



An  
Bord  
Pleanála

## Inspector's Report ABP 315615-23

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|-------------------------------------|---|
| <b>Development</b>                  | Construction of 62 apartments and 29 houses and all associated site works                           |
| <b>Planning Authority</b>           | Kerry County Council  |
| <b>Planning Authority Reg. Ref.</b> | 22/533  |
| <b>Applicant</b>                    | Social Housing Company Ltd.   |
| <b>Type of Application</b>          | Permission  |
| <b>Planning Authority Decision</b>  | Grant subject to conditions   |
| <b>Type of Appeal</b>               | 3 <sup>rd</sup> Party v. Grant and 1 <sup>st</sup> Party v. condition                               |
| <b>Appellants</b>                   | Coiste Aiseanna na hOige Teo,<br>Irene Flannery,<br>Sharon Gardener,<br>Social Housing Company Ltd. |
| <b>Observers</b>                    | Conradh na Gaeilge,<br>Plean Teanga Chiarrai Thiar,<br>Oifigeach Pleanala Teanga,                   |
| <b>Inspector</b>                    | Mary Kennelly   |
| <b>Date of site inspection</b>      | 7 <sup>th</sup> August 2023   |

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## 1.0 Site Location and Description

- 1.1.1. The site is located within the built-up area of Dingle town, to the north-east of the town centre. Dingle is located in the West Kerry Gaeltacht with a population of c. 2,180. The town is a vibrant market town with a deep-sea fishing port and is a popular tourist destination. It has a good range of facilities and services, comprising of shops, bars, restaurants, hotels and various community facilities including a small hospital. The site is located within the development boundary for the town to the north of Spa Road which is the main approach from Conor Pass and is zoned New/Proposed Residential. It is sited c.1km from the main shopping area on Main Street/Goat St/John St.
- 1.1.2. There are a number of small housing estates located close to the site, one of which (Ard na Greine) is located to the east of the site and another, Cluain Ard, which is located to the southeast. There is a further small housing estate of 20 social houses located to the north of the site. There is a large play school/creche located to the immediate east of the site (Áiseanna na hÓige Teo).
- 1.1.3. The site, which is roughly rectangular in shape, has a stated area of c.1.876 hectares. The site comprises a large open field which slopes from north to south and is currently used for the grazing of sheep. Access is from the existing housing estate road network of Árd na Greine and Cluain Árd, which in turn are accessed from Spa Road. There is a low stone boundary bounding the Ard na Greine estate road, which rises steeply towards the playschool. There is a roundabout outside the playschool which is immediately adjacent to the access to the site. The housing development to the north is accessed by means of the estate road which travels eastwards from the roundabout and curves back towards the west forming the northern boundary of the site. The southern boundary is with the rear gardens of some Cluain Árd houses and the western boundary is with an open field.

## 2.0 Proposed Development

- 2.1.1. The proposed development, (as revised on 23/08/22 and 18/11/22) entails the construction of 91 residential units comprising of 7 no. 3-storey apartment buildings and 29 no. housing units. The apartment buildings would contain 62 no. one and two bedroomed apartment units. The housing units would be a mixture of terraced and

detached dwellings comprising 21 no. single storey one and two-bedroomed terraced houses and 8 no. two-storey detached two and four bedroomed dwelling houses. There would be one entrance from the Ard na Greine estate road at the roundabout to the east. The proposed development includes a mix of housing units, with one and two bed apartments and a mix of one, two and four bedroom houses.

- 2.1.2. The density of the proposed development is 49 units/ha. It is proposed to provide 139 parking spaces in total. All houses would be provided with private gardens which would be a minimum of 48sq.m per unit. The balconies serving each apartment would be in accordance with the Apartment Guidelines. The public open space area represents 15% of the site. The proposed development includes a public lighting scheme.
- 2.1.3. It is proposed to connect to the public water supply and to the public wastewater system. Surface water will be discharged to the public sewer, following attenuation and control via a hydrobrake and passing through a petrol/oil interceptor and silt trap.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. The P.A. decided to grant planning permission subject to 24 conditions including:

**Condition 2:** Requirement to pay development contribution of €137,160.00.

**Condition 3:** Requirement to pay a security bond.

**Condition 4:** Requirement to enter agreement for provision of social housing in accordance with Part V.

**Condition 5:** Restricting units to first occupation as a place of permanent residence.

**Condition 6:** Permanent residence and no holiday lets.

**Condition 7:** Requirement to enter S47 agreement to ensure appropriate proportion of dwellings occupied by persons with adequate fluency in Irish language.

**Condition 8:** Requirement to enter S47 agreement to restrict occupation of each unit to individual purchasers.

**Condition 9:** Monitor ground disturbance – archaeology.

**Condition 10:** Materials, finishes and colour scheme to be agreed and traditional design of houses as per lodged plans (as amended).

**Condition 14:** Requirement that no dwelling to be occupied until water, drainage, sewage services installed and functioning. No surface water to enter foul sewer.

**Condition 15:** Road Safety Audit Stages 1 and 2 to be implemented and Stage 3 to be carried out. Detailed design of entrance to be submitted and agreed.

**Condition 18:** Public lighting.

**Condition 19:** Landscaping.

**Condition 24:** Site Development Works for Housing Areas.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The first **Area Planner's report (07/07/22)** made reference to the technical reports and the third-party observations. It was noted that the proposed development would be consistent with the residential zoning for the site in the Corca Dhuibhne Electoral Local Area Plan (2021-2027). It was also noted that Irish Water had indicated that connection of the development to public water and wastewater services was feasible. A Preliminary EIA Screening and an Appropriate Assessment Screening was included in this report.

Reference was also made to a refusal of permission for a scheme of 10 houses on a larger site incorporating the site of the current appeal. This refusal by the P.A. (12/129) was appealed to the Board, who also refused it (240617) on the grounds of material contravention of the zoning objective (community/educational). Furthermore, reference was made to a grant of permission (17/484) of a housing development on lands to the north of the site.

#### 3.2.2. Further information Request (8/07/22)

Further information was requested in respect of the following: -

Traffic safety – It was requested that solutions to the problems identified in the Road Safety Audit (Stage 1 and 2) be submitted. Sight visibility at both entrances required clarification or revision. It was further requested that specific matters to be addressed

including public footpaths, pedestrian routes and SUDs. Further details were also required in respect of public lighting. In particular, the lack of pedestrian connectivity with the town centre was highlighted.

Visual amenity – Photomontages were requested in respect of views from the Conor Pass road and from other housing estates in the vicinity including Faill an Oir housing estate to the southeast.

Residential amenity – concerns regarding impact of apartment blocks 53-62, 43-52 on residential amenities of House Nos. 78-82. Revised site sections E-E of apartment blocks to rear of House Nos. 78-82 required.

Childcare facilities – one facility per 75 units required.

Name of applicant – clarification required re ‘Social Housing company’ and whether registered for provision of social housing.

Connectivity with town centre – improvements required.

Design and Layout – A revised site layout plan was requested to address various matters. These included boundary treatments, pedestrian crossings, Stop signs, tactile paving and details of all communal areas to be taken in charge. Steep slopes to be avoided in public open space areas.

Biodiversity – Clarification if any Japanese Knotweed present on or near site, and if so, a Management Plan for the control and treatment of Japanese Knotweed to be submitted.

Storm water – a revised proposal to avoid having to pump storm water is requested.

### 3.2.3. **Response to FI submitted on 23<sup>rd</sup> August 2022**

The applicant’s responses included revised drawings which generally addressed the issues raised in the FI request. It is noted that clarification was provided regarding the nature of the applicant and the likely future phases of development. It was considered that no new /additional childcare spaces were necessary due to the supply of such places in the area and the nature of the accommodation proposed. Notwithstanding this, an alternative drawing was submitted showing some of the proposed houses replaced with a childcare facility for 33 children in the SE corner of the site (Drg. SHC/01/131). The revised proposals also addressed, inter alia, the issues of stormwater pumping, boundary treatments and pedestrian connectivity.

3.2.4. However, the **second planning report** dated **16/09/22** noted that the FI response raised issues which required further clarification. The P.A. was not satisfied with the road safety issues associated with the two entrances and the lack of adequate pedestrian connectivity with Spa Road. The private amenity space for some of the apartments was also considered to be unacceptable, as was the proposed resolution of the potential overlooking from the balconies to the rear of Apartment Blocks 43-52 and 53-62 towards the rear gardens of the proposed House Nos. 78-82.

3.2.5. **Clarification was sought on 16<sup>th</sup> September 2022** on the following issues -

Road safety – northern access point is unsatisfactory particularly in regard to its proximity to the childcare centre. Reservations were also expressed regarding the southern access point relative to the entrance opposite and lack of a footpath or pedestrian crossing adjacent to the site. Revised proposals required together with new Road Safety Audit.

Balcony screening – the proposed 1.8m high wall enclosing the balconies of Apts. 43-52 and 53-62, respectively, is unacceptable and should be revised. In addition, the depths of the ground floor amenity spaces should be increased and provided with lower height screen walls to allow for greater light penetration.

Tactile paving – further revision required with greater alignment relative to entrances and on both sides of road.

Water services – liaise with L.A. re positioning of infrastructural services.

3.2.6. **Clarification received 18<sup>th</sup> November 2022** and was **readvertised** on **30<sup>th</sup> November 2022**

3.2.7. The submission included further revisions to the proposed scheme including the following:

- **Access to development** - The northern access to the development was omitted. The southern access junction has been amended to a raised table junction together with four courtesy/priority pedestrian crossings and reduced corner radii to improve cyclist and pedestrian safety at the junction.
- **First floor balcony screening** – will comprise 1.8m high walls with 4.0m inserts comprising 900mm high railings with opaque glass sections to allow light to penetrate without risk of overlooking from balconies.



- **Overlooking from upper floor windows** – the lower glazing sections of bedroom windows in Units 44, 46, 48, 50, 52, 54, 56, 58, 60 and 62 will be fitted with opaque glass.
- **GF Private amenity areas** – increased area by a minimum of 2.0m giving new depths of 4m and 6m respectively. The rear walls screening these areas will be reduced to 1.0m in height where they abut public amenity spaces to improve connectivity and will incorporate private pedestrian gates.
- **Dwelling houses 78-82** – have been moved 4.0m to the south-east to allow for greater rear building separation distances.
- **Footpath to rear Units 43-62 and 78-82** – has been removed and the area released has been incorporated into the private garden areas.

3.2.8. In addition, a revised Stage 1/2 Road Safety Audit was submitted and the proposed scheme was further amended to take account of the recommendations in the RSA. It was confirmed that existing Irish Water infrastructure runs alongside the North-Eastern boundary of the site and that revised landscaping plans have been submitted to ensure that no trees would be planted within the buffer zones.

3.2.9. The **third planning report 20/12/22** noted that the additional information submitted on the 18/11/22 and 30/11/22 had responded in full to the CFI request. It was noted that the access arrangements were now satisfactory and that the revisions to the layout would result in improved private amenity areas for the future residents. Reference was made to the reports and referrals received following the receipt of the further information. Reference was also made to the additional third-party submissions received following publication of the revised submissions and that no new issues were raised. It was considered that the proposal, as revised, was acceptable and permission was recommended subject to conditions.

### 3.3. Other Technical Reports

3.3.1. **Area Engineer's report (17/06/22)** The Engineer met with the developer regarding issues relating to the site to the north (Gort na Glasa) which had recently been constructed (ref. 17/484). Main issues raised related to storm water and pedestrian connectivity with the town. It was stated that storm water pumping was unsustainable and that there was an opportunity to seek a resolution as an alternative to pumping

on both the site of the proposed development and the Gort na Glasa site. It was noted that there is an existing pedestrian short-cut between Gort na Glasa and the town centre which would be a better alternative to walking via Ard na Greine and Spa Road. It was requested that such alternative means of pedestrian connectivity be explored.

- 3.3.2. **Roads and Transportation (16/06/22)** – The recommendations in the Road Safety Audit need to be addressed in the application. Issues were raised regarding sight visibility at the proposed northern entrance and its relationship with the play school drop-off and with the southern entrance in respect of the existing junction at this location. Further issues were raised regarding the poor pedestrian linkages to the town centre in respect of the presence of the public footpath on the opposite side of the road and the lack of pedestrian crossings connecting the development to this footpath.
- 3.3.3. **Following the receipt of FI (22/08/22)**, the Roads and Transportation Section remained dissatisfied with the road safety aspects of the proposed development, particularly in relation to the proximity of the northern access to the play school drop off and to the design of the southern entrance. These matters were, however, addressed in the **Clarification of FI submitted on the 18/11/22**, as the northern entrance was omitted, and a raised table junction was provided at the southern entrance. Permission was recommended subject to conditions.
- 3.3.4. **County Archaeologist (24/05/22)** – Noted that no Recorded Monument located within or in proximity to the proposed development. An Archaeological Impact Assessment was submitted with the application which had identified 2 no. charcoal production pits. These had been uncovered during testing and subsequently excavated. No objections were raised subject to conditions including archaeological monitoring (under licence) during construction.
- 3.3.5. **Biodiversity Officer (30/06/22)** – It was noted that IW had not raised an objection to connection to the public system. The B.O. raised concerns regarding the possible presence of Japanese Knotweed on or in the vicinity of the site. Further information was required regarding this matter and how it would be managed.
- 3.3.6. Following receipt of FI, the **Biodiversity Officer (29/08/22)** was satisfied that there is no Japanese Knotweed present. The Biodiversity Officer undertook an AA Screening

Assessment and screened out the need for AA on the basis of the physical and hydrological distance from the nearest SAC (Mt Brandon SAC), together with the nature and extent of the SAC, which is an extensive mountainous area and the nature of the Qualifying Interests. The receipt of FI did not change the outcome of this assessment.

- 3.3.7. **Housing Estates Unit (25/05/22, 05/09/22 and 12/12/22)** – FI requested regarding various matters including traffic safety, parking, site layout, boundary treatment, layout of services, public lighting and road signage. Concerns were raised regarding sight visibility at the entrances, inadequate provision for pedestrian crossings, tactile paving etc. and need for traffic calming. Other traffic related matters included a need for Stop signs, adequately sized footpaths and name plates. However, the revised drawings submitted as FI of Clarification of FI had generally addressed these matters including the provision of raised tables and pedestrian crossings.
- 3.3.8. Concern was raised regarding boundary treatments, many of which were addressed in the FI or Clarification of FI. However, concern remained regarding some of the boundary treatments proposed including the retention of the existing sod and stone fence at Boundary 01, the use of chain-link fencing at boundary 02, and the height of other boundary walls.

### 3.4. **Prescribed Bodies**

- 3.4.1. **Irish Water** in a letter dated 10/07/22 stated that the developer would need to engage with IW in order to determine the feasibility of a connection to the water and waste-water infrastructural services. Since then, confirmation of feasibility has been issued and the applicant will be required to enter into a connection agreement prior to the commencement of development. It would, however, be subject to the constraints of the IW Capital Investment Programme.

### 3.5. **Third Party Observations**

It is noted that 10 no. third party objections were submitted. The objections received by the planning authority are on file for the Board's information. The issues raised are comparable to those set out in the 3<sup>rd</sup> Party appeals and observations received and summarised in section 6 below. Many of the issues raised were addressed in

the Further Information which included revised plans. The main issues raised may be summarised as follows:

- Conflict with Dingle LAP as site is too far from town centre for this density of development and poor pedestrian connectivity.
- Scale, mix and density excessive and out of character with area. Lack of adequate housing mix and impact on existing services given density of social housing.
- Visual impact of design and height of buildings on the character of the surrounding area and on the wider landscape, including views from Conor Pass road.
- Traffic hazard and inadequate pedestrian facilities. Proximity of entrance to existing creche with traffic and parking related problems will be exacerbated by development and endanger children attending play school.
- Impact on Irish Language – inadequate provision made for native Irish speakers and not in compliance with policy framework on the protection of the language.
- Impact on Residential amenity – noise, light pollution, overlooking, anti-social behaviour.
- Impact on creche/play school – height and scale of the proposed development is excessive and is likely to impact on the ability of the school to expand in the future.
- Disruption and safety concerns during construction.
- Name of applicant queried as no information of Social Housing Company.

The FI was readvertised (30/11/22) following the submission made on 18<sup>th</sup> November 2022. Three further third-party submissions were received, which were from Conradh na Gaeilge, Aiseanna na hOige Teo and Irene Flannery (&Others). The issues raised related to dissatisfaction with the responses to the further information and clarification requests. It should be noted that these parties are also third-party appellants/observers and the issues raised by them will be included in the summaries provided in section 6.0 below.

## 4.0 Planning History

### 4.1.1. On the subject site

**PL08.240617 (PA Ref. 12/129)** – Permission refused by the Board for construction of 10 dwelling houses on the site. The reason for refusal was based on material contravention of the Development Plan as the site was zoned at the time as ‘Public / Community / Institutional / Educational’ in the Dingle Functional Area LAP 2012-2018, in order to provide for the development of such development including schools, churches, day-care centres, childcare facilities, community buildings and health facilities.

### 4.1.2. On adjacent site to the north

**P.A. 17/484** – planning permission granted by the P.A. for 20 dwelling houses comprising semi-detached (2-storey) units. This permission was implemented, and the houses have since been completed and are largely occupied as social housing.

## 5.0 Policy Context

### 5.1. National Planning Framework (2018)

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

**NP Objective 1** Compact growth – recognises the need to deliver a greater proportion of residential development within existing built-up areas. Activating these strategic areas and achieving effective density and consolidation rather than urban sprawl is a top priority.

**NP Objective 4** - Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

**NP Objective 29** aims to support the implementation of language plans in Gaeltacht Language Planning Areas, Gaeltacht Service Towns, and Irish Language Networks.

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

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

## 5.2. **Regional Spatial & Economic Strategy for the Southern Region 2020**

- 5.2.1. The Strategy supports the implementation of Project Ireland 2040 and the National Planning Framework (NPF). The RSES provides a long-term strategic development framework for the future physical, economic and social development of the Southern Region and seeks to implement the policies and objectives of the National Planning Framework. Key elements of the strategy include sustainable plan-led development, the provision of sustainable mobility, through public transport, walking, cycling and electric vehicles and the support of the region's diversity, language and culture.

**RPO 3.3** requires local authorities to provide for increased densities as set out in the 'Sustainable Residential Development in Urban Areas', 'Sustainable Urban Housing; Design Standards for new Apartments Guidelines' and the 'Urban Development and Building Heights Guidelines for Planning Authorities'.

## 5.3. **Urban Development & Building Height Guidelines 2018**

- 5.3.1. These guidelines set out national policy on building height in urban areas. In suburban areas, it is stated that the scope to consider heights of 3-4 storeys must be supported at development plan/development management levels. Consolidation and densification, with greater building heights, can be considered in appropriate locations such as city and town centre areas, sites with significant public transport capacity and connectivity, but having regard to the need to achieve very high quality in terms of architectural, urban design and public realm outcomes.
- 5.3.2. At paragraphs 3.4-3.8, guidance is provided in relation to building heights in suburban/edge locations. It is advocated that development should include an

effective mix of 2, 3 and 4-storey development which integrates well into existing and historical neighbourhoods and 4 storeys or more can be accommodated alongside larger buildings, trees and parklands, rivers and wider streets. Development proposals should move away from a 2-storey cul-de-sac dominated approach and return to more compact urban forms.

#### **5.4. Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities (2018, as amended)**

- 5.4.1. The purpose of these guidelines is to balance the achievement of high-quality apartment development with a significant increase in the overall level of apartment output. They provide guidance on matters such as locational considerations, mix of units, internal space standards, dual aspect, floor-to-ceiling heights, apartments to stair/lift core ratios, storage space, room dimensions, amenity spaces and car parking. The Guidelines are issued under Section 28 and the Board is required to have regard to them. In particular, the Specific Planning Policy Requirements (SPPRs) contained in the guidelines take precedence over any conflicting policy contained in development plans or local area plans.
- 5.4.2. Identification of suitable locations is guided by 2.4. which highlights three types of location, namely Central/Accessible Urban Locations, Intermediate Urban Locations and Peripheral/Less Accessible Locations. The central locations (suitable for the highest density) are generally within easy walking distance of city centres/significant employment zones or high quality/frequency public transport and the Intermediate zones are suitable for smaller scale but higher density developments (>45dw/ha) and will be located within reasonable walking distance of principal town/suburban centres or employment locations or high quality/frequency public transport. The requirements set out in the SPPRs and in Appendix 1 of the Guidelines will be discussed in more detail in the assessment section of this report, where relevant.
- #### **5.5. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) & Best Practice Urban Design Manual, Parts 1 & 2**
- 5.5.1. These guidelines were in place at the time that the planning application was lodged and determined by the planning authority, but have since been revoked. In terms of

densities, the 2009 Guidelines recommended that centrally located development in small towns and villages could achieve densities of up to 30-40 dw/ha., whereas edge of centre sites should achieve 20-35 dw/ha. However, the guidelines have now been superseded by the **Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities 2024** (published on 12<sup>th</sup> January 2024). In the Circular which accompanied the Guidelines, **NRUP 02/2024**, it is stated that “a non-statutory Design Manual detailing best practice examples of how the policies and objectives of the Guidance can be applied, will be published in early 2024.”

## 5.6. **Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities 2024**

- 5.6.1. The **2024 Guidelines** support the application of densities that respond to settlement size and to different place contexts within each settlement recognising the differences between cities, large towns and smaller towns and villages. They also allow for greater flexibility in residential design standards. Whilst the 2009 Guidelines promoted a 3-tiered approach to residential density, with densities of up to 35 dw/ha in smaller towns, 35-50 dw/ha in outer suburbs of larger towns and cities and 50dph in more central urban locations, the 2024 Guidelines have expanded the density bands to ensure that they are tailored to settlement contexts.
- 5.6.2. The density for **Small to Medium Sized Towns** (pop 1500-5000) is **25 to 40 dw/ha** for sites at the **edge of these towns** (Table 3.6). Provision is made in Section 3.4 of the guidelines to further refine the density within these ranges based on centrality, accessibility to services and public transport as well as considerations of character, amenity and natural environment. Densities at or above the mid-range are encouraged for the most central and accessible locations and densities below the mid-range for more peripheral locations. **‘Peripheral’** is described as lands that do not meet the proximity or accessibility criteria in Table 3.8 (i.e. accessibility to high capacity/high frequency public transport), which includes ‘all lands in Small to Medium Sized Towns and in Rural Towns and Villages’. In addition, to accessibility and centrality issues, it is required that the quantum and scale of development can successfully integrate into the receiving environment.



5.6.3. The 2024 Guidelines also include **Revised Development Standards** for housing in relation to separation distances, private open space standards, public open space requirements and car parking and cycle parking standards, which may be summarised as follows:

**SPPR 1 – Separation distances** - Maintain at least 16 m between opposing windows serving habitable rooms at the rear and side of houses, duplexes and apartments above ground floor.

**SPPR 2 – Minimum Private Open Space standards** – the following minimum standards for houses are a specific requirement -

|               |          |
|---------------|----------|
| 1 bed house   | 20 sq.m. |
| 2 bed house   | 30 sq.m. |
| 3 bed house   | 40 sq.m. |
| 4 bed + house | 50sq.m.  |

A further reduction may be considered acceptable where an equivalent amount of high quality semi-private open space is provided in lieu of the private open space, subject to at least 50 percent of the area being provided as private open space (Table 5.1). The planning authority should be satisfied that the compensatory semi-private open space will provide a high standard of amenity for all users and that it is well integrated and accessible to the housing units it serves. Apartments and duplexes will be required to continue to comply with the standards in the Apartment Guidelines.

**Policy Objective 5.1 – Public Open space** - A minimum of 10-15% of the net site area to be provided as POS. The minimum requirement should be justified taking into account existing public open space provision in the area and broader nature conservation and environmental considerations. In the case of strategic and sustainable development sites, the minimum public open space requirement will be determined on a plan-led basis, having regard to the overall approach to public park provision within the area.

**SPPR 3 – Car Parking** – the approach is to generally to reduce the parking requirements in a graduated manner based on proximity to urban centres and sustainable transport options. In city centres and urban neighbourhoods in the five

cities, carparking provision should be minimised, substantially reduced or wholly eliminated with a maximum provision of 1 space per unit. In accessible locations in Table 3.8, car-parking provision should be substantially reduced, with a maximum rate of 1.5 spaces per unit. In intermediate and peripheral locations, (Table 3.8), the maximum rate should be 2 spaces per unit.

**SPPR 4 – Cycle Parking and Storage** – it is a specific requirement to provide adequate safe and secure cycle storage facilities for residents and visitors. 1 space per bedroom shall be provided for residential units without a ground floor open space area or where the private amenity space is a smaller terrace. The cycle parking spaces should be provided within safe and secure, dedicated facilities, such as purpose-built structures or within the building footprint.

## 5.7. **Design Manual for Urban Roads and Streets (2013)**

- 5.7.1. These statutory guidelines focus on the role and function of streets within urban areas where vehicular traffic interacts with pedestrians and cyclists. The manual generally seeks to achieve better street design in order to encourage more people to choose to walk, cycle and use public transport by making the experience more pleasant and safer, and thereby promoting more healthy lifestyles. It outlines practical design measures to support and encourage more sustainable travel patterns in urban areas. These include guidance on materials and finishes, street planting, design and minimum width of footways (including minimum widths, verges and strips), design and location of pedestrian crossings, kerbs and corner radii and shared surfaces.

## 5.8. **Kerry County Development Plan 2022-2028**

The new Kerry CDP was adopted following the lodgement of the planning application with the planning authority but prior to the making of the decision on the application.

**Chapter 3 – Core and Settlement Strategy** – Dingle (Daingean Ui Chuis) is designated in the Settlement Hierarchy as a Regional Town, the function of which is to harness and develop the complementary strengths and synergies between the settlements and their functional hinterland, to create highly connected centres of scale with the necessary critical mass, in terms of population and employment, to

enable them to compete and grow to fulfil their potential and drive regional development in tandem with regional and national policy. The population of Dingle is estimated (2022) as 2,181 with a population growth target of 282 and a housing target of 221. The zoning of land will be set out in the Municipal District LAP.

It sets out the housing policies and objectives including the following:

**KCDP 4-1** – Support and facilitate the objectives of ‘housing for all’ to regenerate towns and villages and to achieve compact growth and increased population in these centres.

**KCDP 4-9** – Facilitate and support Language Plans for Daingean Ui Chuis, Tralee and Cahersiveen to achieve their target of increasing the number of daily Irish speakers.

**KCDP 4-10** – ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy an enhanced quality of life and well-being.

**KCDP 4-17** – Facilitate the development of sustainable compact settlements with the “10-minute” town concepts, whereby a range of community facilities and services are accessible in short walking and cycle timeframes from homes, with walkways and link routes to Greenways or are accessible by high quality public transport services connecting people to larger scaled settlements delivering these services.

**KCDP 4-40** – Ensure that developments have regard to the Ministerial Guidelines Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (DHPLG, 2020), Urban Development and Building Heights – Guidelines for Planning Authorities (DHPLG, 2018) and the ‘Sustainable Residential Development in Urban Areas’ Guidelines (DoEHLG, 2009).

## **Chapter 6 – Sustainable Communities**

This chapter is to be read in conjunction with **Chapter 7 – Housing for All**

**KCDP 6-3** – continue to support the creation of sustainable communities throughout the County by facilitating the creation of attractive neighbourhoods where there are strong links and connections to local services, community facilities and employment areas and where walking, cycling and public transport is prioritised and which

supports the retention of existing ecological features and supports the planting of native species in green and public areas.

**KCDP 6-16** – Have regard to and promote increased residential densities in the towns and other appropriate locations in accordance with the ‘Sustainable Residential Development in Urban Areas Guidelines’ (2009)

**KCDP 6-17** – Promote integration of social housing and ensure a housing mix within developments in order to promote a socially balanced and inclusive society.

**KCDP 6-52** – Facilitate the provision of childcare facilities and new and refurbished schools on well-located sites within or close to existing built-up areas, that meet the needs of local populations.

**KCDP 6-58** – Facilitate and support Language Plans of the County for Bailte Seirbhise Gaeltachta – Daingean Ui Chuis, Tralee and Cahersiveen, to achieve their target of increasing the number of daily Irish speakers.

**KCDP 7-18** – facilitate the development of housing for older people – which should be aligned to the targets of national policy as per ‘Housing Options for Our Ageing Population.

**KCDP 7-20** – Provide and facilitate the provision of suitable accommodation in appropriate locations to meet the needs of older people and to encourage the provision of a range of sustainable housing options for older people in central, convenient and easily accessible locations and to integrate such housing with mainstream housing where possible.

## **Chapter 8 Gaeltacht Areas, Culture and Heritage**

New initiatives to plan and develop the Gaeltacht areas and use of the Irish language were introduced by the Gaeltacht Act 2012. The key measures include the development of Limistéir Phleanála Teanga (LPT)(Language Planning Areas) and the development of Bailte Seirbhísí Gaeltachta (BSG)(Gaeltacht Service Towns). The designation of BSGs is a recognition of the provision of services required to support Gaeltacht areas including digital and educational resources. Chorca Dhuibhne is designated as an LPT and Daingean Ui Chuis is designated as a BSG.

Relevant policies include:-

**KCDP 8-6** - Facilitate and support Language Plans of the County: Tobar Dhuibhne - Plean Teanga Chiarraí Thiar (2018), Dúchas an Daingin - Plean Teanga for Bhaile Seirbhíse Gaeltachta Daingean Uí Chúis and Brí Uíbh Ráthaigh -Plean Teanga Chiarraí Theas 2019-2026 to achieve their target of increasing the number of daily Irish Speakers, long term in Gaeltacht areas.

**KCDP 8-7** - Ensure that developments of multiple residential units (2 or more) in An Ghaeltacht settlements shall be subject to linguistic and occupancy requirements in order to protect and sustain the linguistic and cultural heritage of the Gaeltacht areas including the promotion of Irish as the community language. The linguistic impact statement shall be prepared by a person qualified in the area of language planning.

**KCDP 8-8** - Ensure that a minimum of 66% of Housing Developments on R1 and R4 zoned lands within the Gaeltacht areas shall be reserved for Irish Speakers. The standard of Irish required shall be determined and assessed by Kerry County Council. A language Enurement Clause (LEC) will be applied for a duration of 15 years from the date of first occupancy of the unit.

**Appendix 6 of the CDP** includes information regarding the land-use zoning used in the plan. The site is zoned **New/Proposed Residential** the objective for which is to 'Provide for new residential development in tandem with the provision of the necessary social and physical infrastructure'. It is further stated that the intention is to provide high quality new residential environments with an appropriate mix of house sizes, types and tenures in order to meet household needs and to promote balanced communities.

## 5.9. Corca Dhuibhne Electoral Area Local Area Plan 2021-2027

- 5.9.1. The LAP has been prepared to provide a statutory framework for the future growth, development and improvement of the Corca Dhuibhne Electoral Area. The principal town within the Electoral Area is Dingle / Daingean Ui Chuis. The strategy for the Municipal District is described (3.1.1) as being dependent on the growth of Dingle as the regional town, which can only be achieved through creating employment opportunities and attracting people to live in these settlements, thereby strengthening their urban structures and creating a demand to support local services. Future residential development will only be permitted on R1 (new/proposed

residential) or R2 (existing residential), or M2 (Town/Village Centre sites), infill sites and on sites that are contiguous with the town/village centre. A mix of housing types should be provided in any one development to provide for the varying housing needs of the public and to adapt to changing demographic trends. Housing developments with a mix of housing types also make for a more interesting and attractive estate in terms of design and layout. In general housing densities will be higher closer to the town and village centre and lower towards the edge of settlement.

5.9.2. **WK-R-08** - Ensure that residential densities reflect the density of appropriate adjoining developments. Higher densities will be considered in the town/village centre or within close proximity to the town/village centre. Lower densities will be considered at the edge of the settlement as per the DoEHLG publications Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas.

5.9.3. At **3.1.2** it is stated that the development and growth of Dingle, which is a regional town, is critical for realising balanced regional development, acting as a focus for strengthening its own area. In accordance with the aims of the NPF, it is stated that it is envisaged that at least 30% of all new housing development in the town will take place on infill and brownfield sites. Relevant policies include: -

**WK-RT-01** Ensure that Dingle is a driver of county and regional prosperity by harnessing its strategic location and position in the Dingle Peninsula, its strong urban structure, port facilities, existing tourism, retail, service and accommodation base, and other competitive advantages.

**WK-RT-02** Promote a vibrant and culturally rich town centre with enhanced social inclusion, sustainable neighbourhoods and a high level of environmental quality to ensure an excellent quality of life for all.

5.9.4. Residential development is addressed in 3.2.7. It is stated that there has been historically, and continues to be, a large Social Housing Demand in Dingle Town and that a significant quantum of social housing is provided on a short-medium term lease, which do not offer adequate security of tenure. Further Objectives for residential development are set out at D-RES-01 to CD-RES-03, which include the above objectives.

## 5.10. Natural Heritage Designations

Mount Brandon SAC (site code 000375) is located c.300m to the northwest.

Dingle Peninsula SPA (site code 004153) is located approx. 3km to the south/southwest/southeast.

Castlemaine Harbour SAC (site code 000343) is located approx. 16km to the southeast.

Blasket Islands SAC (site code 002172) is located approx. 14km to the west.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. Three third-party appeals have been received and one first-party appeal. The observations can be summarised as follows:

- **Density and scale of proposed development is excessive** – the development of the site at the density and scale proposed would result in a housing estate that would be out of character with the social fabric and mature residential character of the area. The proposed density at 50/ha would be more than twice that recommended in the Sustainable Residential Development in Urban Areas Guidelines and in the CDEALAP. It would accommodate c.250 persons which would represent a 15% increase in the population of Dingle. The site location is not suitable for such large-scale, high-density development. The peripheral location of the site will result in a car-dependent development which is contrary to the Climate Action and Sustainable Communities objective (6.1.2) of the KCDP. It would also be contrary to the advice in Circular NRUP 02/2021 which advises against suburban or high-density approaches being applied uniformly and recognising that at the edges of towns in a rural context, residential densities at a lower level may be more appropriate.
- **Design and layout unacceptable** – the proposed design and layout of the development on this prominent hillside site is unacceptable. The design, bulk and height of the 7 no. apartment blocks seems incongruous with the

established built pattern of the surrounding housing estates. The layout is car and parking dominated, with poorly located and designed open space. Social housing developments need to be of good quality design and placemaking with good community and social infrastructure. However, the design of the proposal fails to achieve a sense of place or identity and instead provides for generic suburban type development, with an emphasis on horizontal building form with no reference to vernacular forms. The overall effect is one of maximising the number of houses on the site at the expense of quality open space, with no provision for play areas for young people. The design is of such poor quality that it reinforces the cost-driven approach, with a poor-quality residential environment with sub-standard levels of amenity designated for social housing, which is regrettable.

- **Mix of units unacceptable** – it is considered that a 1-bedroom 3-person unit is unacceptable and should be omitted. It is further considered that the proportion of 2-bedroom 3 person households (representing 10% of the development) is inappropriate given the size of the settlement. A more proportionate and balanced mix of units is required.
- **Disproportionate development of single tenure type** - The density and mix of units, and in particular the concentration of social housing in a homogeneously designed scheme, would fail to facilitate integration of the development into the area and would have a disproportionate socio-economic effect on a small town. The proposed development combined with the Gort na Glasa development to the north would result in 110 social housing units in a settlement (population of 1,650) and more balanced communities are needed.
- **Impact on services** – A ‘Development Impact Assessment’ is required to establish what effects the proposed development would have on existing services and community facilities, as well as how the need for service provision in the town will be addressed, given the scale and disproportionate increase in accommodation. There is no evidence that there is sufficient capacity in the local schools or in the GP services within the town to cater for such an increase in resident population.



- **Lack of childcare facilities unacceptable** - There is only one full day-care creche/Montessori in Dingle, Aiseanna na hOige, at Ard na Greine. The existing facilities are full to capacity, with waiting lists. The failure to provide a childcare facility for such a large development, (with over sixty units accommodating 3 persons or more), is unacceptable. It is requested that a childcare facility be provided with a minimum of 70 childcare places, in accordance with the requirements of the Childcare Facilities Guidelines for Planning Authorities 2001, and that it be constructed directly adjacent to the existing facility. Clarification is required as to whether Drawing SHC/01/131, which included a childcare facility, forms part of the approved set of drawings for the development. The request for the provision of family support and childcare services from a single premises is based on ease of accessibility for parents and the ability to bring all children to one location.
- **Appropriateness of developer-led development** – the applicant is ‘The Social Housing Company’ but is not a registered company. The CRO number given relates to a different company. The applicant will be reliant on the Local Authority and/or an Approved Housing Body to purchase the units as social housing units. The appropriateness of this process is questioned as any such agreement should surely be led by the local authority through the tender procurement process. It is contended that the process lacks transparency and there is no guarantee that the houses will be used for social housing.
- **Visual impact** – the proposal will diminish the attractiveness of Dingle Town, which is a worldwide tourist destination and is located on the Wild Atlantic Way, when viewed from the approach roads, including the Conor Pass, and from surrounding residential areas. The introduction of a series of 3-storey apartment block on this elevated site will detract from the character and appearance of the town and its rural setting.
- **Traffic impact and road safety**– The proposed development will give rise to a traffic hazard and obstruction of road users. The additional traffic and turning movements within the estate road network, particularly close to the Aiseanna na hOige creche, would be very dangerous, especially for the children and parents using the play school and for residential properties immediately adjoining the development. This is totally inadequate and would

also encroach on the parking spaces currently available to residents in the adjoining estates. In addition, there is significant traffic and parking congestion in the mornings and evenings associated with the creche at present, which would be exacerbated by 91 additional units. Visibility is impaired by on-street parking to the left associated with the creche and due to several bends in the estate road, which are exacerbated by the steep gradient of the road. It is proposed to provide a footpath along the site boundary which will either displace this parking (and cause further congestion on the road) or result in cars parking on the footpath. There is a need to open a new access route from the Inner Relief Road as set out in the LAP (3.2.6.1).

- **Lack of adequate pedestrian connectivity to the town centre** - The applicant erroneously describes the location as being within a 5-minute walk of the town centre. This is a misrepresentation of the facts as the site is neither within the town centre nor immediately adjacent to it, being 1.5km from the town centre. Furthermore, the route to the town centre is a long winding road downhill, which necessitates navigation of two sub-standard junctions, (one where the access road meets Spa Road and the other where Conor Pass Road converges with Spa Road), and which is at least a 15-minute walk. The junctions concerned are already unsafe and the additional traffic generated by the proposal, during both the operational and construction phases, will seriously impact pedestrian safety along this route. All traffic from the proposed and existing estates will have to pass through these junctions. The visibility splays at these junctions are inadequate and there are no pedestrian crossing facilities at either of these junctions.
- **Impact on residential amenities** – the layout of the proposal, which is concrete-dominated and provides only the bare minimum of public and private amenity space, contravenes all of the objectives of national and local policy to achieve sustainable residential communities with integrated safe and convenient alternatives to the private car. In order to achieve this, it is necessary to provide for vehicular connectivity between the site and the Inner Relief Road and pedestrian connectivity with the town via the land to the rear of Pobailscoil Chorca Dhuibhne. The minimal size of the residential unit,

together with the substandard size and nature of the private and communal amenity space will not provide for a reasonable quality of life.

- **Unsuitability for elderly and for young families** – the target market is said to be the elderly and people with young families, yet there are no child-friendly play areas or age-friendly open spaces. The location is remote from the town centre for medical services, schools, post office, banks, shops etc. and would necessitate dangerous and circuitous routes both for pedestrians and by car. The siting of the open space area up a steep hill from the proposed elderly units is inappropriate in this regard and the proposed layout is contrary to the KCDP objective to provide homes for the elderly in central, convenient and easily accessible places. The nearest playground in Dingle is 1km from the site. The proposal makes no provision for small children, or any meaningful space for a kick-about or community activities.

## 6.2. First-party Grounds of Appeal

6.2.1. It is submitted that the conditions attached to the grant of permission are satisfactory in the main but would like the Board to consider some changes if possible. The conditions that raised concerns or issues are as follows:

6.2.2. **Condition 2 – Financial contribution of €137,160 in accordance with the GDSCS** – it is sought that the payment of the contribution be phased. It is suggested that the per-unit payment is €1,507 and that the per unit payment be made prior to the commencement of each phase of development.

6.2.3. **Condition 3** – Development bond of €290,000 – it is requested that the bond be divided into two phased bond provisions as follows:

**Phase A House No. 1-18**                      Bond amount of security of **€60,000**.

**Phase B House No. 19-91**                      Bond amount of security of **€230,000**

The suggested reasoning is improved viability and funding options for the overall development.

6.2.4. **Condition 5 – Occupancy – S47 for permanent residency for a period of 7 years** – it is submitted that this condition does not apply to this development as the allocation of social housing units and the duration of occupancy is totally under the

control of the Housing Dept. of Kerry County Council. It is requested that this condition be omitted.

6.2.5. **Condition 7 – Irish Language** – a minimum of 66% of units shall be reserved for Irish speakers; the period of restriction shall apply for 15 years, and the standard of fluency required shall be determined by KCC. The requirement in the CDEALAP 2021-2027 is for 33% of units to be Irish speakers (Objective G-10), which is reasonable and achievable, but the requirement for 66% is unworkable. This condition would make the proposed scheme economically unviable. It is requested that a waiver be granted in respect of this requirement due to the fact that the intended occupants would be allocated by KCC as social housing units. If the L.A. cannot support the development due to the onerous 66% Irish Language condition, the development will not be realised. Thus, it is sought in the first instance that the Board provides clarity on whether the Irish Language clause applies to the allocation of social housing units and secondly, whether the 33% requirement is more appropriate than the 66% requirement in this instance.

6.2.6. **Condition 8 restriction of ownership to a corporate entity** – this restriction is inappropriate to this geographic location and investment funds do not invest in residential schemes in small rural towns. Every financial avenue should be capable of being explored for the funding of the proposed development. Cluid and KCC have given their initial support for the purchase through a staged payments procurement process of c.60 homes and may purchase further homes depending on the success or otherwise of other proposed developments in the planning system. If the applicant has to complete the development itself and rent the units out until they are purchased by an approved housing body or KCC. Condition 8 might prevent the applicant from doing this as the Social Housing Company has a corporate structure. Furthermore, by means of different types of funding models, the applicant may need to partner up with a corporate entity to maximise funding options. It is sought, therefore, that in the first instance the Board omits this condition and state that it does not apply to social housing units, or in the second instance, that the Board applies a percentage threshold of units to which this condition relates, such as 50%. It is submitted that the condition is discriminatory as it would restrict 100% of the houses to a particular social class, which is inappropriate. It is further stated, however, that the only and obvious target market for this housing development is the

social housing market due to its location and nature of the surrounding development. A further alternative pragmatic solution presented is that the terms of condition 8 should only apply to Units 63-91, as the legislation is designed to exclude apartments from such a clause.

### 6.3. Observations of the grounds of appeal

6.3.1. Three Observations were submitted on the grounds of appeal from the following:

- Conradh Na Gaeilge
- Duchais an Daingean
- Tobar Dhuibhne

6.3.2. The issues raised in each submission are similar and relate to the potential impact on the Irish language. They may be summarised as follows:

- **Kerry CDP** - Local authorities which include Gaeltacht areas are statutorily required to include specific objectives in their Development Plans to protect the linguistic and cultural heritage of the Gaeltacht, including promotion of Irish as a community language. This is reflected in the current Kerry County Development Plan policy objectives KCDP 5-13 and KCDP 8-8.
- **Condition 7 of the PA decision** is fully supported and is in accordance with the policy objectives of the CDP. It is considered that this condition should be applied to its full extent and that it is essential for the future development and progress of the Irish language and of the language community in Daingean Uí Chuis and West Kerry.
- **Ministerial Guidelines: Development Plan Guidelines for Planning Authorities** recognise that development proposals in Gaeltacht areas should have a positive impact on the linguistic and cultural heritage (Obj. 12). It is submitted that this policy recognises that permission can be refused and/or conditions must be imposed on developments (without compensation) to ensure that such developments benefit the linguistic and cultural heritage of the Gaeltacht.
- **Acht na Gaeltachta 2012** gives effect to the 20-year Strategy for Irish 2020-2030, which includes a '**Language Planning**' process. This seeks to

strengthen Irish as a home and community language. It is a stated aim of Kerry Co. Co. to support language planning in the Gaeltacht Language Planning Areas and in the Gaeltacht Service towns within its jurisdiction. Daingean Ui Chuis is a Gaeltacht Service Town (BSG) which serves the community in the West Kerry Language Planning Area. The removal of Condition 7 would do significant damage to the language plans for the area.

- **Duchas an Daingean** – is in charge of language planning in Dingle. There are two language plans in effect in Corca Dhuibhne – one for Daingean Ui Chuis Gaeltacht Service Town (BSG) and one for West Kerry Language Planning Area (LPT), which have been approved by the Minister.
- **Comprehensive Linguistic Study 2015** - It has been demonstrated in this study that **66%** was the sustainability point for the percentage of minority language speakers required to ensure the future of a minority language. Condition 7 must be implemented in a development of this size to ensure that damage to the sociolinguistic context of the area is avoided.
- **Case Law** - The issue has been established in **recent case law** – Comharchumann Rath Cairn v. An Bord Pleanala (2021) IEHC 703.
- **European Union Treaties** contain guarantees that the wealth of cultural and linguistic diversity will be respected and will be conserved and enhanced.

#### 6.4. Applicant's Response to Grounds of Appeal (23/02/23)

The applicant responded to the grounds of appeal on the 23<sup>rd</sup> of February 2023. The submission included a revised set of drawings and a revised set of photomontages. The response was generally in the form of a rebuttal of the various grounds of appeal. The revised plans submitted are as follows:

SHC/01/101 REV D – Revised site layout plan with two additional public open space areas, increasing the POS provision from 17.9% to 25.1%. The revisions include the reduction in the number of residential units from 91 to 88 by omitting House Nos. 75 to 77 (inclusive) and the removal of 19 no. car parking spaces number of parking spaces, (from 115 to 96 spaces). The

additional POS areas are located close to the SW corner (adj. to house no. 75) and close to the eastern boundary between blocks 19-26 and 48-52.

SHC/01/130 REV A - Revised **alternative** layout showing similar layout to that as granted by the P.A. with a revision replacing four houses with a childcare facility in the south-western corner of the site with space for 33 children. This would displace four units, House Nos. 83-86, inclusive.

SHC/01/131 Floor plans and elevations of the proposed childcare facility.

## 6.5. Planning Authority Response

The P.A. has not responded to the grounds of appeal.

## 6.6. Third party responses to Applicant's submission of 23/02/23

6.6.1. Responses were received from Aiseanna na hOige and from Irene Flannery. In general, these submissions reiterated the grounds of appeal. The following points are of note: -

6.6.2. **Coiste Aiseanna na hOige (06/04/23)** - The applicant's acceptance of the need for a childcare facility was welcomed by Aiseanna na hOige, but it was stated that any such facility should be co-located with their playschool/childcare facility at Ard na Greine. It is suggested that instead of displacing Units 83-86 at the south-western end of the site, the childcare facility be provided immediately adjacent to the established facility at the northern end of the site. It is anticipated that this would necessitate the displacement of Units 1-10 which would enable the establishment of an integrated childcare and family support campus.

6.6.3. **Irene Flannery (28/03/23)** – much of the submission responds to the applicant's comments regarding the need for social housing in Dingle. The following points of note were made -

**Social housing units** – notwithstanding the applicant's repeated claim that the proposed development is for social housing, the question is raised as to whether there is any documentary evidence to demonstrate that the proposed development is

in fact going to be social housing. It was pointed out that the P.A. decision relates to the construction of 91 residential units and merely attaches a condition (No. 4) requiring the provision of social housing under Part V of the P&D Act.

**Na Gorta Glasa (17/484)** – notwithstanding the applicant’s claim of a track record for this development, the applicant was Pdraig Moriarty and the agents were Declan Noonan & Associates and the submission of a phasing plan as part of 17/484 was vastly different to the current proposal (46 no. detached/semi-detached houses).

## 7.0 Assessment

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

- Principle of development
- Density, housing mix and tenure
- Design and Layout
- Residential amenity
- Visual amenity
- Traffic and road safety
- Childcare facilities
- Impact on Irish Language
- Restrictions on occupancy and ownership
- Phasing of development contributions and bond
- Environmental Impact Assessment
- Appropriate Assessment

### 7.1. Principle of Development

*Planning policy guidance*

- 7.1.1. The **National Planning Framework and Sustainable and Compact Settlements Guidelines (2024)** seek to achieve compact growth and sustainable residential development, with an emphasis on creating attractive places for people to work and



live and development of serviced sites within the established urban footprint of our cities and towns with access to existing services and facilities. Other related guidance contained in The **Sustainable Urban Housing: Design Standards for New Apartments** (The 'Apartment Guidelines', as amended) and the **Urban Development and Building Height Guidelines for Planning Authorities 2018**, ('The Building Height Guidelines'), similarly seek to achieve more compact growth in our cities and towns, particularly in central areas and those close to high quality public transport. The more recent Sustainable and Compact Settlement Guidelines, (and in advance of their publication, **Circular Letter NRUP 02/21 – Residential Densities in Towns and Villages**, published on 21/04/21), emphasise the need to adapt the scale, design and layout of housing developments to ensure that high-density urban or suburban approaches are not uniformly applied and that they respond to the character, scale and setting of the towns and villages.

- 7.1.2. As stated previously in 5.6 above, the planning application and appeal were lodged when the former Sustainable Residential Development in Urban Areas (2009) and accompanying Urban Design Manual were in force. Thus, the assessment by the planning authority and all of the submissions have been made having regard to these guidelines. As these guidelines have now been revoked, it is necessary to assess the proposed development in accordance with the new guidelines. The site is located in a 'Small to Medium Sized Town' (pop. 1500-5000) and is at the edge of the built footprint of the town, and therefore in a 'peripheral' location, (3.3.4).
- 7.1.3. **Kerry County Development Plan 2022** was adopted during the course of the consideration of the planning application by the planning authority and became effective prior to the making of the decision. Dingle is also located within the **Corca Dhuibhne Electoral Area LAP (2021-2027)**. The policies in the CDP and LAP are generally consistent with the national guidance as referenced above. The site is zoned **R1 - New/Proposed Residential** the objective for which is to '**Provide for new residential development in tandem with the provision of the necessary social and physical infrastructure**'. It is further stated that the intention is to provide high quality new residential environments with an appropriate mix of house sizes, types and tenures in order to meet household needs and to promote balanced communities.

- 7.1.4. Dingle is designated as a 'Regional Town' with the stated number of housing units required during the lifetime of the Plan as 221 dwelling units. It is stated (3.1.2 CDEALAP) that the development of Dingle is critical for realising balanced regional development and acting as a focus for strengthening its own area. The strategy is to strengthen the existing urban settlement in order to make it a more attractive place to live and work and to focus on brownfield, infill and backland sites which are contiguous to the built-up area and within the development boundaries. Residential development is directed to either new or existing residential zones (Z1 and Z2) and it is envisaged that at least 30% of all new residential development in Dingle takes place on brownfield or infill sites.
- 7.1.5. Policy Objective KCDP 4-10 of the 2022 Kerry CDP seeks to ensure the creation of attractive, well designed and high-quality urban places that are home to diverse and integrated communities. KCDP 4-17 seeks to facilitate the development of sustainable compact settlements with the "10-minute" town concepts, with a range of facilities and services being easily accessible within a short walk or cycle timeframe. KCDP 6-3 also seeks to create attractive neighbourhoods with strong links to local services, community facilities etc. and where walking, cycling and public transport is prioritised. These policies are in accordance with the national policy framework discussed above.
- 7.1.6. The site is located within the development boundary of the town in an established residential area, close to the edge of the built-up area. It is zoned for new development (Z1) and is contiguous with the built-up area. Although there are established residential estates to the north, east and south, it is a greenfield site, and is currently, (or has been until recently), used for agricultural purposes. The site is, however, serviced and within walking distance of the town centre's Main Street. Thus, it is a suitable location for residential development. However, the distance from the town centre and community services and facilities is slightly over 1km and is approx. 15 minutes on foot, via a long and winding route downhill. The location of the site is, therefore, considered to be an 'Edge-of-Centre' site (or 'Peripheral' site) in a 'Small Town' (population c. 2,000). The recommended density for such locations is within the range of 20-35 dwellings per hectare.
- 7.1.7. In conclusion, it is considered that the proposed development on this zoned and serviced site is generally in compliance with the overall policy framework for the area

and would deliver much needed housing development within the urban area of this Regional Town. However, it is considered that the peripheral location of the site with poor connectivity to the town centre and community facilities means that it is not one that is suitable for a higher density residential development.

## 7.2. Density, housing mix and tenure

### *Residential density*

- 7.2.1. Residential densities are not specified in either the Kerry CDP or in the Corca Dhuibhne EALAP (2021-27), but reference is made (**KCDP 4-40**) to various S28 Ministerial Guidelines including the Sustainable Residential Development in Urban Areas Guidelines 2009, the Apartment Guidelines (2020) and the Building Height Guidelines (2018), as well as the Circular Letter NRUP 02/21, which provides further guidance on appropriate densities at the edge of towns. Circular NRUP 02/2021 advises the application of a 'graduated and responsive, tailored approach' to the assessment of residential densities in 'Peripheral and/or Less Accessible Urban Locations'. In addition, Objective **WK-R-08** of the CDEALAP seeks to ensure that residential densities reflect the density of appropriate adjoining developments with lower densities at the edge of settlements. These policy objectives are generally in accordance with the more recently published **Sustainable and Compact Settlements Guidelines for Planning Authorities (2024)**.
- 7.2.2. The 2024 Guidelines specify a density range for **Small to Medium Sized Towns** (pop 1500-5000) of **25 to 40 dw/ha** for sites at the **edge of these towns** (Table 3.6). Provision is made in Section 3.4 of the guidelines to further refine the density based on centrality, accessibility to services and public transport, and require consideration of character, amenity and natural environment. Densities at or above the mid-range are encouraged for the most central and accessible locations and densities below the mid-range for more peripheral locations. '**Peripheral**' is described as lands that do not meet the proximity or accessibility criteria in Table 3.8 (i.e., accessibility to high capacity/high frequency public transport), which includes 'all lands in Small to Medium Sized Towns and in Rural Towns and Villages'. In addition, to accessibility and centrality issues, it is required that the quantum and scale of development can successfully integrate into the receiving environment.

- 7.2.3. The density of the proposed development, at 50 dwellings/ha (as originally submitted), is significantly above the guidance for peripheral sites in a Small to Medium Sized Town (25-40dph). In terms of the guidance that was in place at the time of the P.A. decision, (Sustainable Residential Development in Urban Areas Guidelines (6.9-6.1)<sup>1</sup> and further clarified in NRUP 02/21), it is noted that it would still have been considerably greater than the recommended densities for 'Edge-of-Centre' sites (20-35dw/ha), and even for 'Centrally located' (30-40 dw/ha) sites in smaller towns and villages. The reductions in the number of units proposed in the revisions contained in the response to the grounds of appeal would result in 88 units (SHC/01/101 REV D) and 84 units (SHC/01/130 Rev A), respectively, which would equate to densities of 47dw/ha and 45dw/ha, respectively, which would still be well above the recommended densities in the current guidance.
- 7.2.4. The 2024 guidelines allow for further refinement of density (3.4), but the criteria are based on accessibility to high capacity and/or high frequency public transport and the evaluation of the impact on local character, amenity and natural environment. It is stated (Table 3.8) that such refinement does not apply to peripheral sites including those in Small to Medium Sized Towns. As the density range is 25-40 dph and the site is peripheral and not easily accessible, it is considered that the appropriate density is at or below the mid-range, i.e., 25-32 dph.
- 7.2.5. The site is accessed by means of a network of residential estate roads on steeply sloping ground, which link the site to the town centre by means of a series of poorly aligned road junctions with poor quality pedestrian facilities. The pedestrian environment within the estate is also substandard and the steeply sloping gradient adds further challenges to pedestrians in terms of accessibility. There is an absence of continuous footpaths and the presence of the creche/playschool at the northern end of the estate tends to give rise to traffic and parking congestion on the estate roads. As the site is over 1km from the main shopping streets and is not located within an easy and safe walking distance of the town centre, a density of 50dw/ha is, therefore, considered to be excessive and inappropriate for this peripheral site at the edge of a small town.
- 7.2.6. In assessing appropriate density, the policy guidance also requires that new development responds to the character, scale and setting of the town, particularly in the case of peripheral sites and those within small towns. In this respect, Dingle is

designated as a Regional Town in the settlement hierarchy but is still a relatively small rural town with a population of c. 2,000 which has grown organically in the past. The recent construction of an Inner Relief Road has opened up lands in the periphery of the town, and there has been some suburban development in the outskirts. However, the town has largely retained its distinctive character and rural setting to date.

- 7.2.7. The surrounding development adjoining the site is mainly suburban in character with primarily 2-storey detached or semi-detached houses within a typical housing estate layout. The proposed development introduces apartments in the form of seven three-storey blocks which are mainly located at the northern and central part of the site, with a small number of 2-storey detached dwellings, graduating to a set of single-storey terraced houses along the southern and western boundaries. Having regard to the national policy guidance to significantly increase sustainable housing supply and to achieve compact growth, it is considered that the introduction of apartments is appropriate, in principle, as part of a mix of housing types in the overall development of the site.
- 7.2.8. In the case of the current proposal, however, the proportion of apartments (62 no.) represents over a third of the housing types in the development, which is at odds with the character of the surrounding area. Furthermore, the height, scale, mass and bulk of the apartment blocks results in a cluster of large-scale 3-storey buildings which dominate the site and are alien to the prevailing scale and character of the surrounding housing developments. Given the peripheral nature of the site, which has an elevated and prominent position in the landscape, and to the poor level of connectivity with the town centre, it is considered that the introduction of such a large number of apartments on a single site fails to respond to the scale and character of the surrounding development and to the rural setting and character of the small town. The density proposed is, therefore, considered to be excessive and there is no justification for further refinement within the range specified in the 2024 Guidelines.

#### *Housing mix and tenure*

- 7.2.9. The mix of units includes 7 no. 3-storey apartment buildings and a mixture of detached and terraced houses. The proposed development comprises 62 apartments of which 31 are 1-bedroom (2 person) and 31 are 2-bedroom (4 person)

units. Each apartment block contains a mixture of 1-bed and 2-bed units. There are 8 no. 2-storey detached dwellings (2-bed and 4-bed) and 21 no. single-storey terraced dwellings, 12 of which are 1-bed houses and the remainder being 2-bed units, of which nine are 2-bed 3-person units. The percentage of 1-bed and 2-bed units in the overall scheme is c. 47% and 50%, respectively.

7.2.10. The mix of the housing units was revised several times during the course of the application and appeal, but the mix of apartment types did not alter. In the FI (23/08/22) the number of 2-bed 3-person units was reduced from nine to five (total number of units 87, as there was an alternative proposal which introduced a playschool/creche in the southwestern corner of the site (Drg. SHC/01/130 REV A). However, the mix of units was re-established as per the original submission in the Clarification of FI (18/11/22), with no playschool. In the appeal submission (23/02/23) the first party provided two alternative scenarios for the Board to consider. The first (Drg. No. SHC/01/101 Rev D) proposed a reduction in the number of houses and car parking spaces to facilitate the provision of two further POS areas. This resulted in the loss of the three detached houses, (4-bed 7-person, Nos. 75-77), and the overall reduction in the number of units from 91 to 88. In the second alternative proposal, (Drg. No. SHC/01/130 Rev A), the preschool option was reintroduced which displaces 4 no. terraced houses (2-bed 3-person, Nos. 83-86) and reduces the overall number of houses from 91 to 87.

7.2.11. The overall mix of units is generally considered acceptable as there is an identified need for 1-bed and 2-bed residential units in the current CDP (Housing Strategy and HNDA) and Kerry Housing Delivery Programme (2021/2022). The submitted documents also indicate that the intention of the applicant is to offer the majority (if not all) of the units to Approved Housing Bodies and/or the Local Authority as social housing. The CDP acknowledges (6.2.3) that in addition to Part V, the delivery of social housing is achieved through Direct Build, Acquisitions, Void Management, Long Term Leasing, Enhanced Leasing, Repair to Lease, Private Rental (RAS and HAP), and the Buy and Renew Scheme. At Para. 7.2 it is further noted that there is a need to counteract undue segregation in housing between persons of different social backgrounds and that the provision of a good housing mix in all developments is encouraged to ensure that all residents have access to a range of house types and tenures. This is reflected in Policy **KCDP 7-9** which states -

Promote integration of social housing and ensure a housing mix within developments in order to promote a socially balanced and inclusive society.

- 7.2.12. Notwithstanding this, I note that the description of the proposed development does not include the term 'social housing' and no evidence has been provided of any firm or binding commitments in this regard. As such, the proposed scheme must be assumed to be private housing, and the provisions of Part V will need to be applied. It is noted that the P.A. decision has addressed the need for social and affordable housing by means of a Part V condition. It is suggested, therefore, that should the Board be minded to grant permission, a similarly worded condition should be attached to any such permission.
- 7.2.13. In addition, the applicant has indicated that the development is designed to suit families with young children as well as the elderly population, in order to satisfy demand in the area for these types of accommodation. The design and layout of the scheme will be discussed in more detail below, but it is worth considering at this stage whether the proposed development is one that is suited to these target populations in principle.
- 7.2.14. Approx. half of the apartments are one-bedroomed (31), and a substantial proportion of the houses are either one-bedroomed (12) or two-bedroomed 3-person units (9). These would be suitable for either single people, couples with no children or elderly persons. Only 39 no. units (c.40%) would therefore be suitable for families, the majority of which are apartments. The location and design of the public open space areas are not well suited to young families either. The location of the site, given the proximity to an existing creche/playschool and the Pobailscoil and to the nature of the adjoining residential schemes would, however, indicate that the site is a suitable one for family units.
- 7.2.15. The CDP (6.2.6 and 7.6) also stated that the aging population of the county has specific needs relating to access, medical care, security and personal safety and that such accommodation should be located in close proximity to shops, community facilities and public transport nodes. Policy **KCDP 7-20** seeks the provision of suitable accommodation to meet the needs of older people in 'central, convenient and easily accessible locations' and should be integrated into mainstream housing. It is considered, however that the peripheral location of the site, which is remote from

community facilities and services, together with the elevated nature of the site with a steep gradient leading to the town centre, would make the site unsuitable for a large number of elderly residents.

- 7.2.16. In conclusion, it is considered that the peripheral location of the site with a lack of a safe, pedestrian/cycle-friendly means of connectivity to the town centre, services and community facilities makes it unsuitable for sustainable residential development at the density proposed. Furthermore, the scale, mass, bulk and form of the 7 no. apartment blocks, which visually dominate the scheme, are inconsistent with the character, scale and setting of the small rural town and fail to respond adequately to the peripheral location and elevated nature of the site. It is considered, therefore, that the proposed development is unacceptable in terms of the proposed scale and density of the scheme.

### **7.3. Layout and design of development**

- 7.3.1. The proposed layout (as submitted) comprises a series of buildings which graduate downwards in height with the slope of the site from north to south, forming a layering or terraced effect of long blocks stepping down the hillside. The northern half of the site accommodates most of the apartment blocks with two 3-storey blocks facing three similar blocks and separated by an open space/attenuation area. There is a public open space area in the north-western corner and further POS areas separating the northernmost building blocks from the housing estate to the north (Gort na Glasa). A central access road, with a turning bay and a row of parking spaces on either side of the road, bisects the northern and southern halves of the site. The five apartment blocks at the northern end have reasonable outlooks and relate well to each other due to the orientation of the buildings and the presence of landscaping buffers around and between the blocks.
- 7.3.2. In the southern section, there are a further two apartment blocks (3-storey), which are enveloped by some detached 2-storey houses, to the south of the central access road. A further series of long terraces of single-storey houses are proposed alongside the southern and western boundaries, respectively. A second access road separates the detached houses from the terraced houses to the south, which returns northwards forming a western spur, terminating in a turning circle adjacent to the NW



area of POS. There are rows of vertical parking spaces in front of the terraced houses, which front directly onto the footpath.

- 7.3.3. The introduction of some three-storey buildings and apartments into the residential area provides for greater interest and variety than a layout based on exclusively two-storey houses as characterised by the prevailing established character in the vicinity. However, the concentration of 7 no. three-storey blocks in the northern part of the site results in a cluster of buildings which are significantly larger in scale, bulk, mass and height than the surrounding development. As the apartments are also located on the more elevated part of the site and the apartments buildings are laid out as almost continuous long blocks with little variety in terms of design, layout, materials or detailing, the overall effect is one of visual obtrusion. The long terraces of single-storey houses are also quite alien to the character of the surrounding housing estates, and combined with the cluster of apartment blocks, fails to successfully integrate the development into the receiving environment. It is considered, therefore, that the design and layout does not respond in a positive and proportionate way to the scale, character or pattern of development of the surrounding residential lands, as required by the Sustainable and Compact Settlement Guidelines.
- 7.3.4. The proposed layout is considered to be car-dominated, particularly in the southern part of the site. There are very few child-friendly and pedestrian-friendly areas that are not dominated by parking or vehicular access. The outlook from the houses and apartments in the southern section is very poor with few views over open space and the relationships between buildings is poorly thought out. For example, the outlook from the combined living/dining/kitchen areas of the apartments in Blocks 19-26, 27-34, 35-42 and in Blocks 43-52 and 53-62 is over the central access road and a double row of parking bays with little visual relief. The balconies in the northern set of these blocks (numbered 19-42, inclusive) are north-facing and the balconies of the southern set (43-62, inclusive) overlook the rear gardens of the proposed houses to the south. These said rear gardens are also north-facing.
- 7.3.5. In addition, the small, terraced houses, which generally have floor areas of 50-67sq.m and small, shallow rear gardens, front directly onto the long rows of parallel parking spaces. The apartment blocks at the northern end are better provided with public open space and more attractive outlooks and public realm areas. However, these open spaces are not centrally located or easily accessible from the majority of

residential units within the development. They are quite remote from the residential units at the southern end of the site and are up-slope from the proposed houses.

- 7.3.6. Revisions to the scheme, (as submitted in response to the Clarification of FI on 18/11/22), altered the access arrangements from two access points to a single (southern) one, with consequent amendments to the road layout. Instead of a turning bay at the western end of the internal cul-de-sac which bisects the site, this road now connects with the western spur at a T-junction and the northern entrance to the estate has been omitted and replaced by a turning head at the eastern end. However, the parking and internal roads layout was not altered further.
- 7.3.7. It is also noted that the submission made with the first-party response to the appeal proposed one alternative (SHC/01/Rev D) that replaced a parking area and a row of three detached houses with 2 no. additional public open space areas. These spaces are located in the southwestern section and in the central eastern section of the site, respectively. It is acknowledged that the inclusion of these additional open space areas would result in better permeability, accessibility and in improved outlook for some of the residential units. However, many of the shortcomings as outlined above remain and furthermore, the proposed revisions would result in the loss of a substantial number of parking spaces, which will be addressed below.
- 7.3.8. On balance, it is considered that the proposed development would result in an overly car-dominated layout with poorly located and designed public realm and open space areas. The concentration of the three-storey apartment buildings in lengthy monotonous blocks, surrounded by long rows of terraced houses, fails to respond sensitively to the established character and pattern of development in the area. The design and layout of the individual residential units combined with the interrelationship between building blocks and the open space elements result in a poorly designed layout. The siting of the public open space areas would not allow for good permeability within the site or for adequate levels of passive surveillance over the communal areas. The development in terms of its scale, design and layout is, therefore, considered to be inadequate in terms of providing a high quality of design with a coherent architectural and urban design strategy and one with an attractive and distinctive sense of place. The proposed development would not, therefore, be in accordance with good urban design practice for the creation of sustainable communities as required by the policy framework for the area.

#### 7.4. Residential amenity

- 7.4.1. The floor areas and balcony/private amenity space areas of the apartments are generally in compliance with the standards in the Apartment Guidelines. The balconies (and ground floor amenity areas) for each of the apartments in Blocks 1-10, 11-18, 43-52 and 53-62, respectively, are located on the southern elevation of each of these blocks, which provides for good aspect and maximum sunlight. Within these blocks, the combined living/dining/kitchen areas in the 2-bedroomed 4 person apartments are generally dual aspect with direct access to these balconies. The balconies/amenity areas for Blocks 19-26, 27-34 and 35-42 respectively, are on the northern elevations of these blocks. However, the balconies of these five blocks face each other and overlook the open space within the attenuation area which provides for a good quality outlook from the apartments.
- 7.4.2. In the one-bedroomed apartments of Blocks 1-10, 11-18, 43-52 and 53-62, respectively, however, the private amenity spaces are accessed from the bedrooms only and the living/dining/kitchen areas are located on the northern side of the blocks, which are north-facing and single-aspect. The gardens of the one-bed units are also partly overhung by the balconies of the 2-bed units overhead, particularly in B1-18. This layout is unsatisfactory as the internal living space in these small units is compromised firstly, by a single and northerly aspect and secondly, by a lack of direct access to the gardens. It is noted, however, that the outlook from Blocks 1-10 and 11-18, in a northerly direction, is over the open space buffer area between the proposed development and the Gort na Glasa housing estate. It is considered that this ameliorates the northerly aspect of the living rooms in the one-bedroom apartments somewhat, but the lack of direct access from the living areas is contrary to the advice in the guidelines.
- 7.4.3. The same arrangement and layout apply to one-bedroomed apartments in Blocks 43-62, respectively. However, in the case of the northerly outlook, the living areas overlook the internal access road and parking areas, and the balconies overlook the rear gardens of the proposed houses to the south (Nos. 78-82). In order to address the privacy issues arising from this arrangement, the revised plans submitted to the P.A, on 18/11/22 proposed the erection of a 2m high screening wall around these balconies. It is considered that this mitigation measure would severely affect the

level of daylight and sunlight to these balconies, notwithstanding the proposal to insert an opaque panel. Furthermore, it is proposed to apply opaque glazing to the bottom section of the bedroom windows overlooking these rear gardens. It is considered that these amendments would result in an unacceptable outlook from these apartments and represents an unsuccessful attempt to mitigate the adverse effect of the overdevelopment of the site.

- 7.4.4. The centrally located apartment blocks, B19-26, B27-34 and B35-42, which have north-facing balconies/amenity areas, have a poor outlook to the south as the living areas overlook the central access road and parking area. As the one-bedroomed apartments in these blocks have the same layout as discussed above, the poor southerly outlook combined with the northerly aspect of the gardens which are accessed from the single bedrooms only, results in a poor quality of living space.
- 7.4.5. In respect of the 1-bed 2-person terraced houses, (House Nos. 63-74), it is noted that the layout of these units is in the form of adjoining staggered L-shaped units. As a result, each house has a dual aspect living/dining/kitchen area, but the bedrooms share a party wall with the bedroom of the adjoining unit and some with the living room of the adjoining unit. This could result in noise transference unless appropriately insulated/attenuated. The floor area of these units is very small at 50sq.m, but they have reasonably sized west-facing gardens. The 2-bed 3-person terraced houses (Nos. 83-91), which have floor areas of 67sq.m, have better internal layouts but very shallow rear gardens. As noted above, the rear gardens of House Nos. 78-82 have north-facing rear gardens which are overlooked by the balconies and bedrooms of the apartment blocks to the north (B43-52 and B53-62).
- 7.4.6. In conclusion, it is considered that although the floor areas of the accommodation and associated private amenity spaces generally comply with the standards in the Apartment Guidelines, the quality of the internal accommodation and/or of the private amenity spaces is considered to be sub-standard in many of the residential units. This is primarily due to poor aspect and/or orientation, unsatisfactory outlook from living areas and in many cases, a lack of direct access from living areas to balconies. In addition, the design, layout and density of the development results in poor interrelationships between buildings in many instances which results in overlooking. The proposed housing units generally comply with the revised standards in the 2024 guidelines, quantitatively, but the quality of both the private and public amenity

spaces are poor and do not accord with the guidance on quality urban design and placemaking.

- 7.4.7. Notwithstanding the efforts to mitigate some of these issues, it is considered that the proposed mitigation in terms of additional screening of windows and balconies in B43-52 and B53-62 would result in substandard accommodation for these units by reason of poor outlook and/or reduced daylight and sunlight to balconies and internal spaces. The additional POS areas proposed in one of the alternatives submitted with the appeal would also improve the outlook of some of the residential units but would not address the other issues as discussed above. It is considered, therefore, that the proposed development would result in poor quality of accommodation and in adverse impacts on the residential amenities of the future occupiers of the units due to overdevelopment of the site.

## 7.5. **Visual amenity**

- 7.5.1. As the site is located in an elevated position at the edge of the town, any development will be visible in long-range views including from the approach road to Dingle from the Conor Pass and from some other vantage points such as the residential area of Gortanora to the south-east. The applicant has provided a series of photomontages to demonstrate the likely impact on such views. However, the proposed development would be surrounded by existing development to the north, east and south and as such, would appear as being nestled within established residential developments. I would accept that in certain views, such as from the Conor Pass approach road, the horizontal emphasis of the long apartment blocks, would be clearly visible, particularly due to the additional height of these blocks and the clustered arrangement. Notwithstanding this, it is considered that the visual impact on the character and rural setting of the town is unlikely to be significant and would not justify a refusal of the proposed development.
- 7.5.2. As noted previously, at a more local scale, the introduction of a large number of taller apartment blocks which are arranged in almost continuous lines stepping down the hillside, together with the scale, design and layout of the single-storey terraced housing results in a design and layout does not adequately respect or respond well to the character of the surrounding development. It is considered that this is a

function of the overall design, layout and density of development which has been discussed in greater detail in the preceding sections.

## **7.6. Traffic and road safety**

- 7.6.1. The Planning Authority's Road and Estate Engineers raised several matters of concern regarding traffic and pedestrian safety, which were also reflected in the third-party submissions. These related to inadequate pedestrian facilities within the adjoining estate, inadequate pedestrian crossing within the proposed development and linking into the adjoining estate, poor levels of safe pedestrian connectivity with the town centre and existing levels of traffic and parking congestion associated with the creche/play school which were likely to be exacerbated by the additional vehicular movements and demand for parking. The P.A. was also opposed to the northern entrance as it was considered to be too close to the drop-off/collection point for the creche.
- 7.6.2. The planning authority requested further information in the form of additional pedestrian facilities and crossings, a revised design of the junction at the southern entrance and the omission of the northern entrance to the site as well as an amended Road Safety Audit (Stages 1 & 2). The submitted FI (23/08/22) and Clarification of FI (18/11/22) generally addressed these matters to the satisfaction of the planning authority, including the omission of the northern entrance and the provision of a raised table junction at the southern entrance to the estate. The P.A. was generally satisfied that the revised drawings provided adequate pedestrian crossing facilities to allow for safe pedestrian access within the site and to the existing pedestrian network within the adjoining housing estates.
- 7.6.3. I would agree that the existing level of connectivity with the town centre is very poor for pedestrians and cyclists. The existing footpath through the Ard na Greine/Cluain Ard housing estate is on the opposite side of the road and this is the only footpath leading to the main road. It is also at a relatively steep gradient. The junction with the main road (Spa Road) is adjacent to the Hillgrove Hotel and opposite a disused industrial site (Dingle Brewing Company). There is a narrow footpath on the hotel (northern) side of the road, but no footpath on the opposite side, where there is a commercial entrance to a Kerry Agribusiness Store, and beside which is the entrance to a Lidl Foodstore. The public footpath continues to and beyond the

junction with the Conor Pass Road, (which section is also called Spa Road), but there is no footpath on the southern side of Spa Road all the way to the town centre. This junction is substandard and poorly aligned with very poor visibility, particularly in the direction of traffic approaching from the Conor Pass. It is therefore a dangerous junction for both vehicles and pedestrians/cyclists seeking to access the town centre.

- 7.6.4. The P.A. had queried the potential for the provision of an additional pedestrian route to the town centre which would be less arduous, by accessing the lands to the rear of the Pobailscoil. However, this would require access across third party lands and is, therefore, beyond the control of the applicant. Some third-party objectors also requested that vehicular access to the site be provided directly from the Inner Relief Road. However, this would also require access across third party lands and would be beyond the control of the applicant. Notwithstanding some comments in the third-party submissions that it was the intention of the CDEALAP to facilitate such access, I note that the LAP states at 3.2.6.1 that -

“It is the policy of the Council to promote the provision of additional pedestrian and vehicular access points from the new Inner Relief road in order to serve adjacent brownfield sites and to increase ease of movement.”

It is noted that the stated purpose of the IIR was to “relieve congestion on Main Street, Strand Street and Goat Street” and to “calm the centre of the civic and commercial heart of the town, thus improving its attractiveness as a place to shop and visit”. As such, it is considered that there is no stated or specific objective to provide access to a greenfield site, such as the subject site, directly from the Inner Relief road.

- 7.6.5. However, there are several policy objectives in both the LAP and the CDP which seek improved pedestrian connectivity. In the LAP, Obj. D-TM-2 seeks the provision/improvement of footpaths throughout the town and D-TM-4 seeks to promote a more pedestrian friendly environment through the provision of traffic calming measures and improved pedestrian infrastructure. In the Kerry CDP, there is a strong emphasis on the creation of a 10-minute town (KCDP 4-17) and in securing strong links to services (KCDP 6-3). It is assumed that pedestrian facilities linking this residential area with the town centre will be improved in due course, but in the meantime, the level of connectivity remains poor.

- 7.6.6. Much of the objection to the proposed development was based on the traffic and pedestrian safety concerns arising from the introduction of a significant level of additional traffic onto the existing estate road, which combined with the existing traffic and parking congestion associated with the creche, was considered likely to give rise to severe traffic and parking congestion on the estate roads. In addition, the vulnerable nature of the pedestrians attending the creche/playschool and the inadequate parking provision for the childcare facility at present, which results in haphazard parking of the surrounding roads, was considered problematic in terms of pedestrian safety.
- 7.6.7. The childcare facility was closed at the time of my inspection, but it was noted that there is provision for just a few parking spaces to the front together as well as a drop-off round-about, which is directly adjacent to the site of the application/appeal. As the facility is quite large, it is likely that there are issues with traffic and parking congestion at drop-off/collection times. Although the estate road is relatively quiet outside of these times, the combination of a low level of parking serving the existing childcare facility and the poor pedestrian environment as described above, is likely to result in an intensification of traffic related safety issues.
- 7.6.8. However, it is noted that the revised proposal (18/11/22, Drg. No. SHC/01/101 REVC) shows a raised table junction at the site entrance which extends to the access road opposite, together with the provision of new footpaths alongside the site boundary, extending as far as the playschool. There are four 'courtesy crossings' incorporated into the proposed raised table junction with tactile paving and the use of different colour materials. In addition, it is proposed to reduce the corner radii at the junction and bollards with deflectors, which would improve pedestrian and cyclist safety.
- 7.6.9. It is considered that the new arrangements (which have been carried through in each of the proposed alternatives submitted to the Board on 23/02/23, (REV A and REV D), would address the safety concerns arising from the new development as it would slow and calm traffic down and would provide better pedestrian facilities linking the proposed and existing housing estates with the creche/playschool. These measures are also consistent with the guidance provided in DMURS. The additional and revised measures have been shown in the revised drawings and in the Stage 1/2 Road Safety Audit, submitted to the P.A. on 18<sup>th</sup> November 2022. (It should be noted



that the revised RSA was not forwarded to the Board with the application documentation, but is available on the P.A. website, (Ref. F.I Received Doc.).

- 7.6.10. Car parking provision within the site is not in accordance with the parking standards in the Kerry County Development Plan, which require 2 spaces per house and 1 space per bedroom for apartments. This would require 151 car parking spaces (equivalent to 1.66 spaces per unit). The proposed development, as submitted (18/05/22) and revised (18/11/22,) proposed the provision of 139 parking spaces, which would be available in a communal format and would include any visitor parking. One of the proposed alternatives submitted by the first party appellants to the Board (23/02/23) indicated that 19 of the proposed parking spaces could be replaced by additional landscaped public open space areas. This would reduce the number of car parking spaces to 120 spaces overall.
- 7.6.11. Having regard to the parking standards in the Apartment Guidelines, (one space per residential unit in peripheral areas, with visitor parking of one space for every 3-4 apartments) and to the new standards in the Sustainable and Compact Settlement Guidelines 2024 (max. of 2 spaces per dwelling unit in peripheral areas), it is considered that the parking provision is generally in accordance with these guidelines. The 139 spaces (as permitted by the P.A.) would provide for 2 spaces per dwelling (58 spaces) and one space per apartment (62 spaces), leaving 19 visitor spaces for the entire development. The revised alternative option submitted with the grounds of appeal (23/02/23) would reduce the overall provision to 120, and as such, would comply with the standards but would not provide for any visitor parking.
- 7.6.12. Given the peripheral location of the site and the poor level of pedestrian connectivity with the town, it is considered that the development is likely to be one which is heavily car-dependent. In the absence of any visitor parking, therefore, it is considered that the proposal could give rise to overspill parking on the adjacent roads. As the submissions indicate that there are significant levels of parking and traffic congestion on the adjoining estate roads associated with the adjacent childcare facilities, this could give rise to a traffic hazard, or at the very least, exacerbate the existing situation. Although I note that the 2024 SCS Guidelines (5.3.4) state that studies show that where reduced parking levels are provided,

people tend to walk, cycle or choose public transport. However, the location of this site is not conducive to walking or cycling and there is no public transport available.

- 7.6.13. As previously noted, it is considered that the proposal, as submitted and revised, would result in overdevelopment of the site. One of the proposed revisions submitted with the grounds of appeal (SHC/01/101 REV D), would help to resolve some of the issues regarding poor levels of open space provision. However, the solution would significantly reduce the amount of parking on the overall site which could be hazardous to pedestrians due to the potential for overspill parking on the adjoining road network, which currently experiences ongoing congestion and associated road safety issues. The second alternative submitted with the appeal, (SHC/01/130 REVA), proposes an additional childcare facility, which has the potential to draw further traffic into the estate and to displace resident parking. This solution, which would not address the POS issues, could give rise to further traffic safety issues.
- 7.6.14. In conclusion, it is considered that the proposal to access the site by means of the existing entrance to the estate and the Conor Pass road junction with Spa Road is not ideal and the level of pedestrian connectivity with the town centre is of a poor quality. However, I would accept that as the lands are zoned and serviced and the improvements to these junctions and connectivity are largely outside of the applicant's control, this matter would not be sufficient justification in itself for a refusal of the proposed development. Furthermore, the applicant has addressed the pedestrian safety issues within the application site and in the vicinity of the development, which would be delivered as part of the proposed development, in order to mitigate such impacts arising from the proposal, and are generally in accordance with the Design Manual for Urban Roads and Streets.
- 7.6.15. However, as outlined above, it is considered that the density and scale of the development is excessive, which would result in a poor-quality layout, and that design solutions seeking to address the shortcomings of the layout are likely to give rise to additional road safety issues. Thus, it is considered that the density, scale and layout of the proposed development, combined with the peripheral location of the site and poor pedestrian connectivity with the town centre, and having regard to the existing traffic and parking congestion problems on the adjoining estate road, is likely to give rise to a traffic hazard.

## 7.7. Childcare facilities

- 7.7.1. The proposed development, as originally submitted, did not include any provision for childcare facilities. The planning authority requested the provision of 75 childcare places in the FI request of 08/07/22. The applicant's response (23/08/22) considered that it was not necessary to provide such places as the existing supply of childcare facilities in the area was stated to be adequate and that the nature of the accommodation proposed, (majority of units being one-bedroomed), was such that it would not contribute to additional demand. It was stated that there are 10 facilities within a 25km radius with a combined capacity of c. 400-450 places at any one time. As such, it was considered that there were adequate childcare facilities in West Kerry to serve both the existing and proposed development. It was pointed out that the single largest facility, Aiseanna na hOige, is located on an adjoining site. The P.A. seemed to be satisfied with this response.
- 7.7.2. It should be noted, however, that notwithstanding the response outlined above, an alternative proposal was submitted on 23/08/22 which replaced 4 no. houses in the SW corner with a proposed childcare facility with capacity for 33 children (Drg. No. SHC/01/131). However, this was submitted as an alternative option in the event that the P.A. should require a childcare facility to be included in the development. It is noted that in the clarification of FI (18/11/22), this alternative was not repeated and that the layout that the P.A. decision was based upon did not include any childcare provision. The childcare option was reintroduced in the response to the appeal (23/2/23).
- 7.7.3. The Childcare Facility Guidelines 2001 (2.4) require the provision of at least one childcare facility in a new housing area, unless there are significant reasons to the contrary, such as development consisting of single bed apartments or where adequate childcare facilities are present in adjoining developments. The recommended benchmark is the provision of 20 places per 75 dwellings, depending on particular circumstances. The threshold should have regard to the existing geographical distribution of childcare facilities and the emerging demographic profile. Further guidance is given in Appendix 2 in respect of this standard in terms of the mix of the community that it is intended to accommodate as follows: -

If an assumption is made that 50% approx. of the housing area will require childcare, then in a new housing area of 75 dwellings, approx. 35 will need childcare. One facility providing a minimum of 20 childcare places is therefore considered to be a reasonable starting point on this assumption.

- 7.7.4. On this basis, if approx. 50% of the proposed development is likely to require childcare, a facility such as that proposed in the alternative layout with provision for 33 children would seem appropriate. In response to the applicant's statement that there is adequate childcare in the area, the third-party appellants have strongly disputed this, as it is contended that the existing childcare facilities are all operating at capacity with long waiting lists. It is further noted that the other facilities referenced in the applicant's submission (23/08/22) are spread throughout the Dingle Peninsula and that there is only one creche/Montessori in Dingle, which is in Ard na Greine, (Coiste Aiseanna na hOige), which is at capacity.
- 7.7.5. One of the third-party appellants is Coiste Aiseanna na hOige which has confirmed that in the baby/toddler/Montessori part of the facility, the full-time capacity is currently 75 places and there are 22 on the waiting list. It was advised that their afterschool facility currently accommodates 74 children, many of which attend 5 days a week and that over 50 children attend the afterschool service on a daily basis. It is further confirmed that they take children from various parts of the peninsula and that they have a waiting list of 16 children. A table and accompanying map are provided on page 3 of the third-party submission showing the location of each facility on the peninsula. Of the 13 no. facilities, it is noted that just four are in Dingle, three of which are within the Áiseanna na hOige facility and one is a drop-in creche at the Skellig Hotel. It is pointed out that the only two facilities that are full-time day services are at Aiseanna na hOige and one in Baile an Fheirtearaigh (Ballyferriter).
- 7.7.6. It is submitted that as Dingle is the main town centre of commerce and population on the peninsula, it is the most suitable location for growth in childcare. Based on the proposed housing mix, (and discounting the 31 no. 1-bed units), the third party estimated that there are c.60 family units, of which 75% could require childcare, i.e. 45 dwellings. On this basis, it was considered that a reasonable estimate of the required number of places required is 70, (given the number of children with families in Corca Dhuibhne (2016)). It is, therefore, requested that this number of places be provided for and that any such childcare facility be provided immediately adjacent to

the existing facility at Áiseanna na hOige. It was submitted that this would provide for a single location for parents to access different services and would offer other co-location benefits of having childcare and family support services at one location.

7.7.7. In response to the grounds of appeal, (23/02/23), the first party has re-introduced the option of providing for a childcare facility (33 places) in the south-western corner of the site (SHC/01/130 REV A). The third-party appellant (Áiseanna na hOige) has responded by welcoming the proposed provision of a childcare facility, but has sought that a larger facility be provided at the northern end of the site, which would replace Block 1-10, instead of the replacement of units 83-86 in the SW location. It is emphasised that such a facility would provide for “an integrated childcare and family support campus around the Áiseanna na hOige centre”.

7.7.8. Kerry CDP (6.3.6) emphasises the importance of affordable and high-quality childcare which it regards as essential for an equitable society, a thriving economy and a sustainable community. I would agree that it would be reasonable to exclude the one-bedroomed units from the childcare provision calculations. However, I also note that there are 20 new family houses which have recently been constructed to the north of the site. Furthermore, the existing facilities in the area appear to be at capacity with long waiting lists. Thus, it is considered that there is a justifiable need for a childcare facility, and I would agree that adequate provision should ideally be made within Dingle to serve this development as opposed to more remote locations.

7.7.9. The childcare facility, as proposed as an option by the first party, would address this issue by providing an additional 33 places within the development. It is noted that it would be likely to give rise to additional traffic turning movements into the new development over the raised table junction, which could further exacerbate traffic hazards within the estate. This aspect of the proposed option has not been assessed as part of the Road Safety Audit. However, the location proposed by the third-party (replacement of Block 1-10) could lead to further intensification of the traffic and parking congestion issues around the existing childcare facility. As this latter option has not been proposed by the applicant, and given the insufficient information regarding road safety implications, it is considered that should the Board be minded to pursue this option, it would be necessary to request Further Information and to re-consult the parties.

7.7.10. I would draw to the Board's attention that the planning authority has recently decided to grant planning permission for an application by Áiseanna na hOige for alterations and extension to the existing creche/playschool/family support unit, comprising the construction of a 2-storey extension (GFA c.380m<sup>2</sup>) including the provision of 9 additional parking spaces. The P.A. Ref. no. is **23/472**. An appeal has since been lodged (11<sup>th</sup> January 2024) with the Board, Ref. **ABP.318830-24**, which is not yet decided. The appeal is from a third party, The Social Housing Company, which is the applicant for the current housing development case, ABP.315615-23. I note from the P.A. website that the proposed development, which was amended by Further Information submissions, includes a Traffic Management Plan and information regarding the number of children, the dropping and collecting and parking arrangements and timing of same.

7.7.11. In conclusion, I would accept that the proposed development is one that should provide for additional childcare facilities to serve the new community. However, it is not clear where the optimum location of such a facility should be and this issue may require further information in order to ensure that any potential impacts arising are adequately assessed. Furthermore, in light of the application 23/472, which is currently under appeal (318830), the need for such a facility may need to be re-examined in the event that the proposed extension to the adjoining facility is permitted. Thus, should the Board be minded to grant permission, it is considered that further information regarding the provision of childcare facilities on the site should be requested prior to determination of the case. In the absence of a viable option for a childcare facility on the site, and should additional facilities not be permitted on the adjoining site, it is considered that the proposed development would not be in accordance with national policy on childcare provision and would be detrimental to the amenities of the area.

## 7.8. Irish language impact

7.8.1. Condition 7 of the P.A. decision requires that a minimum of 66% of the permitted housing units shall be reserved for Irish speakers, that the restriction shall apply for 15 years and that the standard of fluency required shall be determined and assessed by Kerry County Council. The fluency requirement shall relate to the head of the

household and shall apply to households who occupy the dwelling units whether as owners, lessees or tenants. The first party has appealed this condition.

- 7.8.2. It is pointed out that the requirement for Irish speakers in the Corca Dhuibhne EALAP is 33%, which is considered to be more reasonable and achievable. It is submitted that the requirement for 66% occupancy is unworkable and would make the entire development economically unviable. It is further considered that the application of such an occupancy clause is unrealistic in respect of social housing units. If the local authority cannot support the development as social housing units on the basis of an overly onerous condition such as this, the development will not be realised. Thus, it is requested firstly that the Board provides clarity on whether the Irish language clause applies to social housing and secondly, whether the 33% threshold is more appropriate than the 66% threshold.
- 7.8.3. Three observations on the grounds of appeal were received. These were from Conradh na Gaeilge, Duchais an Daingean and Tobar Dhuibhne. The points made are summarised at 6.3.2 above. In brief, it was pointed out that this requirement is in accordance with the Kerry County Development Plan 2022, (KCDP 8-8), which in turn is in accordance with the statutory requirement for local authorities to include such specific objectives in their development plans in order to protect the linguistic and cultural heritage of the Gaeltacht. Reference is made to Acht na Gaeltachta 2012, which gives effect to the 20-year strategy for Irish and includes a Language Planning process.
- 7.8.4. It was pointed out that there are two Language Plans in place in the Corca Dhuibhne area and three Gaeltacht Service Towns (Bailte Seirbhísi Gaeltachta) in Co. Kerry. These BSGs are intended to operate as nodes or hubs which play a significant role in providing public services, recreational, social, and commercial facilities for the Language Planning areas. Duchais an Daingean is in charge of the Language Plan for Dingle, which is designated as a Gaeltacht Service Town (BSG). The purpose of the Language Planning Areas is to increase the number of people who speak Irish fluently on a daily basis. It was pointed out that in the Comprehensive Linguistic Study of 2015, it was recommended that 66% occupancy was the sustainability point for the percentage of minority language speakers required to ensure the future of the language. The observers fully support the imposition of Condition 7 and have requested that the wording is not altered.

7.8.5. The **Corca Dhuibhne EALAP (2021-2027)** emphasises the importance of the Gaeltacht to the character and identity of the area in terms of the linguistic, social and cultural heritage of the country (2.5.6). It is stated that the preservation of the Irish language is of paramount importance to the area and to the country as a whole as it is one of the few remaining areas in the country where the language is spoken. It is recognised that the daily use of the language is declining. Pressures arising from the demand for holiday homes and permanent homes in the area and the associated migration of non-Irish speakers were identified as potential threats to the viability of the Irish language. The LAP has identified the main factors for the preservation of the language as demographics, economic factors, facilities and infrastructure. The policy response included the requirement to submit Linguistic Impact Statements and the attachment of occupancy clauses in respect of developments with more than 3 houses (G-09 and G-10). **Objective G-10** requires a minimum of 33% of housing developments on R1 and R4 zoned lands to be reserved for Irish speakers with an Enurement clause period of 15 years.

7.8.6. These policies are carried forward in the Kerry County Development Plan (2022). **Chapter 8** of the **KCDP 2022** sets out the policy framework and background to the policies which seek to preserve and promote the Irish language and cultural traditions. It is stated that it is of critical importance to maintain the proportion of active integrated Irish speakers above 67% and to ensure that the proportion of young people speaking Irish is increased. A wide range of policies and initiatives are proposed including the following:

**KCDP 8-7** - Ensure that developments of multiple residential units (2 or more) in An Ghaeltacht settlements shall be subject to linguistic and occupancy requirements in order to protect and sustain the linguistic and cultural heritage of the Gaeltacht areas including the promotion of Irish as the community language. The linguistic impact statement shall be prepared by a person qualified in the area of language planning.

**KCDP 8-8** - Ensure that a minimum of 66% of Housing Developments on R1 and R4 zoned lands within the Gaeltacht areas shall be reserved for Irish Speakers. The standard of Irish required shall be determined and assessed by Kerry County Council. A language Enurement Clause



(LEC) will be applied for a duration of 15 years from the date of first occupancy of the unit.

7.8.7. Thus, the percentage threshold of Irish speakers was increased from 33% in the LAP to 66%. Having regard to policy KCDP 8-8 of the current County Development Plan 2022-2028, which supersedes the policy objectives of the Local Area Plan, the required proportion of Irish speakers is now 66%. As such, condition No. 7 accords with the current policy objective for the area.

7.8.8. It is further stated at **8.1.3.2** in respect of Occupancy Clauses -

Kerry County Council is cognisant of its obligations under Section 10(2)(m) of the Planning and Development Act 2000 (as amended) to include objectives for the protection of the linguistic and cultural heritage of the Gaeltacht including the promotion of Irish as the community language. However, the Council also has obligations under the Housing Act to take into consideration the housing need of social housing applicants irrespective of linguistic ability. Where non-Irish speakers are allocated housing in the Gaeltacht areas, the Council will encourage and support new tenants to acquire Irish language skills through existing language education facilities.

7.8.9. Having regard to the policies and text of the current County Development Plan, which supersedes the policy objectives of the Local Area Plan, it is considered therefore that the occupancy clauses would equally apply to social housing units. It is noted that where housing is allocated to non-Irish speakers, the policy is to support these tenants to acquire Irish language skills. I also note that in the **Language Scheme IV, 2020-2023** (published by Kerry Co. Co. under Section 15 of the Official Languages Act 2003), that it has been an ongoing commitment to ensure that applicants for social housing in Gaeltacht Areas have a proficiency in spoken Irish (2.2.17), and that the new commitment (3.1.6) seeks to develop the Language Support Scheme for Tenants and potential tenants including a language support pack. Notwithstanding this however, as discussed previously, there is no evidence in the documentation submitted, or any formal reference in the description of development or in the permission granted by the P.A., that the units are definitely going to be allocated for social housing.

7.8.10. In conclusion it is considered that Condition No. 7 is warranted and that in the event that the Board decides to grant permission for the development, this should remain as worded in the P.A. decision. **Condition 7** should therefore be **ATTACHED** to any such permission.

## 7.9. Restrictions on occupancy/ownership

7.9.1. **Condition 5** relates to occupation of the housing units. It requires that the units be first occupied as a 'permanent place of residence' and 'shall remain so occupied for a period of seven years thereafter'. This condition is consistent with policy objective D-RES-2 of the CDEALAP which seeks to ensure that residential development on lands zoned 'R1' be maintained as permanent residence only. The intention of this condition seems to be to maintain newly constructed and established residential areas as places of permanent residential occupation by owner/occupiers and/or long-term tenants. It is noted that the Dingle peninsula has experienced extreme pressure for holiday/second homes in recent years (2.3.4 of CDEALAP) and it is, therefore, considered reasonable that policies for the local area would seek to prevent the properties that are intended to provide permanent residential accommodation from being used as short-term lets or holiday accommodation. It is considered, therefore, that it would not be inconsistent with the potential future occupation of any of the units as social housing units. Should the Board be minded to grant permission, therefore, it is considered that this condition should remain.

**Condition 5** should therefore be **ATTACHED** to any such permission.

7.9.2. **Condition 8** seeks to prevent substantial parts of, or an entire housing development being acquired by investment funds or other corporate entities, in accordance with Ministerial Guidelines on the **Regulation of Commercial Institutional Investment in Housing** (May 2021). The intention of these guidelines is to ensure that 'own-door' housing and duplex units in housing developments are not bulk-purchased by commercial institutional investors in a manner that causes the displacement of individual purchasers and/or social and affordable housing including cost-rental housing.

7.9.3. The guidelines set out two alternative planning conditions, RCIIH 1 for mixed-unit type developments (i.e. apartments and houses/duplexes), and RCIIH 2 for development consisting of own-door housing units. Planning authorities and An Bord

Pleanala must have regard to these conditions in granting permission for new residential development which includes 5 or more houses and/or duplex units, unless specifically stated as being 'Build-to-Rent'. The two conditions restrict new houses and duplexes to first occupation and use by individual purchasers and those eligible for social and affordable housing, including cost rental, in order to ensure an adequate choice and supply of housing. To achieve this, the two planning conditions also require the applicant to enter into an agreement with the planning authority, which may be terminated in certain circumstances. Relevant decisions relate to applications that include 5 or more houses and/or duplex units, that are not specified as 'build-to-rent' development at planning application stage. It would not apply to blocks of apartments.

7.9.4. It would appear that the condition used by the planning authority at Condition No. 8 is in accordance with this guidance, (Condition RCIH 1), which in turn is in accordance with the recommended Condition 6.6 of the OPR Guidance Note PN03 of Planning Conditions. It is considered that the apartment blocks are not restricted by this condition, as they do not comprise 'own door' units. The applicant has not specifically stated in the application or public notices that the proposed housing units are 'Build-to-Rent' type developments or 'Social Housing Units' and the application has not been submitted by an Approved Housing Body or a local authority. Although the submissions indicate an intention to reach an agreement with an Approved Housing Body or the Local Authority to purchase the units for social housing, there is no evidence submitted that any such agreement has been finalised.

7.9.5. The Guidelines include the following persons as 'persons of a particular class or description to which planning permission for new houses shall be restricted, by agreement' :-

- a) individual purchasers, i.e. those not being a corporate entity, and,
- b) those eligible for the occupation of social and/or affordable housing, including cost rental housing

7.9.6. Part (a) of the condition requires the 'applicant or any person with an interest in the land' to enter into an agreement with the P.A., which would restrict each individual residential units to 'first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or

affordable housing, including cost rental housing'. Thus, provision is made for both private and social housing scenarios in accordance with the guidance. Parts (b) and (c) relate to potential for termination of the agreement in the event that any individual housing unit could not be sold to individual purchasers or to those eligible for social/affordable housing, on the production of satisfactory documentary evidence to this effect. It is considered, therefore that should the Board be minded to grant permission, **Condition 8** should be **ATTACHED** to any such permission.

## 7.10. Phasing of Development Contributions and Bonds

7.10.1. **Condition 2** of the P.A. decision requires the payment of a **financial contribution** in accordance with the General Development Contribution Scheme. The first party appellant has requested that this contribution be payable in phased payments. It is suggested that the per-unit payment is €1,507 and that the per-unit payment is paid prior to the commencement of each phase of the development. I note that the wording of the condition does not refer to the ability to pay in phased payments. The planning authority has not responded to the first party grounds of appeal.

7.10.2. However, the financial contribution condition routinely applied by the Board in the grant of permissions includes the following additional sentence :-

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

7.10.3. It is considered reasonable, therefore, to provide for phased payments of the contribution in accordance with the planning authority's Development Contribution Scheme. The precise phasing and timing of payments is, however, considered to be best resolved directly between the applicant and the planning authority. Should the Board be minded to grant permission for the proposed development, therefore, the Board's standard condition (unspecified) should be attached to any such permission. **Condition 2** should therefore be **AMENDED** accordingly.

7.10.4. **Condition 3** of the P.A. decision requires the payment of a **security bond**. It is suggested by the first party appellant that the bond be divided into two phased bond payments. The two phases of payments were suggested as Phase A Blocks 1-10 and 11-18, Bond amount of €60,000 and Phase B Residential Units 19-91 (i.e. the remainder of the development), at €230,000. The P.A. has not responded to the grounds of appeal.

7.10.5. I note that the **Development Management Guidelines** (2007) state that “it is essential that permissions for residential development are subject to a condition under which an acceptable security is provided by way of a bond, cash deposit or otherwise so as to secure its satisfactory completion.” The DM Guidelines also make the following relevant points in relation to security bonds and phasing of large scale developments –

- The amount of the security, and the terms on which it is required to be given, should enable the planning authority, without cost to themselves, to complete the necessary services (including roads, footpaths, water mains, sewers, lighting and open space) to a satisfactory standard in the event of default by the developer.
- The condition should require that the lodgement of the security should be coupled with an agreement that would empower the planning authority to realise the amount of the security at an appropriate time and apply it to meet the cost of completing the specified works.
- Planning authorities should also ensure that the bond is of sufficient duration to allow them time to inspect the development after the expiration of permission and still call in the bond if necessary.
- A security condition could also provide for the recalculation of the amount specified in the condition by reference to the House Building Cost Index (or other appropriate Index) if the development to which the permission relates is not commenced within a specified period after the granting of the permission.
- The bond should be refunded on satisfactory completion of the development.
- In the case of large schemes, it may be appropriate to attach a condition regarding the phasing of the development in order to ensure that residents do

not have to live in uncompleted estates for lengthy periods. It is desirable that any such condition should be worked out in consultation with the developer.

- A phasing condition could include requirements relating to the completion of roads, public lighting, open spaces, etc. which are necessary for, or ancillary to, the completed units in each phase. Such an arrangement would permit the security for satisfactory completion to be related to a particular phase or phases of the development and thus enable completion of sections of the scheme to be advanced while, at the same time, facilitating the developer by obviating the need for a very large security appropriate to the entire development.
- Care should be taken in devising any phasing arrangement to ensure that main sewers, surface water drainage systems, main distributor roads, etc., are completed at an appropriate stage so that the first and each subsequent phase will, on completion, be fully serviced and independent in the event of other phases not proceeding.

7.10.6. It is noted that no phasing condition was attached to the planning authority's decision. The applicant did provide a drawing with the FI submission of the 23/08/22 indicating a possible phasing plan, but this related to the site with additional lands in the vicinity. Thus, there is no indication that a phasing plan has been worked out by the developer in consultation with the planning authority. It is unlikely, therefore, that the bond for Phase A (€60,000) as suggested by the first party, would be sufficient to secure the completion of the necessary services to a satisfactory standard in the event of default by the developer. As there is no indication that the details of such a phasing plan have been worked out between the parties, it is considered inappropriate in the absence of an agreed phasing plan, to agree to a phasing of the security bond payments. Should the Board be minded to grant permission, therefore, it is considered that **Condition 3** should be **ATTACHED** to any such permission.

## 7.11. Environmental Impact Assessment

7.11.1. Class 10(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required where more than 500 dwelling units would be constructed and where 10-hectare urban sites would be

developed. The proposal is for the development of a site with a stated area of 1.876ha to provide 91 no. dwelling units. Accordingly, it does not attract the need for a mandatory EIA.

7.11.2. (See completed Form 2 attached). The site is located within the built-up area of an existing town and is approx. 300m distant from any European sites or other sites of conservation interest. The site is immediately adjacent to established residential developments. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination stage that there is no real likelihood of significant effects on the environment arising from the proposed development. Environmental Impact Assessment is, therefore, not required.

## 7.12. **Appropriate Assessment**

7.12.1. The site does not lie within or immediately proximate to any designated European site. There are four European sites within 15km of the site as follows -

**Mount Brandon SAC (Site Code 000375)** – This European site is situated to the north, north-east and north-west of the site with the closest part being approx. 300m distant. It is a very large site stretching along the northern part of the Dingle Peninsula. It is designated for a range of upland and mountainous habitats, including heathlands, grasslands and blanket bogs, as well as some sea cliffs and coastal habitats. Freshwater Pearl Mussel occurs in some rivers as well as Killarney Fern. However, the site is not hydrologically connected with the development site and is well removed from any of the mountainous and coastal habitats.

Qualifying interests include Vegetative sea cliffs, Oligotrophic waters, Wet Heath, Dry Heath, Alpine and Subalpine Heaths, Blanket Bogs, Siliceous Scree, Calcareous Rocky Slops, Siliceous Rocky slopes as well as Freshwater Pearl Mussel and Killarney Fern.

Detailed conservation objectives have been drawn up for the site, the overall aim being to maintain or restore the favourable conservation status of habitats and species of community interest.

**Dingle Peninsula SPA (Site code 004153)** This site is primarily located along the coastal areas with some small, isolated patches within the mountainous areas of the Dingle Peninsula.

Qualifying interests include Fulmar, Peregrine and Chough. The site is not hydrologically connected with the development site and is situated approx. 3km distant.

Detailed conservation objectives have been drawn up for the site, the overall aim being to maintain or restore the favourable conservation status of habitats and species of community interest.

**Castlemaine Harbour SAC (Site Code 000343)** – The site is a very large site which is located on the south-east corner of the Dingle Peninsula and includes the River Maine almost to Castlemaine. It is designated for a range of coastal habitats as well as Alluvial Forests and for Salmon, Sea Lamprey, River Lamprey and Otter. It is located approx. 16km at its closest point from the development site to the southeast. It is not hydrologically connected with the development site.

Qualifying interests include – Atlantic Salmon, River Lamprey, Sea Lamprey, Otter, Estuaries, Alluvial forests, Mudflats and sandflats not covered by seawater at low tide, Annual vegetation of drift lines, Perennial vegetation of stony banks, Vegetated Sea cliffs of the Atlantic and Baltic coasts, Salicornia and other annuals colonising mud and sand, Atlantic salt meadows, Embryonic shifting dunes, Shifting dunes along shoreline, Fixed coastal dunes, dunes with *Salix repens*, Humid dune slacks, and Petalworth.

Detailed conservation objectives have been drawn up for the site, the overall aim being to maintain or restore the favourable conservation status of habitats and species of community interest.

**Blasket Island SAC (Site code 002172)** This site comprises the six Blasket Islands together with some rocky islets and sea stacks and the surrounding seas. It is located at the western tip of the Dingle Peninsula.

Qualifying interests include Reefs, Vegetated Sea cliffs, Dry Heath, Sea Caves, Harbour Porpoise and Grey Seal. The site is not hydrologically connected with the development site and is situated approx. 14km distant.



Detailed conservation objectives have been drawn up for the site, the overall aim being to maintain or restore the favourable conservation status of habitats and species of community interest.

7.12.2. The closest European sites are Mount Brandon SAC (site code 000375) and Dingle Peninsula SPA (Site code 004153). There is no evidence of any hydrological or other ecological connections to the site of the proposed development and they can be screened out. The Planning Authority screened out Appropriate Assessment on the basis of geographic and hydrological distance from the development site and the lack of any suitable habitats within or in proximity to the development site. The distances between the site of the development and the remaining European sites are considered to be too great and there is no information indicating any hydrological link or other pathway to these sites.

### 7.12.3. **Assessment of Likely Effects**

The project is not directly connected with or necessary to the management of a European site. As the project site is not within a designated site, no direct impacts will arise.

The proposed development involves the construction of 91 residential units comprising 62 apartments and 29 houses on a greenfield site at the edge of the settlement. The site is currently used for grazing agriculture and there are no ecological features of note. It is a zoned and serviced site within the built footprint of the town. The site is surrounded on three sides by existing residential development.

The layout of the proposed development comprises 7 no. 3-storey blocks of apartments and a mix of detached and terraced individual housing units. It is proposed to connect the development to the public system for water and wastewater. Surface water will be discharged to the public sewer, following attenuation and control via a hydrobrake and passing through a petrol/oil interceptor and silt trap. Irish Water had indicated that connection of the development to public water and wastewater services was feasible.

Standard construction methods will be employed and a construction and environmental management plan will be in place. There is no hydrological connection or ecological pathway to a European site. Given the nature and scale of

the proposed development and the remote distance from the European sites, there is no potential for indirect effects during the construction phase of the development.

In conclusion, the proposed development will be connected to the public system by Irish Water, and it will be necessary to sign an agreement with Irish Water to this effect prior to commencement of development. Given the nature and scale of the proposed development, the availability of public infrastructural services within the town, and the remote distance from the European sites, there is no potential for indirect effects during the operational phase of the development.

#### 7.12.4. **Screening Statement and Conclusions**

The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 (as amended). Having carried out Screening for Appropriate Assessment, it has been concluded that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Sites Mount Brandon SAC (000375), Dingle Peninsula SPA (004153), Blasket Islands SAC (002172) and Castlemaine Harbour SAC (000343), or any other European Site, in view of the Conservation Objectives for these sites. It is considered, therefore, that a Stage 2 Appropriate Assessment (and submission of a NIS) is not required.

This determination is based on the following:

Distance of the proposed development from these European sites and a lack of any meaningful ecological connections to those sites.

In making this screening determination, no account has been taken of any measures intended to avoid or reduce potentially harmful effects of the project on a European Site.

## 8.0 **Recommendation**

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

## 9.0 Reasons and Considerations

1. Having regard to the peripheral location of the site within a Small to Medium Sized Town with a lack of safe pedestrian and cycle friendly means of connectivity with the town centre, local services and community facilities by reason of the long winding route and a single narrow footpath, and to the design, scale and mass of the apartment blocks in the centre of the site which would be visually incongruous in the context of adjoining development, it is considered that the proposed scale and density of the scheme is excessive and would fail to respond in a positive and proportionate manner to the established development in the surrounding area. The proposed development would, therefore, constitute overdevelopment of the site and would be contrary to the policy objectives of the Sustainable and Compact Settlements Guidelines for Planning Authorities (2024) and of the Kerry County Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.
2. It is considered that the layout and design of the proposed residential development by reason of the poor quality public realm which lacks permeability and universal accessibility to public open space and a coherent architectural and urban design strategy to create an attractive and distinctive sense of place, together with the poor quality of many of the private amenity spaces due to inadequate visual outlook, aspect and/or direct accessibility from living areas, would result in a cramped and substandard form of development on the site which would seriously injure the residential amenities of the future occupiers of the site. The proposed development would, therefore, fail to comply with the Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities (2020, as amended) and the policy objectives of the current Kerry County Development Plan 2022-2028, and would be contrary to the proper planning and sustainable development of the area.
3. Notwithstanding the inclusion of an option for the provision of a childcare facility as shown on Drawing No. SHC/01/130 Rev A, submitted to the Board on the 23<sup>rd</sup> day of February 2023, it is considered that in the absence of

sufficient information on the traffic safety implications and need for co-ordination with existing childcare facilities in the vicinity, the proposed development does not comply with national policy on Childcare Facilities, as set out in the Guidelines for Planning Authorities issued by the DoELG in 2001. The proposal would, therefore, be detrimental to the amenities of the area, would be contrary to the policy objectives of the Kerry 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.

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**Mary Kennelly**  
**Senior Planning Inspector**

**17<sup>th</sup> January, 2024**

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

|   |  |   |   |
|---|--|---|---|
| <b>An Bord Pleanála<br/>Case Reference</b>  | 315615-23  |   |   |
| <b>Proposed Development<br/>Summary</b>   | Construction of 62 apartments and 29 houses with associated site development works |   |   |
| <b>Development Address</b>  | Grove, Dingle, Co. Kerry   |   |   |
| <b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b><br>(that is involving construction works, demolition, or interventions in the natural surroundings)                              |  |   |   |
|   |  |   | <b>No</b>   |
|   |  |   | No further action required  |
| <b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations (amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b> |  |   |   |
| <b>Yes</b>  |  | Class.....  | EIA Mandatory<br>EIAR required  |
| <b>No</b>   |  |   | Proceed to Q.3  |
| <b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>        |  |   |   |
|   |  | <b>Threshold</b>  | <b>Comment<br/>(if relevant)</b>  |
| <b>No</b>   |  | N/A   |   |
| <b>Yes</b>  | Yes  | Class 10(b) Schedule 5 Part 2 Threshold 500 dwelling units and/or 10ha urban site | The proposed development is for 91 dwelling units on a site with an area of 1.867ha and therefore, does not exceed the threshold. |

| <b>4. Has Schedule 7A information been submitted?</b> |    |   |
|---|----|---|
| <b>No</b>   | No | <b>Preliminary Examination required</b> |
| <b>Yes</b>  |    | <b>Screening Determination required</b> |