlined above relating to the road realignment to the east, I consider it reasonable that the matter of footpath and cycle lane provision along the eastern roadside frontage of this overall landbank be addressed separately as part of the realignment of that road. Matters relating to pedestrian and cycle lane provision to the Spring Lane site access, TIA and RSA are discussed separately in the following sections.
- 7.3.9. In conclusion, I consider that the principle of the road to the east of the overall Objective BD-B-04 lands not being realigned, and footpath and cycle lane not being provided to the east, may be considered acceptable in the particular circumstances of this case, and that the proposal to access the site from Spring Lane, via the N71 relief road, may be considered on its merits.

Proposed Site Access - Principle of Site Access from N71/Spring Lane

- 7.3.10. The FI response states that vehicles travelling northbound on the N71 will be restricted from turning right onto Spring Lane, and will instead be required to continue to the roundabout to then turn south and enter left on Spring Lane.
- 7.3.11. The Second Traffic and Transportation report recommends that right turns are prohibited into Spring Lane off the N71, and that a Road Safety Audit Stage 3 be completed post construction.
- 7.3.12. The planning authority considers access to the subject site from Spring Lane to be acceptable, in the context of a no right turn being introduced on the N71 relief road to prevent northbound traffic accessing the proposed (and existing) development on Spring Lane. This is confirmed under -

- Condition 1 which requires the proposed development to be carried out in accordance with the plans and particulars lodged with the application and on 6 October 2022. I note that FI drawing titled N71/Spring Lane Junction Layout (Drawing No. 102; Rev.01) includes a sign stating no right turn;
- Condition 42, which states the developer shall be responsible for all costs associated with prohibiting a right turn movement onto Spring Lane off the N71, including signage and other infrastructure as deemed necessary.

7.3.13. In terms of detail, it does not appear to be stated by way of a condition that northbound vehicles wishing to access Spring Lane would be required to continue to the roundabout and return southbound in order to enter left onto the lane. I note however that Condition 42 requires *inter alia* signage.

7.3.14. I note that Condition 43 requires a Road Safety Audit Stage 3. However, I would have concerns that the impacts of traffic generated by the proposed development, and existing development on Spring Lane, continuing to the roundabout have not been clearly demonstrated.

7.3.15. I note also that almost directly south of the N71/Spring Lane junction is the commencement of the two lanes in a southbound direction, the right lane being the overtaking lane.

7.3.16. The distance from the N71/Spring Lane junction to the roundabout at N71/Glasslinn Road to the north is approx. 300m. This is a 3-arm non-signalised roundabout, with the main Cork/Innishannon approach road to the east, the N71 relief road to the south and Glasslinn Road from Bandon town centre to the west. One of the Texaco petrol filling station/convenience shop entrances and a separate small car park to the north serving *inter alia* a new playground have direct access/egress to/from the roundabout, such that there are 5 no. access/egress points on the roundabout. For wider context, I noted on site inspection that there have been recent improvements to the approach to the roundabout from the Cork/Innishannon (east) side, such as new traffic lights and upgraded footpaths.

7.3.17. Between the N71/Spring Lane junction and the roundabout, three roads/streets connect to the N71 relief road, of which Mill Road and Distillery Road are on the eastern side and Connolly Street is to the west. There are also entrances to various business premises including Bandon Retail Park directly north of the site, and on the

western side of the relief road is an agricultural-type building and the Texaco petrol station.

7.3.18. In terms of speed limit, the FI (RSM) RSA states (at Section 2.1.7) that the current posted speed limit on the national road adjacent to the site is 60km/hr. It recommends that current 85th percentile speeds should be considered on the N71, to determine the need for extension of the urban speed limit of 50 km/hr, and/or the need for traffic calming measures.

7.3.19. The TII submission on file relates to the planning application as originally lodged on 11 February 2022, that is, prior to the proposal to prohibit a right turn to access Spring Lane. The TII submission states that it will rely on the planning authority to abide by official policy in relation to development on/affecting national roads as outlined in Spatial Planning and National Roads Guidelines (2012), subject to the proposal being undertaken in accordance with recommendations of the submitted Transport (Traffic) Assessment and Road Safety Audit, and any recommendation should be incorporated as conditions of the permission.

7.3.20. In this regard I note that the Transport Assessment (lodged 11 February 2022) states

- the N71/Spring Lane junction will operate with a significant level of spare capacity in future year scenarios
- the envisaged traffic generation for the proposed development is a total of 52 inbound and 11 outbound vehicles in the AM peak and 11 inbound and 43 outbound in the PM peak.
- Traffic volumes on Spring Lane being approx. 80 in the AM peak and 65 vehicles in the PM peak.

As outlined above, the Transport Assessment differentiates between the traffic generated by the proposed development (as originally lodged on 11 February 2022) and traffic volumes on Spring Lane.

7.3.21. Concerns are raised in the grounds of appeal that the traffic study was undertaken during Covid lockdown. The Transportation Assessment lodged with the application states that the traffic counts were undertaken on 11 January 2022. I note that phased lifting of Covid-related restrictions commenced on 22 January 2022, as

viewed online (on 14 March 2024) in a press release from Department of the Taoiseach on 21 January 2022.

7.3.22. Section 2.4 Baseline Traffic Conditions of the Transportation Assessment refers to the current Covid-19 pandemic, and states (at Table 2.1 and commentary):

- On N71, two-way traffic in the AM peak hour (0815-0915) is 760 vehicles, with a corresponding figure of 796 vehicles in the PM peak hour (1615-1715). A total of 7,827 vehicles were recorded using the N71 and Spring Lane between 0700 and 1900 hours.
- On Spring Lane, the corresponding figures in the AM peak is 14 vehicles, and 9 vehicles in the PM peak.

7.3.23. It states (at Section 4.2.3) that in order to accurately determine the traffic volumes associated with an office development, traffic counts were undertaken for an office development within West Link Business Park in November 2019. However, notwithstanding this reference to a separate development, I consider that, in general, it does not appear to set out how account is taken of the particular circumstances, i.e., the pandemic, during which the traffic count was taken, and the implications or shortcomings of this, if relevant, for the Transport Assessment. (The location of the referenced West Link Business Park is not stated under Section 4.2.3).

7.3.24. As the traffic count was undertaken prior to the lifting of Covid-19 related restrictions, I consider that this would suggest that the baseline data is unlikely to reflect current traffic volumes. With regard to the traffic count data relating to both the peak hour timeframes (AM and PM) and the longer 12-hour timeframe (7am-7pm) on the N71 relief road, I consider that these traffic volumes are nevertheless indicative of the heavily-trafficked nature of this national secondary route.

7.3.25. With regard to issues arising relating to traffic volumes, the FI Road Safety Matters (RSM) Road Safety Audit (at Section 2.1.8) states

- traffic volume data provided in Traffic and Transportation Assessment will place the junction within category typically applicable for a ghost island layout
- the anticipated number of right turning vehicles per day exceeds the threshold for consideration of a right turn reservoir. Vehicles waiting to turn right onto Spring Lane from the N71 will obstruct the path of through traffic on the link

- Recommends the design includes a ghost island junction

- 7.3.26. The FI Hegsons Design Consultancy Limited letter dated 3 October 2022 states that the RSA was undertaken prior to the revised site layout which has resulted in a significant reduction in traffic level.
- 7.3.27. For completeness, the FI (RSM) RSA states that the RSA was carried out during February 2022. The RSA Feedback Form on this document states date audit completed is October 2022.
- 7.3.28. The revised site layout will result in a two-way flow peak of 42 vehicles in the AM peak hour (*previously 63 vehicles*) and 40 in the PM peak hour (*previously 54 vehicles*). However, while the FI response refers to the peak flows in the AM and PM peaks as a result of the revised site layout, it does not appear to specifically state what the traffic volumes on Spring Lane would be, i.e., taking account of existing development on this cul-de-sac.
- 7.3.29. The RSA Feedback Form (on FI (RSM) RSA) includes that the recommended measure set out in Section 2.1.8 relating to the provision of a ghost island is not accepted. The alternative measure is described as size of development/traffic generation and right turning traffic has been banned so no need for a ghost island junction. It also states that the amended design is to be subject to further audit at Stage 2/in advance of construction. Separately, I note that the planning authority's appeal submission states that the ghost island would require TII approval.
- 7.3.30. Having regard to the matters outlined above, it would therefore appear that the FI (RSM) RSA concludes that a ghost island is not required on the N71 due to the reduced (by way of FI) size of development/traffic generation and a prohibition on right turning traffic from the N71 relief road onto Spring Lane.
- 7.3.31. I note that while TII state *inter alia* that the proposed development shall be undertaken in accordance with recommendations of submitted Transport (Traffic) Assessment and RSA, and also that the number of car parking spaces is reduced by 18no. (to 38no.) in the FI response, I would have concerns that based on the information on file, any implications that the proposed development, as amended by way of FI, may have on the operation or capacity of the Glasslinn/N71 roundabout have not been clearly set out.

7.3.32. Notwithstanding that the FI (RSM) RSA sets out the rationale for not providing a ghost island at the junction of N71/Spring Lane, having regard to the existing site context and the wider environs of the subject site, including the approx. 12 no. houses in the Spring Lane cul-de-sac, the nature of the revised traffic arrangements for northbound vehicles seeking access to Spring Lane, the approx. 300m distance from the N71/Spring Lane junction to the roundabout and the 3 no. roads/streets which access onto the N71 relief road between the Spring Lane junction and the Glasslinn Road roundabout, I would have concerns that there is insufficient information on file to demonstrate that the proposed development would not adversely impact on the safety and free flow of traffic on the N71 relief road. In particular, I consider that it has not been adequately demonstrated that the proposed development (as amended by FI) would comply with Section 1.4 of Spatial Planning and National Roads Guidelines which requires that any local transport function of national road by-passes and relief roads in respect of the urban areas they pass through is, and must continue to be, secondary to the role of these roads in catering for strategic traffic. Refusal of permission is recommended on this basis.

Site Access – Design

7.3.33. The description of development includes that the proposal will be accessed from a new vehicular as well as pedestrian entrance onto Spring Lane (L-20441) to be supported by local road widening and new public footpath along the western boundary of the site connecting into the existing pedestrian footpath network to the north.

7.3.34. The FI Proposed: Site Layout Plan – Ground Cut (Drawing No. 4248-P-04; Rev. A) shows a proposal to modify the existing N71/Spring Lane junction (outside the red line boundary), and the roadside frontage of the subject site. Modifications include reducing the carriageway width at the junction, providing a new footpath forward of an existing kerbline at the northern (Bandon Retail Park) side of the junction, widening Spring Lane and provision of a new footpath along the roadside frontage of the site.

7.3.35. The narrowing of the junction is partly as a result of the new 1.5m wide footpath extending from the existing footpath which runs along the roadside frontage of

Bandon Retail Park. These modifications to the junction are also outside the red line boundary of the subject site.

7.3.36. Matters raised in the third parties' grounds of appeal include that the applicant is unable to comply with conditions imposed relating to road widening, that Condition 4 requires Spring Lane to be widened to not less than 6m and that minimum 8m is required for 2 articulated lorries to pass safely.

7.3.37. The FI (RSM) RSA sets out (at Section 2.2.1) a number of potential safety issues in respect of junction layout and geometry (at Spring Lane/N71 junction), and Figures 10 and 11 show restrictive geometry at junction for rigid and articulated vehicles respectively. The stated potential safety issues are summarised as:

- Horizontal radius on minor road on approach to stop line is sharp, and oblique angle of approach to the junction will create difficulties for larger vehicles;
- It is not clear if sufficient dwell area has been provided on the minor road. Insufficient dwell area can lead to increased risks of overshooting the stop line or difficulties for turning for larger vehicles;
- Swept path analysis provided for reconfigured junction showed that there is little margin of error in respect of the geometry, with significant encroachment over the carriageway centreline for larger vehicle sizes, which will result in side swipe and head on collisions, and may lead to blocking of the junction. No swept path analysis provided for more frequent vehicle types to demonstrate that the proposed layout will operate safely in all conditions.

7.3.38. Four recommendations are contained in the FI (RSM) RSA, including that the proposed access geometry should be sufficient to cater for all likely demands and turning movements with adequate margins of safety, at skew junctions the centreline of the minor road should have minimum radius of 50m, and a suitable level dwell area should be provided for a sufficient distance back from the channel line on the N71, typically 15m.

7.3.39. I note the detail of the FI site plan including the extent of the red line boundary and the content of the FI (RSM) RSA, and also the conditions attached to the planning authority's decision to grant.

7.3.40. In addition, I note that the planning authority outlines that the works to the N71/Spring Lane junction would require *inter alia* land acquisition by means of a CPO. However, I would have concerns that there is a degree of uncertainty regarding a CPO of third party lands to deliver a satisfactory junction in order to facilitate access to the proposed development. Notwithstanding that it is stated that the RSA was completed prior to the revised site layout, and having regard to the information on file and the nature of vehicles, to include HGVs, which would reasonably be expected to serve light industrial and warehousing units, I consider that it has not been adequately demonstrated that the overall proposed re-design, to include widening of the carriageway on Spring Lane along the roadside frontage of the site, in combination with the proposed changes to the N71/Spring Lane junction layout, would not endanger public safety by reason of traffic hazard. Refusal of permission is recommended on this basis.

Site Access - Pedestrian and Cycle Accessibility and Context of Objective BD-B-04 Lands

7.3.41. Based on the FI site layout, a 2m wide footpath is proposed along most of the roadside frontage of the subject site, save for the proposed 1.5m wide footpath over an approx. 17m distance at the northernmost end of the site's road frontage. I consider that the provision of the proposed 1.5m wide footpath could be implemented as shown. However, in terms of detail, I note that the FI (RSM) RSA outlines (at Section 2.1.6) that provision has been made for relocation of an existing utility pole, but that its new position will obstruct the new footway, potentially forcing pedestrians, including those who are mobility impaired, out into the carriageway into the path of oncoming vehicles.

7.3.42. Condition 4 requires Spring Lane to be widened to not less than 6m as shown on the FI layout drawings. However, Condition 6 requires the provision of a 3m wide shared active travel path serving the development from the junction of Spring Lane and the N71. Having regard to the extent of the red line boundary and the detail of the FI planning drawings, it is unclear as to how this condition to provide a 3m wide active travel path could be complied with in full.

7.3.43. The requirement to increase a 2m wide footpath to a 3m wide shared active travel path could, for example, require the site's new roadside boundary to be set back 1m

into the site. However, given the more limited proposed 1.5m footpath width at the northern most end of the subject site, which is an extension of an existing footpath along Bandon Retail Park's roadside frontage, I would have concerns regarding the lack of any detailing of the tie-in between the existing 1.5m wide footpath and the required 3m wide active travel path. There is a substantial difference in ground levels between the new 1.5m wide footpath near the existing ESB pole (to be relocated) and the lands directly to the east/north east of the proposed footpath, i.e., the ground levels within the car park of Bandon Retail Park.

7.3.44. The eastern/north eastern edge of proposed 1.5m wide footpath (near the re-located ESB pole) forms part of the red line boundary of the site, where it bounds the Bandon Retail Park premises. There does not appear to be adequate space to widen this 1.5m footpath to a 3m wide active travel path at this location, without consequent impacts on the design of the N71/Spring Lane junction layout. I consider that a further 1.5m build-out from the footpath to achieve a 3m wide active travel path over this approx. 17m linear stretch would have implications for the design of the junction layout, including on lands outside the red line boundary.

7.3.45. I note that the Development Plan seeks to deliver a high level of priority for walking and cycling (Objective TM12-2-1 Active Travel) and to promote and deliver an active travel culture in the County where active travel is a viable choice (Objective TM12-2-2 Active Travel). I would agree with the principle of improving active travel choices to a new business/employment use on the subject site, but would however have concerns as to how the detailing of such walking/cycling infrastructure to and along the roadside frontage of the subject site would be provided in this particular case. Having regard to the matters outlined above, I am not satisfied on the basis of the information on file that it has been adequately demonstrated that the proposed site access arrangements including relating to pedestrian and cycle access would be provided in a manner that would not endanger public safety by reason of traffic hazard, particularly vulnerable road users. Refusal of permission is recommended on this basis.

7.3.46. Although the subject proposal may be considered to be a more piecemeal approach to development on the overall Objective BD-B-04 landbank, and based on the information on file would appear to be the first planning application lodged on this landbank (disregarding the grant of permission for residential development under

P.A. Ref. 21/4711, given that it forms part of Objective BD-X-02 (Allman Quarter) under the current Development Plan), I consider that key elements of active travel infrastructure should be provided, where relevant, in this case, regardless of the subject site being on the western side, as distinct from the eastern side, of the Objective BD-B-04 landbank.

7.3.47. The FI Site Layout Plan Connectivity Plan (Drawing No. 4148-P-04A; Rev. B) shows a suggested primary entrance from a re-aligned Monarone Road and a cycle lane from these lands to the subject site. Given that the subject site is located closer to the town centre than the eastern part of the Objective BD-B-04 lands, and based on the information on file, the subject site has the potential to facilitate sustainable active travel through the overall lands, thereby creating important connectivity between the various parts of the landbank.

7.3.48. However, as outlined previously, and notwithstanding the requirements of Condition 6 which requires a 3m wide active travel path, I do not consider that there is sufficient information on file to demonstrate that adequate pedestrian and cycle paths would be provided to serve the proposed development. Refusal of permission is recommended on this basis.

7.4. Special Development Contribution

Special Development Contributions and Condition 44

7.4.1. Condition 44 of the planning authority's decision requires the payment of a special contribution in the amount of €345,500, in respect of works proposed to be carried out for improvement works necessary for the junction of Spring Lane and the N71 and for a raised platform on the public road at Spring Lane.

7.4.2. The FI cover letter states that it is proposed that any future realignment or improvement to the junction will be undertaken by the local authority and the applicant will agree to a special contribution for the works at the junction or outside the red line boundary.

7.4.3. Section 48 of the Act provides that a planning authority may, when granting a permission under section 34, include conditions requiring the payment of a contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority and that is provided, or that it is intended will be

provided, by or on behalf of a local authority (regardless of other sources of funding for the infrastructure and facilities).

- 7.4.4. Section 48(2)(c) provides that a planning authority may, in addition to the terms of the general scheme, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by the general development contribution scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development. Section 48(12) states where payment of a special contribution is required in accordance with subsection (2)(c), provisions that apply include that the condition shall specify the particular works carried out, or proposed to be carried out, by any local authority to which the contribution relates.
- 7.4.5. The Development Management Guidelines (2007), issued under Section 28 of the Planning and Development Act 2000, as amended, (hereafter referred to as 'the Act') state that a condition requiring a special contribution must be amenable to implementation under the terms of section 48(12) of the Planning Act, and it is essential that the basis for the calculation of the contribution should be explained in the planning decision. It will be necessary to identify the nature/scope of works, the expenditure involved and the basis for the calculation, including how it is apportioned to the particular development.
- 7.4.6. Similarly, the Development Contributions Guidelines for Planning Authorities (2013), issued under Section 28 of the Act, state that where a special development contribution is imposed under section 48(2)(c), such particular works should be specified in the condition.
- 7.4.7. The payment of the special contribution is required to demonstrate that –
- ***it is in respect of a development***
 - ***specific exceptional costs would be incurred as a result of or in order to facilitate it***
 - ***such costs cannot be covered by a Development Contribution Scheme made under Section 48 or 49 of the Act.***
- 7.4.8. With regard to the above, and having regard to the description of the proposed development, I consider that payment of the special contribution would be in respect

of a development. Matters relating to specific exceptional costs vis-à-vis the adopted Development Contribution Scheme are outlined further below.

- 7.4.9. I highlight to the Board that Cork County Council's Development Contribution Schemes were adopted 23 February 2004, for a 20 year period, in respect of decisions to grant permission from 10 March 2004. The current General DCS rates date to 2014. I note that no information has been provided on file regarding the timeframe or updated rates relating to the Council's adopted General DCS.

Specific Exceptional Costs

- 7.4.10. The planning authority's Condition 44 refers to 2no. 'works', relating to provision of improvement works necessary for the junction of Spring Lane and the N71 and for a raised platform on the public road at Spring Lane, and a total figure of €354,500 is stated. This single sum does not differentiate between the 2 no. 'works'. For completeness, Condition 44 is outlined in full as follows:

At least one month before commencing development or at the discretion of the Planning Authority within such further period or periods of time as it may nominate in writing, the developer shall pay a special contribution of €345,500 to Cork County Council, updated monthly in accordance with the Consumer Price Index from the date of grant of permission to the date of payment, in respect of specific costs not covered in the Council's General Contributions Scheme, in respect of works proposed to be carried out, for the provision of improvement works necessary for the junction of Spring Lane and the N71 and for a raised platform on the public road at Spring Lane. The payment of the said contribution shall be subject to the following: -

(a) where the works in question –

- (i) are not commenced within 5 years of the date of payment of the contribution (or final instalment if paid by phased payment), or*
- (ii) have commenced but have not been completed within 7 years of the date of payment of the contribution (or final instalment if paid by phased payment), or*
- (iii) where the Council has decided not to proceed with the proposed works or part thereof, the contribution shall, subject to paragraph (b) below, be*

refunded to the applicant together with any interest which may have accrued over the period while held by the Council.

(b) Where under sub-paragraphs (ii) or (iii) of paragraph (a) above, any local authority has incurred expenditure within the required period in respect of a proportion of the works proposed to be carried out, any refund shall be in proportion to those proposed works which have not been carried out.

(c) payment of interest at the prevailing interest rate payable by the Council's Treasurer on the Council's General Account on the contribution or any instalments thereof that have been paid, so long and in so far as it is or they are retained unexpended by the Council.

Reason: It is considered appropriate that the developer should contribute towards these specific exceptional costs, for works which will benefit the proposed development.

7.4.11. I consider that exceptional costs would be incurred with regard to the alteration to the N71/Spring Lane junction. The matter of such costs being 'specific' is discussed separately further below. The General Scheme states that the contribution applicable to decisions to grant planning permission on and after 1 September 2004 were calculated by dividing the planned expenditure on the provision of services over twenty years by the amount of development that is projected to happen during that period. While the services listed include roads, the Scheme also states that expenditure on National Roads was excluded from the calculations because the benefit of these works is not limited to the local authority areas within which they are built. I note that the works relating to the N71/Spring Lane junction would appear to generally be within the area of the junction, although works indicated on the N71 relief road include signage. Given that the N71 relief road is a national secondary road, I consider therefore that works relating to the N71/Spring Lane junction would be 'exceptional'.

7.4.12. With regard to infrastructural works on Spring Lane, I note that this is a local road. However, given that these works would be required to facilitate the proposed development, I consider that such works would be 'exceptional'.

7.4.13. While Condition 44 does not differentiate between the 2 no. infrastructural works described, this contrasts with the Third Area Engineer's report on file which states

that direction given by Director of Service Roads and Transportation that special contribution of €354,500 is to apply:

- €350,000 for improvement works necessary for junction of Spring Lane and the N71.
- €4,500 to cover cost associated with Council putting Section 38 of the Roads Act 1994 in place in order to allow a raised platform on the public road at Spring Lane to be constructed.

7.4.14. With regard to the €350,000 stated for improvement works necessary for N71/Spring Lane junction, it is also stated that should works be undertaken be at a lesser cost, then the contribution shall be reduced to the actual costs. This would suggest that the contribution amount may potentially be reduced, and that the exceptional costs for such infrastructure are not 'specific'. While there is reference in the Third Area Engineer's report to the figure of €350,000 to include CPO land acquisition, I note that this would be subject of a separate process.

7.4.15. With regard to the special contribution of €4,500 to cover cost associated with the Council putting Section 38 of the Roads Act 1994 in place to allow a raised platform on the public road at Spring Lane to be constructed, I consider it relevant to highlight also the requirements of Condition 22. This condition states *inter alia* that it shall only be possible to put the raised tarmac platform in place where process under Section 38 of Roads Traffic Act 1994 is approved, and should such approval not be granted, the Council reserves the right to seek the developer to add additional safety improvement measures on the public road. Accordingly, in the event that a raised platform is not constructed, and additional safety improvement measures on the public road are required, I consider that the costs associated with the provision of the raised tarmac platform included in Condition 44 would be required to be clearly stated, i.e., the cost of same should be disaggregated from the overall €354,500.

7.4.16. On the basis of the information on file in respect of the planning authority's decision regarding the special contribution, i.e., at planning authority decision stage, I consider that the nature/scope of the works to be carried out and the calculation of the special contribution are somewhat general. I consider that the detail of the nature/scope of works, the expenditure involved and the basis for the calculation, including how it is apportioned to the particular development, are not set out in the

planning authority's decision. I note that there may be limited potential for further development on the western side of the Objective BD-B-04 landbank, due to the existence of St. Mary's Cemetery directly to the south of the site. However, notwithstanding this, the matter of apportionment would in any event be required to be addressed.

7.4.17. The planning authority's response to the grounds of appeal includes a breakdown of the special contribution including the cost of acquiring the necessary land:

- The total 700sqm land area required is described as land area on N71 (420sqm), land at junction (140sqm) and land on side road (140sqm). It states the land has a high value due to zoning BD B 06: Business Development, including possible hotel. The net value of land purchase is €118,000 attributed to road construction extents.
- Construction costs: €236,500 – a breakdown of these 9 no. costs is on file.
- Total value €354,500.

7.4.18. I would have concerns that the special contribution calculation appears to indicate that the value of land on the N71 has a development value equivalent to zoned lands. I consider that this would give rise to further uncertainty regarding the special contribution calculation.

7.4.19. With regard to land acquisition and associated CPO costs, I note that while 3no. areas to be acquired are described, no mapping showing these areas has been provided. The planning authority's appeal submission includes 2 no. drawings (drawings date-stamped 11 February 2022 by the planning authority) stated to be swept path analysis for an articulated lorry and a rigid lorry. While the matter of land acquisition may be addressed by way of a separate CPO process, in the absence of details relating to areas of land acquisition, I do not consider that the information on file provides a clear basis for the calculation of the special contribution.

Development Contribution Schemes – Sections 48 and 49 of Act

7.4.20. As outlined previously, I consider that the infrastructural works referenced in Condition 44 would be 'exceptional', and would not therefore come within the General DCS.

7.4.21. There is no Section 49 Supplementary Scheme which applies to the area of the subject site.

Conclusion with regard to Special Development Contribution

7.4.22. I note the planning authority's appeal submission regarding the calculation of the special contribution. However, having regard to the lack of adequate details relating to the breakdown of costings for the 2 no. infrastructural works described in Condition 44, the lack of any mapping showing the delineation of lands proposed to be acquired by way of CPO, the uncertainty regarding the potential outcome of any separate CPO process, and the absence of details outlining how the special contribution is apportioned to the particular development, I consider that the planning authority has not provided an adequate basis for the calculation of the sum specified (€345,500) and accordingly has not met the criteria for properly levying a contribution as required by Section 48 of the Act.

7.4.23. As outlined elsewhere in this report, refusal of permission is recommended on other grounds. In the event that the Board was minded to grant permission for the proposed development,

- I consider that it would be appropriate in this instance for the Board to conclude that the terms of Section 48(2)(c) and Section 48(12)(a) have not been properly applied and determines, therefore, in the event of a grant of permission, that Condition 44 be removed. As outlined previously, I highlight also that the Council's General DCS was adopted on 23 February 2004, for a period of 20 years, in respect of decisions to grant planning permission from 10 March 2004.
- The Board may consider that circulation of the planning authority's appeal submission would be required.

7.5. Water Services

7.5.1. Concerns raised in third party grounds of appeal and observation include that there are issues with water pressure for residents of Spring Lane.

7.5.2. Irish Water/Uisce Éireann letter dated 16 March 2022 states a Confirmation of Feasibility (CoF) has issued, and IW/UE have no objection subject to constraints

outlined in the CoF and stated conditions. With regard to water, it is stated as Feasible.

- 7.5.3. The Development Plan (at Section 1.4.70 – Vol. 5) states that Irish Water’s Investment Plan does not reference improvements to water supply but there are indications that plans are in place to rehabilitate water mains to improve water pressure and capacity. Leakage reduction measures have created additional capacity for 500 units.
- 7.5.4. Having regard to the IW/UE report on file and to the Development Plan content relating to water supply I consider that matters relating to water supply are adequately addressed in the proposed development.

7.6. Impacts on Visual Amenities

- 7.6.1. Concerns raised in the third party grounds of appeal and observation include that the proposed development would be on the skyline, is significantly higher than and would overshadow the famine graveyard, and would have a detrimental impact on the graveyard.
- 7.6.2. The subject site is elevated and is visually prominent, as viewed from the N71 relief road and also from Spring Lane. The site is not located within a High Value Landscape. Scenic Route S64: Road from Bandon to Inishannon begins/terminates on the N71, approx. 210m east of the Glasslinn Road roundabout, and approx. 338m north of the subject site.
- 7.6.3. The FI Proposed: Site Layout Plan (Ground Cut) shows that ground levels in the southern corner of Bandon Retail Park are 23.16OD. In contrast, the FFL of Block 1 at the front of the site is substantially higher at 33.00m.
- 7.6.4. The FFL of Blocks 2 and 3 are also 33.00m, and are positioned 10.2m and 10.18m from the northern site boundary respectively.
- 7.6.5. Section E-E shows the Spring Lane elevation of the proposed development. Block 1 is of low scale, has a monopitch roof design and maximum height of 5.7m, with a small lobby projection on the northern elevation. (For clarity, matters relating to the proposed use of Block 1 are discussed elsewhere in this report).

- 7.6.6. Block 2 has an overall height of 6.5m and a very shallow pitch roof. A minor part of Block 2's footprint and its curtilage where it bounds Bandon Retail Park show a ground cut in the range of 2m-2.25m. A ground cut in the range of 1m-2m is shown for the remainder of Block 2's footprint and curtilage. Section C-C shows the southern (gable) elevation of Block 2, but does not show the subject site's context with Bandon Retail Park to the north. As noted on site inspection, there is a substantial difference in ground levels between the northern site boundary and the car parking area of Bandon Retail Park.
- 7.6.7. Block 3 is the largest of the three blocks with an overall height of 6.7m, a slightly deeper plan than Block 2 and an overall width of 47.2m.
- 7.6.8. In terms of the overall visual impact of Blocks 1, 2 and 3, and having regard to the detailing of Section E-E (Spring Lane elevation) I consider that the proposed development, while visually prominent, would not adversely impact on the visual amenities of the area. In this regard I note that the larger Block 3 would be highly visible in the landscape, but would be set back approx. 72m minimum from the roadside frontage of the site.
- 7.6.9. With regard to the FI Verified View Photomontages, the photomontage methodology is stated to include preparation of an accurate 3D model of the proposed development, including landscape and infrastructure. I note that the proposed views are shown in the context of mature landscaping. A brief landscaping document was submitted as FI, with a focus on planting. While this landscaping document includes Plant Mix 1, 2 and 3, the level of detail provided is insufficient to ascertain the proposed location of the various plant species and planting size across the subject site. In the event that the Board was minded to grant permission, I consider that a comprehensive landscaping scheme would be required, to assist in integrating the proposed development into the site, and that this matter could be addressed by way of condition.
- 7.6.10. With regard to the site's relationship to the graveyard to the south, the proposed development would, if permitted, alter the setting of the graveyard. The nearest building to the graveyard would be Block 3, at approx. 28m from the southern site boundary.

- 7.6.11. For broader context, in terms of land use zoning, the graveyard is included in the ZU 18-15: Business and General Employment Areas zoning and also forms part of the Objective BD-B-04 lands.
- 7.6.12. I note that the grounds of appeal include concerns regarding the lack of a response to the FI request for a photomontage of the proposed development as viewed from the graveyard. I consider that the approx. 10m wide linear landscaped area along the southern site boundary would be a sufficient buffer area from St. Mary's Cemetery located directly south of the site. However, given the limited landscaping details on file, I consider that as outlined previously, in the event that the Board was minded to grant permission, that a condition requiring a comprehensive landscaping scheme to assist in integrating the proposed development into the site, and which would also have due regard to the setting of the graveyard, would be required.

7.7. Impacts on Residential Amenities

- 7.7.1. The subject site and the overall Objective BD-B-04 lands of which it forms a part are zoned Objective ZU 18-15: Business and General Employment in the current Development Plan. The Development Plan states that the compatibility of a particular use or operation will be dependent on the nature of the use/operations and surrounding uses in the area in which the development will be located. Accordingly, the various Appropriate Uses under this land use zoning may be considered, subject to assessment.
- 7.7.2. There are approx. 12 houses at the Spring Lane cul-de-sac.
- 7.7.3. The matter of traffic safety and sustainable active travel and the proposed office use (Block 1) are discussed elsewhere in this report.
- 7.7.4. With regard to the nature of the proposed light industrial and warehouse uses, I consider that in the event that the Board was minded to grant permission for Blocks 2 and 3, that the operation of these uses could be adequately addressed by way of conditions relating to hours of operation, waste management and noise levels. Similarly, appropriate conditions relating to a construction management plan to include waste management at construction stage could be attached in the event of a grant of permission. Accordingly, I consider that subject to conditions the proposed

development in terms of uses proposed in Blocks 2 and 3 would not give rise to adverse impacts on residential amenities.

- 7.7.5. The subject site also bounds lands to the north/north west to which Objective BD-X-02 (Allman Quarter) applies, accessed from Distillery Road. The FI site layout indicates that Block 3 is re-positioned 10m from the adjoining shared boundary to the north/north west, in contrast to the 6.3m separation distance originally proposed. The separation distance of the bin store from this boundary is also increased from 2.6m to 7m. Section D-D indicates the relationship of Block 3 to the adjoining north/north western site boundary, but does not indicate any details of grounds levels on the adjoining property. However, the ridge height on a structure on these separate lands approx. 26m to the north is indicated as 35.22 OD. This contrasts with FFL 33.00m indicated for the 6.7m high Block 3. Having regard to the 10m separation distance to the shared site boundary with the lands to the north/north east, and the absence of any dwellings shown directly north/north east of this boundary, and the Objective ZU 18-15: Business and General Employment Areas land use zoning which applies to the subject site, I consider that the proposed development would not adversely impact on the adjoining property to the north.

7.8. Procedural Matters

- 7.8.1. Concerns are raised in the grounds of appeal that the size and scale of the original application have been completely changed, that Condition 42 prohibiting right turns from the N71 was absent in original application, and that the proposed development as amended by way of FI should have been re-advertised. I note that the scale and quantum of the proposed development, as amended by way of FI, is a reduction over that which was originally proposed. New works/proposals relating to access to the proposed development included in the plans and particulars lodged as FI are located on the public road. In this regard I do not consider that revised public notices are warranted.
- 7.8.2. It is stated that the planning application lodged on 11 February 2022 was validated by Council's website on 25 February 2022, and that the public were not afforded sufficient time to review the application. I am satisfied that this did not prevent the concerned parties from making representations.

8.0 Appropriate Assessment

- 8.1. The site does not lie within or immediately adjacent to any designated European site. The 2 no. European sites in the wider area are:
- Courtmacsherry Bay SPA (Site Code 004219) is approx. 9.5km south of the site.
 - Courtmacsherry Estuary SAC (Site Code 001230) is approx. 8.8km south of the site.
- 8.2. The site is with Bandon-Ilen Hydrometric Area No. 20, is within the Bandon-Ilen catchment and the Bandon_SC_40_sub-catchment (as on www.catchments.ie on 22 March 2024). Knockbrogan Stream, located approx.. 200m to the north east of the site, drains to the River Bandon. There is no hydrological link to Courtmacsherry Bay SPA nor to Courtmacsherry SAC.
- 8.3. Having regard to the nature, scale and location of the proposed development, the nature of the receiving environment and the distance to the nearest European sites, the absence of any watercourses on the site, the location of the nearest stream, and the absence of any hydrological link or other pathway to a European site, it is concluded that no Appropriate Assessment issues arise as the proposed would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

- 9.1. Refusal of permission is recommended.

10.0 Reasons and Considerations

1. Having regard to the strategic importance of the adjoining national secondary N71 Bandon relief road from which subject site on Spring Lane is accessed, including the nature of the adjoining road network which includes three public roads accessing onto the N71 relief road between the N71/Spring Lane junction and the

Glasslinn Road roundabout, it is considered, on the basis of the information provided, that it has not been adequately demonstrated that the proposed access arrangements from the N71/Spring Lane junction would not give rise to conflicting traffic movements and would not interfere with the safe and convenient use of this national secondary route, thereby endangering public safety by reason of traffic hazard. Furthermore, the Board is not satisfied on the basis of the information on file that it has been adequately demonstrated that the proposed development would be in compliance with Section 1.4 of Spatial Planning and National Roads Guidelines for Planning Authorities, Department of Environment, Heritage and Local Government 2012, which requires that any local transport function of national road by-passes and relief roads in respect of the urban areas they pass through is, and must continue to be, secondary to the role of these roads in catering for strategic traffic. In addition, the Board considers that having regard to the information on file that it has not been adequately demonstrated that the proposed development would be in compliance with Objective TM 12-8: Traffic/Mobility Management and Road Safety (e) of Cork County Development Plan 2022-2028. Accordingly, it is considered that it would be inappropriate for the Board to consider the grant of a permission for the proposed development in such circumstances.

2. Having regard to the scale of the proposed development and the traffic to be generated by it, it is considered that the additional traffic associated with the proposed development, in the context of limited pedestrian and cycling infrastructural provision proposals, would endanger public safety by reason of traffic hazard and would lead to conflict between road users, that is, vehicular traffic, pedestrians and cyclists. The proposed development would, if permitted, be contrary to Objective TM12-2-1: Active Travel (a) of Cork County Development Plan 2022-2028 and 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

25 March 2024

Appendix 1
Form 1
EIA Pre-Screening
[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-315204-22			
Proposed Development Summary	The construction of a business park comprising office, light industry and warehousing uses and associated site works.			
Development Address	Clogheenavodig, Spring Lane, Bandon, 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)	Conclusion
No				No EIAR or Preliminary Examination required
Yes	X	10(b)(iv) of Part 2, Schedule 5, Planning and Development Regulations 2001, as amended, relates to urban development		Proceed to Q.4

		<p>which would involve <i>inter alia</i> an area greater than 2 hectares in the case of a business district. ('Business district' means a district within a city or town in which the predominant land use is retail or commercial).</p> <p>The proposed development comprises 0.88ha of land currently in agricultural use, i.e., the site area is below the 2ha threshold. The site to the north is a commercial centre and is considered to fall within a business district.</p>		
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4. Has Schedule 7A information been submitted?		
No		Preliminary Examination required
Yes	<p>X</p> <p>Note: Planning authority requested information relating to Schedule 7A of Planning and Development Regulations 2001, as amended.</p>	Screening Determination required

Inspector: Cáit Ryan _____

Date: 25 March 2024_____

Appendix 2

EIA Screening Determination

A. CASE DETAILS		
An Bord Pleanála Case Reference	ABP-315204-22	
Development Summary	<p>The construction of a business park comprising office, light industry and warehousing uses in 3 blocks.</p> <p>Proposal will be accessed from new vehicular and pedestrian onto Spring Lane (L-20441) to be supported by local road widening and new public footpath. Ancillary site works include landscaping, retaining walls, car, cycle and motorcycle parking, bin storage, relocation of ESB pole and public lighting.</p> <p>GFA of proposed development as originally lodged (11 February 2022) was 2227.2sqm (excluding 10.5sqm planting room).</p> <p>GFA of the proposal was reduced in the FI response (6 October 2022) to 1569.86sqm.</p>	
	Yes / No / N/A	Comment (if relevant)
Class of Development, Schedule 5	Yes	
Development for the Purposes of Part 10	Yes	<p>10(b)(iv) of Part 2, Schedule 5, Planning and Development Regulations 2001, as amended, relates to urban development which would involve inter alia an area greater than 2 hectares in the case of a business district. 'Business district' means a district within a city or town in which the predominant land use is retail or commercial.</p> <p>The site area of 0.88ha is below the 2ha threshold set out in 10(b)(iv).</p>

1. Was a Screening Determination carried out by the PA?	Yes	Screening Determination carried out by the PA concludes that EIAR is not required.
2. Has Schedule 7A information been submitted?	Yes	PA requested Schedule 7A information by way of Further Information.
3. Has an AA screening report or NIS been submitted?	No	For completeness, Table 6.1; Item 11 states that a NIS for the project has been submitted. This is incorrect as there is no NIS on file.
4. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	
5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	Yes	SEA and AA carried out for County Development Plan.

B. EXAMINATION	Where relevant, briefly describe the characteristics of impacts (ie the nature and extent) and any Mitigation Measures proposed to avoid or prevent a significant effect (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)		
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	<p>The EIA Screening Report states</p> <ul style="list-style-type: none"> the site area outlined in red is 0.8ha the scale of the proposed development is in keeping with the scale of the surrounding land uses along the N71 Bandon Bypass in terms of size and design, and is consistent with land use zoning for this area in Cork County Development Plan 2022-2028 and Bandon Kinsale LAP 2017. <p>I note that the site is stated as 0.88ha on the submitted planning application form. The site is bounded to the north by an established commercial area (retail park) within the town (Bandon) development boundary. There is a graveyard directly to the south. A small number of houses (approx. 12) are located approx. 60m further south of the site. The existing use on site is agricultural use as arable land.</p> <p>The site is zoned ZU 18-15: Business and General Employment Areas in the Cork County Development Plan 2022-2028, and forms part of lands to which Specific Development Objective BD-B-04 applies. The Bandon Kinsale</p>	No

	<p>LAP 2017 referenced in the EIA Screening report is no longer an operative plan.</p> <p>I note that the project differs in character and scale to the existing houses at the southern end of the Spring Lane cul-de-sac.</p> <p>However, the character and scale of the proposal are in keeping with the existing development to the north of the site and elsewhere on the N71 relief road.</p>	
<p>1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</p>	<p>EIA Screening report states:</p> <ul style="list-style-type: none"> • No demolition is proposed. • The project will result in changes to ground levels, due to the elevated nature of the site, and land cover. The current land cover is arable land and is of low value. The change in land cover to commercial land and associated infrastructure and a limited area of amenity grassland/landscaped area will not result in a significant negative impact to land cover. • Knockbrogan Stream is the nearest stream to the site at 200m to north east. A SuDS approach to stormwater management is proposed, to include underground stormwater attenuation. • It is proposed to connect the new storm sewer to the existing system on Spring Lane. • It is proposed to upgrade a section of the existing 150mm diameter foul sewer on Spring Lane to 225mm diameter. <p>I note that as the site is currently in agricultural use, the proposed business park (office, light industry and</p>	<p>No</p>

	<p>warehousing uses) will cause physical changes to the locality.</p> <p>Given that two attenuation tanks are proposed, and that the proposed development will be served by public waste water and surface water drainage infrastructure, I consider that the construction and operation of the proposed development would cause physical changes to the locality, but would not give rise to significant effects on the environment.</p>	
<p>1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?</p>	<p>EIA Screening report states</p> <ul style="list-style-type: none"> • Standard construction materials will be required. Quantities will be relatively small given scale of the project. • The construction will use arable land. Soil excavated within the site will be re-used for landscaping and filling. Surplus soil material will be disposed of to an approved facility. • Water will be supplied by existing mains water supply. A CoF has been received from Irish Water for a connection to the watermain. • Natural resources in the form of hydrocarbons will be required for energy and electricity during the construction and operation phases, and other raw material will be required during construction. Natural resources will be typical of required in a business/commercial development and their provision will not have the potential to result in significant negative effects. • quantities of natural resources to be used will be relatively small given the scale of the project. 	No

	<p>I note that the Irish Water/Uisce Éireann letter (dated 16 March 2022) states that it has no objections to the proposal subject to constraints outlined in the CoF, and standard conditions, and with regard to water, states Feasible.</p> <p>In addition, the Development Plan (at Section 1.4.70 – Vol. 5) states that Irish Water’s Investment Plan does not reference improvements to water supply but there are indications that plans are in place to rehabilitate water mains to improve water pressure and capacity. Leakage reduction measures have created additional capacity for 500 units.</p> <p>Having regard to the matters outlined in the EIA Screening report, the IW/UE letter on file and the Development Plan content relating to water supply, I consider that project’s use of natural resources would not result in significant adverse effects on the environment.</p>	
<p>1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</p>	<p>EIA Screening report states</p> <ul style="list-style-type: none"> Standard construction materials will be used, best practice construction will be implemented and such materials shall be stored in secure locations and handled in accordance with accepted construction procedures. <p>I note that the separate CDEMP outlines (at Section 6 Waste Generation) that if potentially contaminated material is encountered it will need to be segregated from clean material, tested and classified. Any on-site</p>	No

	<p>storage of fuel/oil, all storage tanks and draw-off points will be bunded (or stored in double-skinned tanks) and located in a secure area. Provided that these requirements are adhered to and site crew trained in refuelling techniques, it is not expected that there will be any fuel/oil wastage.</p> <p>I consider that having regard to the content of the EIA Screening report outlined above, and to the content of the CDEMP, that the proposed development would not be harmful to human health or the environment.</p>	
<p>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>EIA Screening report states</p> <ul style="list-style-type: none"> • Solid inert waste in the form of soil and stone will be produced during construction, that any waste from construction process will be either re-used within the scheme or recycled/disposed of at an authorised waste facility, and approach to minimising waste will be as outlined in Construction, Demolition and Environmental Management Plan (CDEMP). • Dust and emissions from construction vehicles, plant and equipment may be released temporarily during construction, are expected to be at worst minor, mitigation measures outlined will be implemented, and emissions will be kept within standard air quality limits. <p>I note that the EIA Screening report states that all waste generated at operation phase to be typical of residential development. Given that the proposal comprises office, light industrial and warehousing uses, this would appear to be erroneous. However, as it is also stated that during operation phase all waste generated will be</p>	No

	<p>disposed of by a licensed waste contractor, I consider that the matter of appropriate waste disposal for the proposed development would be adequately addressed.</p> <p>I consider that having regard to the nature of the proposed development and the matters set out in the EIA Screening report, notwithstanding the apparent erroneous reference to a residential development, that the proposal would not result in significant effects on the environment regarding works/processes relating to solid waste or due to release of pollutants or substances.</p>	
<p>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>The EIA screening report states</p> <ul style="list-style-type: none"> • There is no watercourse within the development footprint and management measures will be implemented during the construction phase, as outlined in the separate CDEMP. The potential impact to surrounding surface water quality has been assessed as imperceptible. • The nearest stream is Knockbrogan Stream 200m to north east. • At operation stage there is a low risk of contaminated surface water run-off. Potential contamination sources will be car parking and delivery area. No hazardous materials will be stored or used on site during the operation phase. • Surface water will be attenuated to greenfield run-off rates, directed to filter drains and treated via a silt and hydrocarbon interceptor, prior to discharge to the existing surface water pipework on Spring Lane. 	No

	<p>I note that Irish Water have no objection to the proposal subject to the constraints outlined in the Confirmation of Feasibility and standard conditions. With regard to wastewater, it is stated as Feasible subject to upgrades, and that the section of existing foul network between the proposed development and Bandon relief road will need to be upgraded from 150mm to 225mm to cater for the proposal.</p> <p>In addition, I note that the Development Plan (Vol. 5) states that Irish Water's Investment Plan makes provision for upgrading the Waste Water Treatment plant and network which is currently underway, and that there is capacity in the waste water treatment plant to facilitate planned population growth.</p> <p>Having regard to the matters outlined in the EIA Screening report, the IW/UÉ letter on file, the Development Plan content relating to wastewater infrastructure, and noting that the proposed development would be served by public surface water and waste water infrastructure, and noting also that two attenuation tanks are proposed as part of the project, I consider that the proposed development would not result in significant negative impacts from releases of pollutants.</p>	
<p>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</p>	<p>EIA Screening report states</p> <ul style="list-style-type: none"> Noise and vibration of a minor and short-lived scale are expected to be restricted to the construction phase, and mitigation measures are outlined to minimise the potential impacts. Adherence to best practice guidelines includes limiting the hours during which high noise levels are created, provision of noise barriers around 	No

	<p>generators, construction of hoarding along noise sensitive boundaries where works are taking place near neighbouring properties where no substantial screening exists, and undertaking noise monitoring during the construction phase. It is predicted that with the implementation of the range of measures, noise impacts generated during the construction phase will be of a short-term, slight, negative nature.</p> <ul style="list-style-type: none"> • The site fringes an urban environment with existing lighting. Lighting for the proposed development has been designed to ensure that it does not result in significant light pollution and to minimise impacts to wildlife and retain habitat features along the northern and eastern boundaries in a low night time lighting environment. <p>The EIA Screening report states that noise and vibration are expected to be restricted to the construction phase, and it is stated elsewhere in the document that the construction phase will have a 36-month timeframe. I do not consider that a 3-year timeframe is particularly 'short-lived', although it would however be temporary in nature. I note also that the mitigation measures include best practice guidelines outlined in BS5228:Code of Practice for Noise and Vibration Control on Construction and Open Sites – Part 1 Noise (2009 + A1 2014). While the proposed development would give rise to some negative impacts regarding noise levels during the construction phase, I do not consider that these would be significant impacts.</p>	
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	<p>With regard to artificial night time lighting provided as part of the proposed development, I note also that the separate Ecological Impact Assessment (EclA) states (at Section 6.1.2 Measures to Control Light Spill and Night Time Illumination) that no street lighting will be installed immediately adjacent to the northern and eastern boundaries, and that lights with a high UV content will be avoided.</p> <p>Having regard to the matters set out in the EIA Screening report and the EclA, I consider that the proposed development would not give rise to significant negative impacts due to release of light.</p>	
<p>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</p>	<p>The EIA Screening report</p> <ul style="list-style-type: none"> • details measures to be implemented to ensure that the project does not result in nuisance generated by noise, dust or vibration or light emissions or visual intrusion of wildlife areas. With implementation of best practice measures the construction phase will not represent a significant risk to human health. • States that during operation phase the development will be connected to existing public water and waste water infrastructure and there will be no release of untreated foul effluent. • States emissions generated during operation phase will relate to air conditioning, heating units and vehicle exhaust emissions, which are not predicted to have the potential to result in significant adverse environmental effects. <p>Having regard to the proposed mitigation measures during the construction phase outlined, the nature of the</p>	<p>No</p>

	emissions generated during operation phase and as the proposed development would be served by public surface water and waste water infrastructure, I consider that the proposed development would not be likely to result in significant adverse effects on human health.	
1.9 Will there be any risk of major accidents that could affect human health or the environment?	<p>EIA Screening report states</p> <ul style="list-style-type: none"> • The construction phase will operate to standard HSE operating procedures and guidelines, and the risk of major accident or disaster is considered negligible. • Construction activities would be undertaken with due regard to occupational health and safety. • Provided all measures outlined in the EIA Screening report and accompanying documentation for the project are implemented, and that all building and environmental regulations are adhered to, 'it is not that the project will not have the potential to result in major accident or disaster'. <p>In terms of detail, I note that</p> <ul style="list-style-type: none"> - the reference to HSE may be in error, in lieu of HSA (Health and Safety Authority); - the reference to the project's potential regarding major accident or disaster would appear to be an error. <p>While these apparent discrepancies are noted, these are not considered to materially impact on the EIA Screening Determination.</p>	No

	With regard to the construction phase being undertaken with adherence to HSA standard operating procedures and guidelines, and due regard for occupational health and safety, and measures set out in the EIA Screening report and accompanying documentation, I consider that the proposed development would not be likely to result in significant effects on human health or the environment due to risk of major accidents.	
1.10 Will the project affect the social environment (population, employment)	<p>EIA Screening report states</p> <ul style="list-style-type: none"> the proposed development has the potential to result in positive effects for local demography, as the project would create employment at the construction and operational phases. <p>I consider that the proposed development would have potential positive effects on the social environment in terms of potential employment.</p>	No
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	<p>EIA Screening report states</p> <ul style="list-style-type: none"> the project will not have the potential to combine with other projects or land uses to result in significant negative cumulative effects on the environment and refers to: <p>P.A. Ref. 17/4531: Change of design to dwelling types previously granted. P.A. Ref. 22/5800: Demolition of structures at O'Leary filling station and CVRT facility and construction of a new filling station and CVRT building.</p>	No

	<p>However, I note that the planning authority's decision to grant P.A. Ref. 22/5800 is currently under appeal (ABP PL04.318036 refers), and for the purposes of EIA screening I do not consider this to be a 'permitted' project.</p> <p>Separately, I note also that permission was granted in 2022 for 43 no. residential units approx. 57m east of the proposed development; P.A. Ref. 21/4711 refers (unimplemented).</p> <p>Having regard to the nature and scale of the proposed development, and the permitted developments in the vicinity of the site, I do not consider that the proposed development would have the potential to combine with this other project to result in significant cumulative negative effects on the environment.</p>	
2. Location of proposed development		
<p>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ul style="list-style-type: none"> a) European site (SAC/ SPA/ pSAC/ pSPA) b) NHA/ pNHA c) Designated Nature Reserve d) Designated refuge for flora or fauna e) Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan 	<p><u>With regard to a)</u> the EIA Screening report states</p> <ul style="list-style-type: none"> • No protected natural areas such as European Sites or NHAs occur in the vicinity. • Natura Impact Statement was submitted. <p>I note the following:</p> <p>No NIS was submitted. Reference to same in the EIA Screening report would appear to be in error.</p> <ul style="list-style-type: none"> a) The site is not located in or adjoining a European site. The nearest European sites are <ul style="list-style-type: none"> • Courtmacsherry Bay SPA (Site Code 004219) is approx. 9.5km south of the site. 	No

	<ul style="list-style-type: none"> • Courtmacsherry Estuary SAC (Site Code 001230) is approx. 8.8km south of the site. <p>Having regard to the nature, scale and location of the proposed development, the nature of the receiving environment and the distance to the nearest European sites, the absence of any watercourses on the site, the location of the nearest stream approximately 200m to the northeast, and the absence of any hydrological link or other pathway to a European site, it is considered that the proposed development is not likely to have a significant effect individually or in combination with other plans or projects on a European site.</p> <p><u>With regard to b)</u> the EIA Screening report states</p> <ul style="list-style-type: none"> • An EcIA found that the project will not have the potential to result in significant negative effects to NHAs or pNHAs in the wider area. <p>I note the following:</p> <p>b) There are no NHAs in the vicinity of the site. Three pNHAs in the vicinity of the site are:</p> <ul style="list-style-type: none"> • Bandon Valley West of Bandon (Site Code 001034), approx. 2.3km to west • Bandon Valley Above Inishannon (Site Code 001740), approx. 1.9km to north east • Bandon Valley Below Inishannon (Site Code 001515), approx. 5.7km to east <p>Having regard to the nature and scale of the proposed development and the nature of the receiving environment, I consider that the proposed development would not have the potential to impact on any NHAs or pNHAs.</p>	
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	<p><u>With regard to c) and d)</u> the EIA Screening report</p> <ul style="list-style-type: none"> • Does not refer specifically to designated refuge for flora or fauna • States that the habitats occurring within the project site are dominated by arable land habitat of negligible value and are not representative of sensitive ecological receptors. <p>I note the following:</p> <p>The site is not within nor does it adjoin, nor does it have the potential to impact on a Designated Nature Reserve or Designated refuge for flora or fauna. The submitted Ecological Impact Assessment (EclA) states that the principal risks associated with the project relate to disturbance to fauna associated with the boundary woodland habitats during the construction and operation phase. The implementation of measures will ensure that the likely significant effects to fauna are avoided and boundaries will continue to have potential to support fauna. Section 5.2.3 of the EclA outlines the design approach to minimise the potential for lighting to alter foraging habitat along the corridors used by bats. Having regard to the nature of the receiving environment, I do not consider that the proposed development would have the potential to impact on designated refuge for flora or fauna.</p> <p><u>With regard to e)</u>, as set out under c) and d) above, the EIA Screening report states</p> <ul style="list-style-type: none"> • The habitats occurring on the project site are dominated by arable land of negligible value and are not representative of sensitive ecological receptors. 	
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	<p>I note the following:</p> <p>Having regard the nature of the receiving environment, I consider that the proposed development would not result in significant effects on a place, site or feature of ecological interest.</p>	
<p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be significantly affected by the project?</p>	<p>See also response to Item 2.1</p> <p>The submitted Ecological Impact Assessment (EclA) states</p> <ul style="list-style-type: none"> • The range of bird species seen and heard during Phase 1 Habitat Survey are of low conservation concern. Swallows, of medium concern, were observed foraging over the site. The vegetation to be lost is of low value to bird species and there will be minimal loss of bird foraging habitat. The loss of hedgerow habitat along western boundary which provides some nesting habitat for breeding birds will represent a low magnitude impact to the conservation status of breeding bird population in the surrounding area and an effect of minor significance. • The lighting design approach is to minimise the potential for lighting to alter foraging habitat along the corridors used by bats. • No badgers were noted within or immediately bounding the site. <p>Having regard to the content of the EclA, the nature and scale of the proposed development and the nature of the receiving environment, I consider that the proposed development would not give rise to significant effects on</p>	<p>No</p>

	any protected, important or sensitive species of flora or fauna.	
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	<p>The EIA Screening report states</p> <ul style="list-style-type: none"> • for Cultural Heritage (at Table 5.1) that no potential impacts identified, and no known archaeological features are within the site footprint. • There will be no potential for the project to interact with areas designated for cultural heritage. • Separately, it notes (at Section 4.1.8.1 Cultural Heritage) that a burial ground is located adjacent to the south and a standing stone lies to the west on the western side of Spring Lane. <p>I note that there is a Recorded Archaeological Monument CO110-035 – Burial Ground located directly south of the subject site. St. Mary's Cemetery is described on site to have been a famine graveyard, and a pauper's graveyard.</p> <p>An Archaeological Impact Assessment (AIA) was submitted with the planning application. It concludes that there are no known archaeological sites within the proposed development site. A 10m buffer zone will be established along the southern boundary of the burial ground and no development will be undertaken within the buffer zone, save for any planting which will be shallow rooting and agreed in advance with the planning authority.</p> <p>The nearest proposed structure to the cemetery would be Block 3, at 28m from the southern site boundary.</p>	No

	<p>With regard to the standing stone referred to in the EIA Screening report, I noted on site inspection there is a standing stone in the field on the opposite (western) side of Spring Lane. In contrast, the lodged documentation indicates CO110-026; Standing Stone on the western side of the N71 relief road. This I note however is consistent with the detail shown on online National Monuments Service mapping (data.gov.ie/dataset/national-monuments-service-archaeological-survey-of-ireland)</p> <p>I consider that on the basis of the information submitted, including the AIA, and the distance of the nearest structure to the burial ground, that the proposed development would not result in significant negative impacts on a site of archaeological and cultural importance.</p>	
<p>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</p>	<p>The EIA Screening report states</p> <ul style="list-style-type: none"> • the site is entirely comprised of arable land habitat, of low ecological value and conservation importance • the site is underlain by a locally important aquifer • that there are no recorded geological sites in close proximity <p>Having regard to the nature and scale of the proposed development and the nature of the receiving environment, I consider that the proposed development would not result in significant effects to important, high quality or scarce resources.</p>	No

<p>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</p>	<p>The EIA Screening report states</p> <ul style="list-style-type: none"> • that the site is underlain by a locally important aquifer • the groundwater quality of the area is classified as good. • Groundwater subsoil permeability has been categorised as moderate while the groundwater vulnerability of the area has been classified as high. <p>I note that the proposed development includes SuDS measures, including two attenuation tanks, and it would be served by public surface water and waste water infrastructure. I consider that the proposed development would not result in significant effects on water resources.</p>	<p>No</p>
<p>2.6 Is the location susceptible to subsidence, landslides or erosion?</p>	<p>The EIA Screening report states</p> <ul style="list-style-type: none"> • No. <p>I note that the proposed development includes soil being excavated to facilitate the scheme. The site context is also noted, whereby there is a substantial difference in ground levels between the subject site and the Bandon Retail Park to the north, and also between part of the subject site and Spring Lane. I consider that subject to best practice measures and mitigation measures being adhered to during the construction phase, that the proposed development would not give rise to significant effects relating subsidence, landslides or erosion.</p>	<p>No</p>

<p>2.7 Are there any key transport routes (eg National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?</p>	<p>The EIA Screening report states</p> <ul style="list-style-type: none"> the Transport Assessment completed for the proposed development concluded that the project will not result in significant effects to the existing transport network and sufficient spare capacity will be available during the operational phase. <p>While I note the reduced quantum of development proposed in the FI response, I consider that based on the information on file that it has not been adequately demonstrated that the proposed access arrangements from the N71/Spring Lane junction would not give rise to conflicting traffic movements and would not interfere with the safe and convenient use of this national secondary route.</p> <p>However, while I consider that the matter of traffic impacts/traffic safety arises in this proposed development, I do not consider that it would result in significant negative impacts on the environment.</p>	<p>No</p>
<p>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be significantly affected by the project?</p>	<p>EIA screening report states</p> <ul style="list-style-type: none"> the nearest residential dwellings are approx. 55m to the south, and Bandon Community Hospital is approx. 110m to the west. With the implementation of a best practice approach to the construction phase and all measures outlined in this report and CDEMP there will be no potential for significant effects to the population in the surrounding area. 	<p>No</p>

	<ul style="list-style-type: none"> the project will be completed within a 36-month timeframe. <p>For clarity, I note that there appears to be erroneous content in the EIA Screening report, whereby Section 4.1.10 (Inter-relationship of Parameters & Environmental Sensitivity) refers to the presence of existing residential dwellings in Sunberry estate to the east, the school to the south and the woodland habitats surrounding the project site. This description of the surrounding area does not reflect the extant development in the immediate vicinity of the subject site at Spring Lane, Bandon.</p> <p>While this discrepancy is noted, having regard to the information on file, it is considered that this matter does not materially impact on the assessment of EIA Screening.</p> <p>I note the location of existing dwellings approx. 60m to the south, and estimate that Bandon Community Hospital is approx. 135m to the west, on the western side of N71 relief road.</p> <p>Having regard to the nature and scale of the proposed development, and the best practice measures and mitigation measures outlined in the EIA Screening report at construction stage, and in the referenced CDEMP, I consider that the proposed development would not result in significant effects to existing sensitive land uses or community facilities.</p>	
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3. Any other factors that should be considered which could lead to environmental impacts

3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?

The EIA Screening report

- refers to P.A. Ref. 22/5800 (at O'Leary filling station) as a permitted development

I note that the planning authority's decision on P.A. Ref. 22/5800 to grant is currently under appeal, and is not therefore 'permitted' at time of writing; ABP PL04.318036 refers.

Separately, I note that permitted development in the vicinity comprises 43 no. residential units approx. 57m east of the proposed development; P.A. Ref. 21/4711 refers. The permitted residential scheme would be accessed from Monarone Road.

The permitted P.A. Ref. 21/4711 development is of a different nature to the subject proposal given that it is a residential scheme. It includes the potential for cumulative construction effects. I consider that these effects are consistent with the permitted and planned uses within the distinct land use zonings which apply to the permitted residential scheme (Special Policy Area BD-X-02; Allmann Quarter) and the proposed commercial development (zoned ZU 18-15: Business and General Employment Areas in Cork County Development Plan 2022-2028, and which forms part of lands to which Specific Development Objective BD-B-04 applies).

I consider that they would be suitably mitigated by design measures and conditions attached to permissions, which are designed to avoid and mitigate significant effects.

3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	EIA Screening report states <ul style="list-style-type: none"> given the size, scale and location of the proposed development, potential transfrontier impacts will not arise. I consider that having regard to the size, location and nature of the proposed development, transboundary effects are unlikely.		No
3.3 Are there any other relevant considerations?	No		
C. CONCLUSION			
No real likelihood of significant effects on the environment.	<input checked="checked" type="checkbox"/>		EIAR Not Required
Real likelihood of significant effects on the environment.	<input type="checkbox"/>		EIAR Required
D. MAIN REASONS AND CONSIDERATIONS			
<p>Having regard to the criteria in Schedule 7A, the information provided in accordance with Schedule 7A of the Planning and Development Regulations 2001, as amended, and the following:</p> <p>(c) The subject site comprises 0.88ha, is located on arable land and the proposed development would result in a change to commercial land. A commercial development, Bandon Retail Park, is located to the north. The site is within the development boundary of Bandon, on lands zoned ZU 18-15: Business and General Employment Areas in the Cork County Development Plan 2022-2028, and forms part of lands to which Specific Development Objective BD-B-04 applies. The proposed development includes some removal of hedgerow along boundaries. Works include soil excavation, and the project will cause noise during the construction and operational phases, and vibration during construction. A number of mitigation measures will be implemented during the construction and operational phases to reduce impacts on existing residential properties and biodiversity. The proposed development would be served by public water, wastewater and surface water infrastructure.</p>			

(d) A Construction and Demolition Environmental Management Plan (CDEMP) was submitted with the application. It contains a number of measures to reduce/mitigate the impacts of the proposed development during construction phase, including measures relating to noise, dust, air quality, waste management and surface water management.

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

Inspector _____

Date _____

Approved (DP/ADP) _____

Date _____