



An
Bord
Pleanála

Inspector's Report

ABP-316840-23

Development	Construction of 71 no. houses and all ancillary, associated site works.
Location	Kinsale GAA Grounds, Bandon Road, Rathbeg, Abbeylands and Cappagh, Kinsale, Co. Cork.
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	225657
Applicant	Park Developments (Dublin) Ltd.
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellants	<ol style="list-style-type: none">1. Concerned Residents c/o Colette Relihon2. Graham Quinn
Observers	None
Date of Site Inspection	7 th March 2024

Inspector

Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 2.47 hectares and is located at Kinsale GAA Grounds, Kinsale, Co Cork. It is situated on the northern side of the town of Kinsale. The site is roughly rectangular in shape with a section of road adjoining the site and to the south included. It contains the GAA pitch with associated goal posts, fencing, team dug outs, dressing room building and hard surfaced area to the west of the pitch which provides a parking area.
- 1.2. The western northern boundary of the site adjoins the Bandon Road the L3234. The existing roadside boundary at the GAA grounds is formed by a capped wall with sections of metal fencing fixed to the top of wall and between a series of capped pillars. There is mature hedgerow planted inside of this boundary. The southern site boundary adjoins the boundaries of seven detached dwellings located within the Rathbeg cul de sac. The boundary is formed by a section of hedging at the south-western section and wooden fencing. The northern and eastern site boundaries adjoin the Abbey Fort Housing Estate. The rear gardens of 26 no. dwellings immediately to the north back onto the existing GAA grounds. The eastern side boundary adjoins the rear gardens of circa 8no. of dwellings within Abbey Fort.

2.0 Proposed Development

- 2.1. Permission is sought for the demolition and removal of existing facilities including changing rooms, ball alley and other ancillary facilities and the construction of 71 no. dwelling houses and all associated ancillary development works including vehicular and pedestrian access, parking, footpaths, lighting, drainage, landscaping and amenity areas. The proposed development allows for the provision of a pedestrian/cycle link to connect into Abbeyfort Estate to the northeast.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Permission was granted subject to 33 no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Report of Senior Executive Planner 8/9/2022 – Further information required on a number of aspects of the proposal.

Further information was requested in relation to the following matters;

1. In relation to the proposed layout, revise the design with reduction of home zones and provision of a segregated streetscape.
2. The only 'home zone' to be retained is the short cul de sac which provides access to house no's 66-71. The layout should be amended to ensure adequate and accessible car parking.
3. Submit a shadow study in relation to the proposed three storey houses along the northern boundary which is elevated circa 3m above the dwellings under construction.
4. Revisions in design required for two house types proposed for social and affordable housing.
5. Roadside boundary wall to be set back 3.5m from the kerb line of the new public footpath.
6. Submit a revised site layout and supporting cross sectional drawings indicating a minimum 3m wide shared pedestrian and cycle path and a 0.5m wide buffer strip across the entire width of the site boundary with Bandon Road.
7. Provide details of proposed retaining structures, if any along the boundary of the development with Bandon Road.
8. Submit a revised site layout indicating an appropriately designed pedestrian crossing.
9. Confirm the proposed curve radii of the access off Bandon Road.
10. Submit a road safety audit.

11. Submit a revised site layout indicating a minimum path width of 3m for pedestrian and cycle connectivity into Abbey Fort residential development to the northeast.
12. Confirm the number of proposed vehicular accesses onto the Bandon Road.
13. A detailed Site Layout Plan and associated cross section at the new roadside boundary wall to the front of houses 69-71, the roadside boundary wall which adjoins the cul-de-sac shared surface and the roadside boundary wall to the front (west) of house no. 1.
14. Include space for cycle connectivity in addition to pedestrian access at the Pedestrian pathway linking the development with Abbey Fort.
15. Amend the site layout plan for the estate to include proposals for traffic calming measures.
16. Submit a more detailed site layout plan which more clearly illustrates the layout of the surface water attenuation system, the levels, location and route of the drainage system through the attenuation tank, the hydrocarbon interceptor and the hydro-brake chamber before connecting to the public drainage network on Bandon Road.
17. All surface water road gullies provided within the development site shall be fitted with grit traps/sumps to minimise sediment discharged to drainage system.
18. Provide details of the composition and makeup of the proposed SUD's Drainage system and Biofiltration Planters.
19. Submit a revised Landscape Plan which includes a Green Infrastructure Strategy for the site detailing how the proposed development contributes to the protection, management and enhancement of green and blue infrastructure with the wider area and supports the principle of Biodiversity Net Gain.
20. It is unclear from the Archaeological Assessment the extent of the ground disturbance and the report clearly states there is potential for large scale cut features associated with the Camp site and siege within the development site.
21. Targeted minimal testing shall be carried out to explore these concerns.

22. Engage the services of a suitably qualified archaeologist to carry out targeted licenced archaeological testing to establish (a) there is no sub-surface archaeology with the proposed development site associated with the Archaeological Monument CO112-098 Military Camp (b) extent of ground disturbance that has taken place.

3.2.2. Other Technical Reports

3.2.3. Engineers Report – Further information required in relation to surface water issues.

3.2.4. Engineers Report: Dated 30/3/2023 – There is no objection to permission being granted. They concur with the findings and recommendations of the Estates Engineer.

3.2.5. Traffic & Transport Section – Further information required in relation to revised enhanced provision of pedestrian/cycle lane along the frontage.

3.2.6. Traffic & Transport Section: Report dated 29/3/2023 – The report sets out that the Traffic & Transport Section are satisfied with the revised details provided in relation to the proposed vehicular entrance, pedestrian crossing on the Bandon Road, internal road design and pedestrian and cycle path connection into the Abbeyfort residential development to the north-east.

3.2.7. Housing Officer: Report dated 23/3/2023 – no objection.

3.2.8. Estates Engineer – Report raised concern at the extent of “home zone” areas within the scheme.

3.2.9. Estates Engineer: Report dated 15/3/2023 – In relation to the matter of “home zone” areas the applicant argued that to increase all road widths within the development to more traditional 5.5m width would compromise the open space and would necessitate the removal of planting to the front gardens and prioritise cars over more vulnerable road users. The applicants provided examples of recently constructed examples of residential development which included similar ‘home zones’. A DMURS compliance statement was submitted with the further information. The Estates Engineer had no further objections to the layout. They acknowledged that the requested amendments would impact on both the housing density and the open space provision. No further objection to the proposed development subject to conditions.

- 3.2.10. Lighting Engineer – No objections subject to details provided.
- 3.2.11. Council Archaeologist – Further information required.
- 3.2.12. Council Archaeologist: Report dated 28/3/2023 – The archaeological issues have been addressed. No objection subject to conditions.
- 3.2.13. Council Ecological Officer – Further information required.
- 3.2.14. Council Ecological Officer: Report dated 23/3/2023 – No objection subject to conditions.

3.3. **Prescribed Bodies**

- None

3.4. **Third Party Observations**

- 3.4.1. The Planning Authority received 15 no. submissions/observations in relation to the planning application. The main issues raised are similar to those set out in the third party appeals.

4.0 **Planning History**

- 4.1.1. None on site
- 4.1.2. **Reg. Ref. 22/5388** - Permission was granted to Kinsale GAA Club for the provision of new club facilities and all ancillary site works at Cappagh, Kinsale, Co. Cork. The proposed development includes the construction of 4 no. full sized playing pitches, an astroturf pitch, single storey clubhouse building, single storey gym building, single storey equipment store, surface car park and children's playground. The proposed development provides for ballstop netting serving each of the proposed pitches and the provision of 6 no. 21 metre floodlights serving pitch no. 2 and 4 no. 12-18 metre floodlights serving the proposed astroturf pitch. Ancillary development works include the provision of a pedestrian crossing on the L-3234 local road to connect the existing footpath network and servicing proposals including the diversion/undergrounding of existing overhead lines. Access to the proposed development will be provided from the L-3234.

- 4.1.3. **Reg. Ref. 22/5145** - Permission was granted for the construction of 86 no. dwellinghouses with one childcare facility, and all ancillary site development works. Access to the proposed development will be provided via 2 no. new accesses onto the link road permitted under ref no. 20/6563. The site is located to the north of the appeal site.
- 4.1.4. **Reg. Ref. 18/6073 & ABP 303907-19** - Permission was granted for leave to appeal in respect of the application Reg. Ref. 18/6073.
- 4.1.5. **Reg. Ref. 18/6073 & ABP 303884-19** - Permission was granted for modifications to residential scheme permitted under 06/11830 and 17/6075 comprising the replacement of the permitted 56 no. houses and 36 no. apartments with the construction of 92 no. houses.

5.0 Policy Context

5.1. Project Ireland 2040 - National Planning Framework

- 5.1.1. The NPF includes a Chapter, No. 6 entitled 'People, Homes and Communities'. It sets out that place is intrinsic to achieving good quality of life. National Policy Objective 33 seeks to "prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location".
- 5.1.2. National Policy Objective 35 seeks "to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights".
- 5.1.3. National Planning Objective 13 also provides that "In urban areas, planning and related standards, including in particular height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected".

5.2. Section 28 Ministerial Guidelines

5.2.1. The following is a list of section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are reference within the assessment where appropriate.

- Sustainable Residential Development and Compact Settlements - Guidelines for Planning Authorities (2024)
- 'Design Manual for Urban Roads and Streets' (DMURS) (2019)
- 'The Planning System and Flood Risk Management' (including the associated 'Technical Appendices') (2009)

5.3. Cork County Development Plan 2022-2028

5.3.1. Volume Five refers to West Cork and Section 1.5 refers to Kinsale.

5.3.2. Under the provisions of the Plan as indicated on the zoning Map of Kinsale the appeal site is zoned Existing Residential/Mixed Residential

5.3.3. Other Uses and Objective KS-RAP-01 Residential Additional Provision. Medium B Residential Development. Development should include pedestrian and cycleway linkages to the KS-RR-01 site to the north. Having regard to the sites location within an area of potential associated with the Kinsale Siege and Battlefield, an archaeological assessment will be required in advance of development works in order to guide the design and layout of any future residential scheme. The assessment should include geo-physical assessment to determine sub-surface archaeology and should determine whether parts of the site formed part of the strategic locations of campsites or entrenchments of the 1601 military landscape.

5.3.4. General Objective KS – GO – 05 – Protect the heritage assets of the town including the Battlefield Sites, maritime heritage and its attractive townscape features including its roofscape, urban morphology, fenestration details, slate-hung facades and street furniture.

5.3.5. General Objective KS – GO – 05 – Support the preparation of a Historic Landscape Characterisation Study of the siege and battlefield zone of archaeological potential

associated with the Battle of Kinsale 1601 to avoid further deterioration of the battlefield landscape and to develop the area as a cultural tourism attraction.

5.3.6. Chapter 4 – Housing

5.3.7. Section 4.8 – Residential Density

5.3.8. Section 4.9.9 – The delivery of quality architectural responses will be fundamental to the Council's commitment to the management of land within the network of towns and the delivery of increased densities. The design approach should also be guided by the site's location relative to the town centre and its access to good quality public transport links as set out in the Guidelines, as well as the requirements of other policies in relation to building heights etc., and normal proper planning and sustainable development criteria. In limited situations, a reduction in the 22m separation between units may be considered where high-quality architectural responses can be delivered without undue impacts on the established residential amenities. Intensification of uses in some areas and promoting more mixed use development will also be encouraged.

5.3.9. Chapter 14 – Green Infrastructure and Recreation

5.3.10. Section 14.5.6 refers to Replacement/Redevelopment of Leisure and Recreational Facilities

From time to time some recreational / sports club facilities can become either unsuitable in terms of size to cater for a growing membership or the premises may just become inadequate for modern needs. However, care must be taken in planning for new or replacement facilities to ensure that existing communities are not disadvantaged by the relocation of clubs and facilities.

5.3.11. County Development Plan Objective GI 14-4: Recreation and Amenity

(a) Support the provision of recreation and amenity facilities in new developments and ensure that the widest range of facilities is provided at locations which can serve the wider community and intergenerational activities, which are accessible to members of the community of all ages and abilities, through initiatives in partnership with community groups and sporting organisations.

(b) Seek opportunities to improve the quality and capacity of existing recreation and amenity facilities, through initiatives with both public and private sector

(sports governing bodies, local community partnerships and private development proposals) and where appropriate the Council will use its powers under Section 48 of the Planning and Development Act 2000 to require development levies to achieve the enhancement of these facilities.

- (c) Ensure the protection, and seek the enhancement and wise management of existing recreational facilities and public open space, and ensure that all new developments make adequate provision for recreational and amenity facilities in accordance with the requirements of the Council's Recreation and Amenity Policy (Interim) and any successor policy and having regard to the Council's policy regarding the management of Green Infrastructure assets.
- (d) To work with the various relevant stakeholders in the preparation of a Metropolitan Cork Open Space, Recreation and Greenbelt Strategy.

5.3.12. County Development Plan Objective GI 14-5: Replacement/Redevelopment of Leisure and Recreational Facilities

Protect and improve existing areas of public and private open space, including sports grounds, or other recreational facilities in accordance with the Council's Recreation and Amenity Policy and any successor policy and protect such areas from development or change of use.

Where changes of use or redevelopment of existing leisure or recreational facilities are proposed, the following requirements must be clearly demonstrated:

- (i) That the existing facility is seriously inadequate and capacity constrained, and
- (ii) Suitable replacement facilities of a higher quality than the existing facility are identified that are both accessible and benefit the community served by the facility being replaced, and
- (iii) That the proposed alternative use(s) for the lands occupied by the existing facilities adequately address the loss of amenity to the area served by the existing facility and complies with the objectives of the County Development Plan.

Partial Redevelopment of Leisure and Recreational Facilities:

Afford protection to leisure and recreational facilities from changes of uses or redevelopment which may result in the loss of an amenity.

In circumstances where retention or enhancement of a facility can only be achieved by the redevelopment of a small portion of the site, such developments will only be considered where the location is appropriate to the development proposed and where no adverse affects on the sites community and environmental amenity value occurs.

Proposals will also be subject to normal planning and development considerations.

5.4. Natural Heritage Designations

- 5.4.1. Courtmacsherry Estuary SAC (Site Code 001230) is situated 10.6km to the west of the appeal site.
- 5.4.2. Courtmacsherry Bay SPA (Site Code 004219) is situated 10.9km to the south-east of the appeal site.
- 5.4.3. Sovereign Islands SPA (Site Code 004124) is situated 6.5km to the south-east of the appeal site.
- 5.4.4. Old Head of Kinsale SPA (Site Code 004021) is situated 10km to the south of the appeal site.
- 5.4.5. Cork Harbour SPA (Site Code 004030) is situated 14.6km to the east of the appeal site.

5.5. EIA Screening

- 5.5.1. The proposed development comprises 71 no. residential units on a 2.47 hectare site. The development subject of this application falls within the class of development described in 10(b) Part 2, Schedule 5 of the Planning and Development Regulations, 2001, as amended. EIA is mandatory for developments comprising over 500 dwelling units or over 10 hectares in size or 2 hectares if the site is regarded as being within a business district.
- 5.5.2. The number of dwelling units proposed at 71 is well below the threshold of 500 dwelling units noted above. Whilst within the settlement of Kinsale it is not in a

business district. The site is, therefore, materially below the applicable threshold of 10 hectares.

5.5.3. The proposal for 71 residential units is located within the development boundary of Kinsale on lands zoned Existing Residential/Mixed Residential and Other Uses Cork County Development Plan 2022-2028. The site comprises an existing Kinsale GAA grounds which contains a pitch, changing rooms and hard surface area providing parking to the western section of the site. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage. The proposed development will not have an adverse impact in environmental terms on surrounding land uses. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The site is not within a European site. The issues arising from the proximity/connectivity to a European Site can be adequately dealt with under the Habitats Directive. The application is accompanied by a Planning and Design Statement, Traffic and Transport Assessment, Infrastructure Report, Landscape report, Construction & Environmental Waste Management Plan, Ecological Appraisal and Archaeological Assessment. These address the issues arising in terms of the sensitivities in the area.

5.5.4. Having regard to;

- the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- the location of the site on lands within the development boundary of Kinsale on lands zoned under the provisions of the Cork County Development Plan 2022-2028 and the results of the strategic environmental assessment of the Cork County Development Plan 2022-2028, undertaken in accordance with the SEA Directive (2001/42/EC).
- the location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of residential development in the area.

- the location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended),
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and the need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. See Appendix 2 attached to this Report for the preliminary examination.

6.0 The Appeal

6.1. Grounds of Appeal

Third party appeals have been submitted by (1) Concerned residents c/o Colette Relihon (2) Graham Quinn.

(1) Concerned residents c/o Colette Relihon

- It is stated that the term local residents as referred to in the appeal refers to residents in Rathbeg, Woodlands, Hillcrest, Abbey Fort, Bandon Road and Springmount.
- Concern is expressed that the planning application documents were not available in a timely manner.
- The matter of the lack of availability of pre-planning consultation documents was also raised.
- It is highlighted that the proposed development is linked with a separate application which has resulted in project splitting. They refer to an application

made by Kinsale GAA Club under Reg. Ref. 22/5388 for the provision of a new club facilities and all ancillary site works at Cappagh, Kinsale, Co. Cork and Reg. Ref. 22/5145 for 95 no. houses on lands to the north.

- Reference is made in the appeal to the matter of the Northern Relief Road which was discussed in the report of the Planning Office (Reg. Ref. 22/5388). The report of the Regional and Local Design Office referred to “The County Development Plan (CDP) 2022-2028 Volume 5, Section 1.5.51 states the following: Development of the Kinsale Northern Relief Road: This scheme would require an upgrade of the existing Northern Relief Route with some new construction to connect to the R605 Bandon Road. This road will significantly reduce through traffic in Kinsale town centre. Supporting junction improvements: A number of new junctions and junction upgrades are required where the proposed infrastructure connects with existing roads and access points. Western Relief Road: This route would provide additional connectivity for the west of Kinsale Town from the R600 and further reduce through traffic issues in Kinsale. The Western Relief Road would be a new road, commencing at the R605 Bandon Road and travelling southwest to intersect with the Cappagh Road and the R606.
- The Northern Relief Road is also referred to in the report referring to Reg. Ref.22/5657. It is stated that three applications are being assessed on the basis that the Northern Relief Road is to be built, however it is only at a high level strategic planning stage.
- It is raised that there is a connection between Reg. Ref. 22/5657 and Reg. Ref. 22/5388 in relation to conditions attached to both.
- It is submitted that the proposed development would result in a traffic hazard. There is no continuity of facilities particularly pedestrian and cycle facilities linking the site to the town centre. There is a lengthy stretch of roadway where no pedestrian road crossings are provided and no cycling facilities are accommodated.
- The alignment of the general road network, including vertical and horizontal changes is raised.

- Given the deficits in safe infrastructure in the vicinity, it is stated that a significant traffic hazard would arise which would endanger public safety.
- It is raised that road traffic along the Bandon Road and leading to the Rock has not been examined in light of the additional traffic which would be generated by the recent developments proposed and granted in the area.
- It is considered that the proposed development due to its design, layout, massing and density will have an adverse impact on the use, enjoyment and residential amenities of adjoining properties.
- It is considered that the loss of the open space and its development would not represent a planning gain.
- It is highlighted that the County Development Plan identifies the infrastructural deficiencies in relation to wastewater treatment and the provision of drinking water.
- Reference is made to Section 1.5.59 which states, “Kinsale WWTP currently has inadequate spare capacity to accommodate proposed development in Kinsale.”
- Section 1.5.61 states, “A new reservoir in Kinsale may be required in order to provide that adequate storage and also adequate pressure for high areas. At present there is no Irish Water Scheme to upgrade Innishannon WS. Drinking water is supplied from two different sources. Additional reservoir storage and a general upgrading of the scheme are required. Water supply improvements are required to service land that is currently zoned for development.
- The proposed scheme includes many three-storey houses on the southern side of the site which cause overshadowing and overlooking of the Rathbeg estate.
- It is raised that given the high elevation of the site that it would impact negatively on the skyline of Kinsale when viewed from the Harbour. It is stated that no photomontages or landscape modelling of the visual impact have been provided.

- The proposed scheme includes the location of three or four 3 storey houses directly behind the dwellings at Rathbeg. This will result in overlooking from the first floor windows of the proposed dwellings into the ground floor rooms in Rathbeg.
- The proposed houses are indicated on the plans be circa 3.8m over the height of the houses in Rathbeg. Therefore, concern is expressed in relation to overshadowing, overbearing, the blocking of natural light and lighting from the dwellings at night.
- Concern is expressed that it would be possible to convert the attic spaces of the proposed dwellings, and this would have potential to further impact the residential amenity of houses in Rathbeg.
- It is considered that the visual impact of the proposed dwellings would be oppressive.
- In relation to no. 1 Rathbeg the applicant's documentation does not refer to the fact that there is no existing wall at this boundary.
- The proposed development along with the granted developments at Abbey Fort will place excessive demand on utilities such as internet, water, electricity and sewerage in the local area.
- The proposed development would lead to a reduction in water attenuation would increase hard surfaces and increase the risk of flooding downhill.
- The proposed development would place additional demand on the existing services and facilities in Kinsale including schools and shops.
- The use of home zones as a design feature is considered to maximise density at the expense of traditional roads. The excessive use of home zones in the scheme is not considered appropriate. There is no provision for visitor parking. It is inevitable that there will be significant overspill parking by visitors and home owners with extra cars.
- It is submitted that the proposed development would result in a diminution in the value of the adjoining properties. The loss of the green space which

provides a green lung would negatively impact existing surrounding development.

- It is submitted that the proposed development is contrary to the requirements of the Cork Council Development Plan.
- The continuity and provision of safe facilities to accommodate pedestrians and cyclists is not possible.
- Chapter 12 of the Development Plan refers to Transport and Mobility. The stated aim is “to support the delivery of an efficient transport system in the county supporting connectivity and competitiveness and to make sustainable travel modes an attractive and convenient choice for as many people as possible in order to deliver economic, social, health, wellbeing, environmental and climate action benefits.”
- Section 12.7 refers to Active Travel Choices. Section 12.7.9 states that to promote walking and implement and maximise the 10 minute town concept. The County Development Plan seeks to create liveable settlements which will promote well being and will give a competitive advantage over the use of the car. It is considered that the proposed development does not address this adequately.
- The archaeological significance of this site and the general hinterland is identified in the County Development Plan. It is requested that regard is had to the Archaeological Assessment prepared by Messrs John Cronin & Associates dated July 2022.
- The report concludes that the subject site is located within the “Zone of Notification” (ZON) associated with the Earl of Thomond’s “Second camp” established during the Siege of Kinsale in 1601.
- It is noted in the report that there is moderate potential for the survival of sub surface large scale cut features associated with the military camp (CO 112-098--) within the subject site.
- It is concluded in the report that “If archaeological remains are revealed during the testing program, future mitigation measures will be required. Any

additional mitigation measures will be subject to further consultations between the relevant stakeholders.

- Matters concerning archaeology were raised in the further information requested for Reg. Ref. 22/5388 and Reg. Ref. 22/5145.
- It is considered that the proposed development is contrary to the proper and orderly planning and sustainable development of the area. The proposal does not provide a solution to the loss of the existing green lung facility.
- Reference is made to the application Reg. Ref. 22/5145 to lands to the north of the appeal site where the issue of material contravention occurred.
- This is raised in the context that the delivery of housing on zoned land is proceeding at a faster rate than anticipated against the remaining planning period running up until 2028.
- It was highlighted that the request for further information did not refer to any of the residents' objections. There has been no consultation or engagement by the applicants and their agents with the local residents.
- It is considered that the density of the scheme is excessive. The proposal to construct a 2.4m wall will not adequately address privacy issues.
- The proposed public open space is 11% of the site area and not between 12%-18% of the site area.
- In relation to the design of the scheme the appellants are not satisfied that the requirement for (a) protection of the surrounding residential amenity has been protected nor (b) that existing residential amenities have been protected.
- Regarding the capacity of the Kinsale Waste Water Treatment Plant appellants stated that the Environmental Protection Agency (EPA) completed a site visit to review the operations of the Kinsale WWTP. The report which stated that the site visit took place on 10th August 2022 states that there has been "emission limit value breaches". It is clear from the data analysis provided in their report that the performance of the plant is reducing with time, giving rise to more breaches, untreated effluent reaching Kinsale Harbour and the local noxious odours.

- The EPA highlighted in their report in 2020 in the annual report for the facility states a Plant Capacity PE of 9,800 and was increased in 2021. The stated increase in capacity has been made without apparent infrastructure upgrades.
- The appellants raise the potential for environmental impacts from the proposed development.
- In relation to roads and traffic it would be appropriate for the Council to conduct an overarching traffic assessment and modelling of the use of roads by current houses and future planned housing developments to be located within a 2km radius of the Bandon Road.
- Overlooking of the dwellings in Rathbeg and the houses along the northern boundary of the new estate should be reviewed.
- The applicant should be directed to redesign the estate layout through a more sympathetic treatment of house heights and density on the new estate. A lower density is recommended.
- The appellants consider that the area around Bandon Road has already been overdeveloped in relation to the estates built in recent years. It is considered that the aggregated number of developments will be to the detriment of existing residents.
- The appeal refers to Reg. Ref. 22/5388 which refers to the provision of new club facilities and all ancillary site works at Cappagh, Kinsale, Co. Cork. The proposed development includes the construction of 4 no. full sized playing pitches, an astroturf pitch, single storey clubhouse building, single storey gym building, single storey equipment store, surface car park and children's playground. The proposed development provides for ballstop netting serving each of the proposed pitches and the provision of 6 no. 21 metre floodlights serving pitch no. 2 and 4 no. 12-18 metre floodlights serving the proposed astroturf pitch. Ancillary development works include the provision of a pedestrian crossing on the L-3234 local road to connect the existing footpath network and servicing proposals including the diversion/undergrounding of existing overhead lines. Access to the proposed development will be provided from the L-3234.

- Condition no. 4 as attached by the Planning Authority for the subject application Reg. Ref. 22/5657 refers to Reg. Ref. 22/5388 it states, “Prior to the commencement of any development, or, at the discretion of the Planning Authority, within such further period or periods of time as it may nominate in writing the developer shall enter into a legal agreement with the Planning Authority under the provisions of section 47 of the Planning and Development Act, 2000, as amended in which an undertaking is given to : (a) Only commence development once equivalent replacement facilities of an equivalent standard, i.e. one main playing pitch, one training pitch, car park and provided on the new permitted Kinsale GAA facility granted under Register Number 22/5388 unless otherwise agreed in writing with the Planning Authority.”
- It is stated that there is a disconnect between what was applied for and permitted under Reg. Ref. 22/5388 and what is detailed in condition no. 4 of Reg. Ref. 22/5657.
- The grounds of appeal question the suitability of the site of the relocated Kinsale GAA ground which was subject to a separate planning application under Reg. Ref. 22/5388.
- There is no reference or mention in the application of the Kinsale GAA Club for a new development under Reg. Ref. 22/5388.
- The existing facilities at the GAA Ground have been acknowledged by Kinsale GAA Club as being unsuitable and inadequate in their statement in Reg. Ref. 22/5388 the appellants consider that the reduction and diminution in these facilities as unequivocally stated in condition no. 4(a) will result in conflict with the stated reason for the imposition of the condition in order to ensure that existing communities are not disadvantaged by the relocation of club facilities.

(2) Graham Quinn

- The content of the appeal reiterates all of the matters raised in that of the appeal submitted by Concerned residents c/o Colette Relihon.

6.2. Applicant Response

A response to the third party appeals was submitted by McCutcheon Halley on behalf of the applicant Park Developments (Dublin Ltd). The issues raised are as follows;

- It is highlighted that the application was accompanied by a detailed and comprehensive set of supporting plans/material and the Council's decision to grant permission demonstrates that all items (raised by both the appellants in their objections and the Council in their request for further information) were comprehensively addressed and that the proposed development would not seriously injure the amenities of the area and would not be prejudicial to public health and, therefore would be in accordance with the proper planning and sustainable development of the area.
- Regarding the issue raised in the appeals that the planning application material was not fully available to all members of the public at the offices of the Local Authority during the planning application process. The application documents were submitted to Cork County Council in accordance with the Planning and Development Act and were available in full to view at the offices of the Planning Authority or online through their Eplan portal.
- A copy of stamped receipt of the cover page of the application pack lodged to Cork County Council on July 15th 2022. The acknowledgement receipt attached to the appeal response reiterates that the application was received on July 15th 2022.
- The notices submitted with application clearly stated that there was opportunity for the planning application to be inspected or purchased at a fee. A submission or observation in relation to the application could be made to the Authority in writing on payment of the prescribed fee within the period of 5 weeks beginning on the date of receipt by the Authority of the application.
- The first party therefore consider that the application material was fully available to all members of the public at the offices of the Local Authority during the planning application process.

- The grounds of appeal refer to the pre-planning which occurred in relation to the application. The first party confirm that pre-planning consultation took place in relation to the planning application process in accordance with Section 247 of the Planning and Development Act 2000 (as amended). It was stated in the appeals that only two documents were made available by the Local Authority in relation to pre-planning with the applicant.
- On January 18th 2022 pre-planning documents were submitted to the Planning Authority. A Senior Executive Planner called McCutcheon Halley in response to the material submitted. A revised preplanning submission was submitted on March 24th 2022. A meeting took place with Cork County Council on April 25th 2022 to discuss the proposed development in accordance with Section 247 of the Planning and Development Act 2000(as amended).
- The report of the Area Planner dated 7th September reiterated that pre-planning consultations were held with the Local Authority.
- The first party refer to Section 247 of the Planning and Development Act 2000 which states, “the carrying out of such consultations shall not prejudice the performance by the Planning Authority of any other of its functions under the Planning and Development Act 2000 (as amended); and cannot be relied upon in the formal planning process or in legal proceedings.”
- Therefore, it is submitted that pre-planning consultation took place in relation to the planning application process in accordance with Section 247 of the Planning and Development Act 2000 and that the commentary outlined by the appellants in relation to it is irrelevant and should be disregarded.
- The appeals refer to planning application material not being complete. The first party state that this is factually incorrect. In order to make a valid planning application to the Local Authority the applicant is required to submit a completed application form, the correct planning application fee, a site notice and newspaper notice and all required drawings, plans, particulars and information which were all submitted to Cork County Council.

- As part of the application material, a Draft Section 47 agreement for approval by Cork County Council was submitted. A Section 47 agreement grants a Planning Authority the power to enter into an agreement with any person for the purposes of restricting or regulating the use of land.
- As part of the permission granted condition no. 4 states that a Section 47 legal agreement will be entered between the applicant and the Planning Authority prior to the commencement of development to ensure that facilities are provided at the new GAA site and to ensure that the existing community is not disadvantaged by the relocation of the GAA Club.
- Regarding the site notices 4 no. notices were erected on site to provide suitable notice to the public in relation to the proposed development.
- As outlined in the Planning and Development Act a site notice “shall be securely erected or fixed in a conspicuous position on or near the main entrance to the land or structure concerned from a public road, or where there is more than one entrance from public roads, on or near all such entrances, or on any other part of the land or structure adjoining a public road, so as to be easily visible and legible by persons using the public road, and shall not be obscured or concealed at any time.
- Therefore, the first party state that they consider that sufficient notice was given to the public in relation to the public and as the application was validated by the Local Authority. Therefore, they submit that the application was not incomplete and that all material was available to view on Cork County Council eplan planning viewer system.
- The issue of project splitting was raised in the appeals and that there were a number of applications which relate to development including Reg. Ref. 22/5338 and Reg. Ref. 22/5145. It is detailed in the application material submitted that the applicant were fully conscious of the application made by Kinsale GAA Club for their new facility at Cappagh and prepared a draft Section 47 agreement as part of the material submitted with the application to ensure that Kinsale town would not be without a GAA facility of equivalent standard.

- It was further noted that the redevelopment of the current GAA grounds would not commence until such time that the new facility at Cappagh had at least one main pitch and one training pitch car parking of at least 40 spaces and changing facilities.
- Condition no. 4 of the notification to grant issued by Cork County Council states that the applicants cannot carry out development on their site until such time that equivalent facilities are made available at the newly permitted GAA grounds.
- This condition was attached in order to ensure that the existing community were not disadvantaged by the relocation of the Club Facilities as per paragraph 14.5.6 and Objectives GI 14-4 and Objective GI 14-5 of the Cork County Development Plan 2022.
- The grounds of appeal refer to “an inherent connection between the subject application and the application for development of 95 houses to the north.” The first party wish to clarify that the applications are in no way connected. The development site for 95 no. units is not located to the immediate north of the proposed development site and is located within the townlands of Glasheen and Park Laurence. Therefore, it is stated that the applicant is not working in conjunction with adjoining landowners.
- The grounds of appeal refer to the issue of traffic hazard and raise the matter of the level of traffic the scheme would generate. In response the first party state that despite the issues raised in the appeals the reality is that the site is in a prime location which is within walking distance of Kinsale Town Centre.
- A Traffic and Transport Assessment (TTA) was undertaken by DBFL Consulting Engineers and accompanied the planning application.
- It was concluded in the TTA that the impact on the surrounding road network, as a result of the proposed residential development would not adversely impact the operational performance of local junctions which will continue to operate with significant levels of reserve capacity.

- The Council requested further information on September 8th 2022 which sought a Road Safety Audit, a pedestrian crossing on Bandon Road and pedestrian/cycle connection to Abbeyfort Estate.
- These items were all addressed in full. The report of the Estates Engineers dated 15th March 2023 which stated that they had “no further objection to the proposed development” subject to conditions.
- The increase in the number of dwellings proposed in this scheme will have an immaterial impact in terms of traffic generation and traffic safety. Contrary to the assertions of the appellants by providing footpaths to tie into the existing footpath network the development will ensure traffic and pedestrian safety in the area.
- The grounds of appeal refer to the impact on the residential amenity of adjoining properties due to the layout, massing and density of the scheme. In relation to the layout it is stated that it has been designed to ensure that the residential amenities of adjoining properties were protected. As part of the further information requested the Council required the submission of a Shadow Study to demonstrate adequate tolerance levels to recognised standards and/or revised proposals to address residential amenity impacts on the permitted units to the north as part of the Abbeyfort development. As part of the response units 28-33 were repositioned 900mm to the south of the northern boundary as recommended by Digital Dimensions.
- In relation to the existing dwellings at Rathbeg it is proposed to retain and protect the existing hedge line which separates the developments. A 1.8m high concrete post and precast concrete panel fence is proposed which will be bonded by shrub planting and a 0.6m high retaining wall.
- The project Architects O'Mahony Pike prepared full sections between the proposed development and units 1-6 Rathbeg to demonstrate there will be no overbearing or other impacts. The report of the Area Planner dated 7th September 2022 is highlighted it states that there would be no impacts on the units in Rathbeg. The report stated that there would be no direct loss of privacy and that a shadow/daylight study of potential impacts on adjacent dwellings in Rathbeg estate along the southern boundary is not required

because proposed houses are north of dwellings, that back to back separation distances are achieved and there are no habitable rooms at first floor level looking into the proposed site.

- The report of the Senior Executive Planner dated September 8th, 2022, agrees with the Area Planner. It is stated in their report that the distance between the existing and proposed houses, the design and layout of the proposed houses and the design of the existing houses create a situation where significant overlooking issues are minimised.
- Condition no. 12 as attached by the Council is noted. It requires that the site is landscaped in accordance with the landscaping scheme submitted to the Planning Authority and that it will be completed prior to occupation of the proposed development to the satisfaction of the Planning Authority.
- In relation to the scale and massing of the scheme this has been informed by national and local planning guidance which promotes higher density. They cite National Policy Objective 11 which states, "in meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth".
- It is submitted that the heights and unit sizes proposed are sympathetic to the immediate context of the site. It is submitted that generous separation distances are proposed with appropriate screening, varying ridge levels and no windows to habitable rooms at upper floors of units which adjoin Rathbeg in order to prevent any overbearing impact.
- Units are set back from the northern boundary to prevent any impact on the dwellings permitted as part of the Abbeyfort residential development to the north.
- Given the generous separation distances, screening and landscaping and the minimal height difference between the proposed units and the existing units in the area the first party do not consider this difference to be significant in

relation to the existing units in the area the first party do not consider this difference to be significant in relation to the existing context.

- The proposed materials, height, layout and design of the scheme was carefully conceived to optimise the potential of the site without having any adverse impact on the residential dwellings in the area. Therefore, the first party submit that the proposed development has been designed to have regard to the existing character of the area and is in compliance with national and local guidance.
- The provision of residential development on the site supports the primary land use of the surrounding existing built up area which is residential. The density of the development is 30 dwellings per hectare which is in line with the Guidelines for Planning Authorities on Sustainable Development in Urban Areas (Cities, Towns and Villages), May 2009 which encourage higher density developments on brownfield sites.
- The proposed development complies with the Cork County Development Plan 2022-2028 as the site is zoned for “Existing Residential/Mixed Residential and Other Uses” under ZU 18-9 where “increased densities are encouraged within the settlement network and in particular, within high quality public transport corridors, sites adjoining Town Centres zonings and in Special Policy Areas identified in design/amenity standards and protecting the residential amenity of the area.”
- A portion of the site is also zoned KS-R-02 where “Medium B – Residential Development” should apply. Medium B Residential Development has a threshold of 23-25 dwellings per hectare as defined in the County Development Plan. Therefore, in this context it is considered that the proposed density of 30 units per hectare is entirely consistent with national and local planning policy and appropriate for the subject site.
- The appeal documents refer to the matter of reduction in attenuation area and the increase in the risk of flooding downhill. The appellants state that “this application reduces water attenuation, increases hard surfaces and increases risk of downhill flooding.

- It is detailed in the application material that the foul water connection is feasible without infrastructure upgrades as confirmed by Irish Water in the Confirmation of Feasibility.
- Following a Pre-Connection Enquiry, Irish Water issued a Confirmation of Feasibility that the site can be serviced by its existing water infrastructure network in the area without the need for infrastructure upgrades.
- It was requested at further information stage that the applicant provide a detailed layout and sections through the proposed surface water attenuation system.
- The proposed layout demonstrates that the proposed infrastructure can be accommodated within the green area adjoining the estate entrance. This can be easily accessed by vehicles and personnel for maintenance purposes.
- The invert level of the attenuation tank is 54m, the tank is proposed to be 1.5m deep and will have a cover level of 55.70m. The finished level of the ground will be 58.00m. This will leave approximately 2.3m of cover over the attenuation tank. It is considered that this will be sufficient cover to accommodate the proposed landscaping over the attenuation tank.
- Following receipt of the further information the Council's Estate engineer confirmed that "these proposals as outlined are acceptable". The report of the Area Engineer dated March 3rd 2023 is also highlighted which stated "there is no objection to permission being granted. I concur with the findings and recommendations of the Estate Engineer and have no further engineering concerns to add".
- Therefore, it is submitted that the proposed development will not reduce water attenuation and increase the risk of downhill flooding.
- The appeals stated that the proposed development would result in the diminution in the value of adjoining properties. They state that "given the loss of the green lung and the injurious impact on the use, enjoyment and residential amenities of adjoining permitted and authorised development, it is inevitable that a diminution in the value of these properties will occur"

- The first party state that no evidence of this has been submitted by the appellants to back up this case. They consider that the proposed development will in fact increase the value of the adjoining properties given that there will be a new residential development in close proximity of Kinsale town centre.
- The proposed development has been designed to have full regard for the existing dwellings in the area and aims to respect the character and residential amenities of the area. The proposed development will not result in the diminution in the value of adjoining properties.
- It is stated in the grounds of appeal that the development does not comply with the Cork County Development Plan 2022-2028 and the guidance documents issued by the Department of Environment Heritage and Local Government.
- The appellants state that the proposal cannot comply with the walking and cycling objectives of the Cork County Development Plan. The proposed development includes a pedestrian and cycle connection to the adjoining Abbeyfort development to the east of the site.
- The Estate Engineer considered the proposals acceptable.
- A shared pedestrian and cycle path across the front boundary of the site is proposed. Condition no. 20 refers to this it states, “the construction and operation of the proposed shared path across the front boundary of the development (Bandon Road) shall be constructed and operational prior to any works starting on the houses, unless otherwise agreed in writing as part of the proposed phasing of the development.”
- The applicant will also be required to provide a pedestrian and cyclist crossing on the Bandon Road this is outlined in condition no. 22. “The proposed crossing over the Bandon Road shall be suitable for both pedestrians and cyclists (toucan crossing) and the location and detailed design of the crossing along the Bandon Road (L-3234) shall be submitted for the written approval of the Planning Authority, in full consultation with the Traffic and Transport Section of Cork County Council in advance of any construction works, unless otherwise agreed in writing.”

- The grounds of appeal state that the 2028 housing targets for Kinsale “have already been exceeded”. In response to this the first party state that housing targets set out in the County Development Plan are based off the need for policy changes to reflect National and Regional Policy, Ministerial Policy changes and the constant fluctuations and continuing changes to market conditions since the previous County Development Plan was prepared.
- It is stated in the grounds of appeal that “very significant planning deficits arise which include failure to match the requirements of the County Development Plan and create additional and totally unwarranted hazards which will compromise public safety.” In response to the matter the first party highlight the zoning of the site.
- The site is zoned “Existing residential/mixed residential and other uses where the plan generally supports proposals for increased densities within this category to optimise the development of lands within the built envelop of a settlement, subject to protecting existing residential amenities and adhering to proper planning and development standards. A smaller portion of the site to the east is zoned as KS-R-02 where “Medium B Residential Development” should apply.
- It is highlighted that since the Planning Authority sought further information that the Planning Authority has issued a decision to grant Kinsale GAA permission for a new complex on a zoned greenfield site under Reg. Ref. 22/5388 on the 23rd of February 2023.
- Therefore, this decision enables consideration of this current planning application where there would otherwise be a presumption against development of existing playing pitches unless alternative provision is made.
- The report of the Senior Executive Planner dated 3rd of April 2023 is noted where it stated, “the above report by the Area Planner is noted and endorsed. While the layout has not changed significantly through the Further Information it is considered that the applicant has made a robust case for the approach proposed and accordingly a grant of permission is recommended.”

- The scheme has been designed to be in accordance with local and national guidelines and generally aligns with the standards set out for site zoning, density, layout, public open space requirements, car parking standards, private amenity requirements and dwelling size.
- The appeals refer to what they consider the overuse of home zones within the development. The term home zones is about people and improving the quality of life for residents within them by removing traffic.
- It is set out that the proposed scheme has been designed having regard to the following national and local guidelines;
 - Urban Design Manual, 2009
 - Sustainable Development in Urban Areas, 2009
 - Cork County Residential Estate Design Guide, 2011
 - Design Manual for Urban Roads and Streets (DMURS) and
 - Cork County Development Plan 2022-2028.
- A DMURS compliance statement was submitted at further information stage the proposed strategy maximises connectivity between surrounding local destinations, through the provision of high degree of permeability and legibility for all network users.
- In relation to the internal layout it has been designed as a linear Primary Access Road to the south and local streets in proximity of houses, amenity space, cul de sacs and connection points.
- The layout sought to optimise access to and from Kinsale town centre and the adjoining Abbeyfort development and caters for higher numbers of pedestrians and cyclists.
- The design philosophy sought to consider the context/place status of each residential Local Street in terms of the level of connectivity provided, quality of the proposed design, level of pedestrian/cyclist activity and vulnerable users requirements whilst identifying appropriate transition solutions between different street types.

- It was highlighted that the Council were satisfied with the revised amendments to the scheme. The report of the Estates Engineer dated, March 15th 2023 stated; “having reviewed these further information submissions in relation to this item, I have no further objections to the layout as proposed and acknowledged that the requested amendments would impact on both housing density and the open space provision in the overall development. The success of the scheme as now proposed will require a high level finish and will be dependent on successful traffic calming measures, road markings and signage being incorporated into the layout of the scheme.”
- It is therefore submitted that the proposed development provides a high quality development which complies with the recommendations of DMURS and other national and local guidelines and that there is not an overuse of homezones within the development as specified in the appeals.
- The appeals refer to impact on the capacity of the wastewater treatment plant serving Kinsale. Irish Water stated in the confirmation of feasibility that the development is feasible without infrastructural upgrade by Irish Water. Therefore, it is submitted that there are no infrastructural issues or constraints that restrict the development of the site and that the proposed development will not have a negative impact on wastewater capacity and treatment.
- In relation to condition no. 4 as attached by the Planning Authority, it is set out in the submission for the appellants engineer that “there is a clear disconnect between what was applied for and permitted in Reg. Ref. 22/5388 and which was quoted and specified in condition no. 4.
- The GAA Club applied for permission for new club facilities and all ancillary site works to include construction of 4 no. full sized playing pitches, an astroturf pitch, single storey clubhouse building, single storey gym building, single storey equipment store, surface car park, children’s playground and flood lights.
- Condition no. 4 specified that the applicants are required to enter into a Section 47 agreement with the Local Authority and cannot carry out development on their site until such time that equivalent facilities are made available at the newly permitted GAA grounds. The implementation of this

condition will ensure that facilities are provided at the new GAA site and to ensure that the existing community is not disadvantaged by the relocation of the GAA Club. Condition no. 4 clearly states that the developer can only “commence development once equivalent replacement facilities of an equivalent standard” are provided on the grounds. Therefore, the suggestion in the grounds of appeal that there is a lack of consistency is incorrect.

- Regarding the assessment of the development by the Council it is stated that the documents contained in the planning pack which were submitted to the Planning Authority were prepared to a very high standard and contained all the relevant information required in relation to the site.
- It is highlighted that a full set of architectural drawings, drainage and infrastructure drawings, traffic assessments, landscaping, archaeology details and public lighting drawings were also submitted.
- It is noted that the Planning Authority requested further information on September 8th 2022. The matters sought included information relating to layout and home zones, residential amenity, Part V and Housing Mix, Estate Roads, Roadside, pedestrian/cycle infrastructure, surface water, biodiversity and archaeology all of which were submitted to the Planning Authority on March 6th 2023 and the Planning Authority granted permission on April 5th 2023.

6.3. Planning Authority Response

A response was submitted from Cork County Council in relation to the appeals. The issues raised are as follows;

- The Planning Authority engaged in pre planning discussions in relation to this proposal initially through a telephone conversation on the 16th of February 2022 and then through a pre planning meeting on the 22nd of April 2022.
- Regarding the comments on the potential traffic issues associated with the internal layout of the proposed scheme, it should be noted that the application was fully assessed by the Area Engineer and the Estate Engineer. It is highlighted that the proposed development was subject to a Road Safety

Audit (Stage 1). The findings and recommendations of the Road Safety Audit were accepted and are tied into the development in condition no. 15.

- At a strategic level Cork County Council have engaged consultants to prepare a preliminary strategy for a Kinsale Active Travel Strategy. This work is near completion and it includes preferred options which aim to address the continuity and upgrade of connectivity especially between residential areas and schools.
- The permitted Site Layout Plan includes provision of cycle and pedestrian facilities across the site frontage to be carried out by the applicant. This will be an ongoing process. When the permitted layout across this site frontage, Kinsale Active Travel and connectivity between Abbey Fort and Kinsale GAA is joined up the Planning Authority is satisfied that the replacement Kinsale GAA facilities and other lands in the area will all be fully accessible by pedestrians.
- To compliment enhanced pedestrian and cycle connectivity extra measures are permitted to control vehicle speed on site comprising raised tables and on Bandon Road as specified in condition no. 22 and connectivity with the adjoining new residential area Abbey Fort as specified in condition no. 23.
- It should be noted that the developer is also required to make a substantial special development contribution as specified in condition no. 6 towards the provision of pedestrian and cycle connectivity.
- In terms of potential impacts on residential amenity, the appeal documentation refers to the impact on adjoining properties in Rathbeg estate and other neighbouring properties. This issue was carefully considered during the application process. The houses concerned are 2½ storey with site specific floor plans designed to prevent encroachment, overlooking and loss of amenity to existing houses in Rathbeg. For example, the attic bedroom has windows facing to the front into the estate.
- It was considered that the layout as permitted represented a well-considered approach to this site which would integrate reasonably with existing neighbouring properties. However, the Planning Authority has no objection to

revision of the design of the units and/or omission to address concerns relating to the separation distances proposed/relationship between properties.

- A thread running through the appeal documentation refers to concern about the density proposed. The Planning Authority considers that the higher density proposed in this case reflects local, regional and national guidance where net densities less than 30 dwellings per hectare are generally be discouraged in the interest of land efficiency in accordance with the Guidelines for Planning Authorities on Sustainable Development in Urban Areas (2009).
- Concern was raised in the appeal documentation about the adequacy of the Kinsale Wastewater Treatment Plant. The Planning Authority would refer to the correspondence received from Irish Water dated 19/8/22 which clearly stated that there was no objection to the proposal.
- In conclusion, the Planning Authority considers that the proposed development complies with the proper planning and development of the area and they respectfully request that their comments be considered in conjunction with the original reports on file.

7.0 Assessment

Having examined the application details and all other documentation on file, including all the submissions received in relation to the appeal, the report/s of the local authority, and having inspected the site and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal can be considered are as follows:

- Density, development and policy context
- Impact on amenity
- Access and traffic
- Water Infrastructure
- Other issues

7.1. Density, development and policy context

- 7.1.1. The appeal is located within the development boundary of Kinsale which is defined in the zoning map of town contained in the Cork County Development Plan 2022-2028, Volume 5 (West Cork) and Section 1.5 which refers to Kinsale. The lands in question are zoned Objective – Existing Residential/Mixed Residential and Other Uses for the main area of the site. The eastern side of the site extending for circa 30m from the eastern site boundary is zoned Objective KS-RAP-01 Residential Additional Provision, Medium B Residential Development. The proposal is to construct 71 no. residential units comprising a mix of two bedroom, three bedroom and four bedroom dwellings. The site has an area of 2.47 hectares the proposed density would be equivalent to 28.7 units per hectare.
- 7.1.2. The third party appeals contend that the proposed density is out of character with the surrounding area and excessive for the site.
- 7.1.3. In relation to the matter of density it is set out in the Cork County Development Plan 2022-2028 under section 4.8 Residential Density that a tiered approach to density is advocated. In relation to the appeal site its zoning is Objective – Existing Residential/Mixed Residential and Other Uses and also zoned Objective KS-RAP-01 Residential Additional Provision, Medium B Residential Development. Section 4.8.21 of the Development Plan refers to Medium Density ‘B’ and it advises that a density range of 20-35 units per hectare would be generally applicable to suburban and greenfield sites of the smaller towns with a population of <5000 providing for a tiered density structure and a mix of residential typologies. Table 4.1 in the Development Plan refers to Settlement Density Location Guide. In terms of the hierarchy of settlements Kinsale is Large Town and it sets out that Medium A – density of 30-50 units/ha is generally applicable for future development and that Medium B – density of 20-35 units/ha may be applicable in limited number of sensitive locations. The report of the Planning Officer discussed the matter of density and noted that there is clear weighting in favour of “higher densities” in national guidelines and in the County Development Plan and that while objections to the application highlighted that surrounding residential areas have much lower densities that it was considered that higher densities could be considered. The Planning Officer concluded that the density of circa 30 dwellings per hectare is in the ‘Medium B’ density range of 20-35

units as specified as being appropriate for towns of this size as set out in Section 4.8.2 of the Development Plan and that they considered the proposed density acceptable.

7.1.4. I note that the 2009 Guidelines on Sustainable Residential Development in Urban Areas have now been replaced by the recently adopted new guidelines, Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities (2024).

7.1.5. Kinsale is designated as a Large Town in respect of the provisions of the Regional Spatial and Economic Strategy for the Southern Region 2020 (RSES). Table 3.5 refers to Areas and Density Ranges Key Towns and Large Towns and in relation to Suburban/Urban Extension locations it sets out that it is a policy and objective of these Guidelines that residential densities in the range 30 dph to 50 dph (net) shall generally be applied at suburban and urban extension locations of Key Towns and Large Towns, and that densities of up to 80 dph (net) shall be open for consideration at 'accessible' suburban/urban extension locations. The subject site at Kinsale GAA Grounds, Kinsale would constitute a suburban/urban extension location within the context of its location circa 1km from the town centre of Kinsale. I note the context of the site which adjoins lower density residential development to the south, with lower density residential development to the west on the opposite side of the Bandon Road and with higher density development at the Abbey Fort housing scheme to the north and east. While I note that the proposed density is marginally under the density range advised in the Guidelines and also in terms of the 'Medium A' as set out in the Development Plan which advises that – density of 30-50 units/ha is generally applicable for future development, I would note that the proposed density is in line with the density range Medium B – density of 20-35 units/ha. Having regard to the fact that a portion of the site is subject to Specific Objective KS-RAP-01 and that the proposed density is marginally under the density range of 'Medium A' and having regard to the site context where it adjoins existing lower density development, I would concur with the assessment of the Planning Authority that the density would be acceptable.

7.2. Impact on amenity

- 7.2.1. The issue of impact on the residential amenities of neighbouring properties has been raised in the appeals. Concern was expressed in relation to potential overshadowing and neighbouring dwellings and overlooking and overbearing of properties including in Rathbeg to the south. Reference was made to the difference in finished levels between the proposed houses in the scheme and neighbouring properties. The matter of boundary treatment was also raised in relation to the boundary with properties at Rathbeg.
- 7.2.2. In relation to the site context there are residential properties to the south of the site at Rathbeg and to the north and east at Abbey Fort. The first party in response to the third party concerns in relation to residential amenity highlighted that the scheme was designed to ensure that the residential amenities of adjoining properties were protected.
- 7.2.3. Regarding the matter of potential overshadowing the first party stated that the Council required the submission of a Shadow Study as part of the further information request. The further information specifically required that a shadow study address the potential impact of the proposed three storey houses along the northern boundary which is elevated circa 3m above the dwellings under construction.
- 7.2.4. A Shadow Study was prepared by Digital Dimensions. It was concluded in the study that the amenity spaces to the relevant gardens in Abbey Fort will not perceive a reduction below the current sunlight levels. That all the gardens will exceed two hours sunlight over 50% of the amenity space on the 21st of March and therefore the proposed development meets the recommendations of the BRE guidelines for gardens and open spaces. Furthermore, the first party confirmed that as part of the further information response that house no's 28-33 were repositioned 900mm to the south of the northern boundary as it was recommended by Digital Dimensions.
- 7.2.5. Regarding the matter of potential shadowing of other existing properties, I would concur with the assessment of the Planning Officer which stated in their primary report that shadow/daylight study of potential impacts on adjacent dwellings in Rathbeg estate along the southern boundary is not required because the proposed houses are north of the dwellings. Accordingly, I am satisfied that the proposed

development would not unduly impact existing surrounding residential properties in terms of overshadowing.

- 7.2.6. The provisions of the Cork County Development Plan 2022-2028 refer to separation distances between the rear of residential properties in section 4.10.8 it that a minimum clearance distance of 22 metres, in general, is required, between opposing windows in the case of apartments up to three storeys in height. However, it is again advised that in certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable.
- 7.2.7. The 2009 Guidelines on Sustainable Residential Development in Urban Areas have now been replaced by the recently adopted new guidelines, Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities (2024). Section 5 of the Guidelines refers to Development Standards for Housing and section 5.3.1. refers to Separation Distances. It is set out in the guidelines that a requirement for a minimum separation of 22 metres between opposing upper floor rear window has formed part of suburban housing design since the early 20th century. The guidelines further advise that through careful massing and positioning of blocks, positioning of windows and the integration of open space at multiple levels it is possible to achieve a high standard of residential amenity and good placemaking with separation distances of less than 22 metres.
- 7.2.8. SPPR2 of the guidelines refers to separation distances and sets out that it is a specific planning policy requirement of the Guidelines that statutory development plans shall not include an objective in respect of minimum separation distances that exceed 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units or apartment units above ground floor level. When considering a planning application for residential development, a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained. Separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces. It is further set out that there shall be no specified separation distance at ground level or to the front of houses, duplex units and apartment units in statutory development plans and

planning applications shall be determined on a case-by-case basis to prevent undue loss of privacy. In all cases, the obligation will be on the project proposer to demonstrate to the satisfaction of the planning authority or An Bord Pleanála that residents will enjoy a high standard of amenity and that the proposed development will not have a significant negative impact on the amenity of occupiers of existing residential properties.

7.2.9. Accordingly, I note this specific provision of the guidelines in relation to separation distances which provides scope for a reduction in the separation distances provided between opposing first floor windows subject to site specific conditions and designs proposed.

7.2.10. In relation to potential overlooking and overbearing impacts, the first party highlighted that the project Architects O'Mahony Pike prepared full sections between the proposed development and units 1-6 Rathbeg to demonstrate there will be no overbearing. In this regard I note drawing no: 21011-OMP-00-ZZ-DR-A-3002 – Proposed Site – Sections FF to MM. As indicated on this drawing a minimum separation distance of over 22m is provided between the dwellings proposed along the southern site boundary and at Rathbeg. Regarding the properties in Rathbeg which have a lower site levels, particularly no's 2-3, the difference in site levels is 1m in the case of no. 4 Rathbeg and 1.4m in the case of no. 2 Rathbeg. A separation distance of 26m is provided between the property to the north of no. 2 Rathbeg, a separation distance of 27m is provided between the property to the north of no. 3 Rathbeg and a separation distance of 25.6m is provided between the property to the north of no. 4 Rathbeg. Accordingly, I am satisfied that the separation distances provided which are in excess of 22m address both the potential overlooking and overbearing in the context of the height differential between the sites and also the height and design of the proposed dwellings. Accordingly, having regard to the separation distance provide the height differential is considered acceptable in this context.

7.2.11. In relation to the neighbouring properties to the north at Abbeyfort I note drawing no: 21011-OMP-00-ZZ-DR-A-3005 – Proposed Site Sections – NN & QQ. This indicates the relationship between the closest proposed dwellings within the scheme to the dwellings to the north. I note that there is a difference in site level of 3m at the north-western end of the site however given the separation distance between the side of

the closest proposed dwelling and the rear of the neighbouring property of 20m I consider that it is acceptable in this context.

7.2.12. In relation to the matter of boundary treatment with the existing dwellings at Rathbeg, the first party confirm that it is proposed to retain and protect the existing hedge line which separates the developments. A 1.8m high concrete post and precast concrete panel fence is proposed which will be bonded by shrub planting and a 0.6m high retaining wall. I consider that this proposal is an acceptable boundary treatment which will ensure a satisfactory level of privacy is maintained.

7.2.13. In conclusion, having reviewed the proposed site layout of the scheme relative to the existing surrounding properties, I consider having regard to the proposed siting of the and design of the proposed dwellings within the scheme and the relative separation distances to the existing dwellings to the north, south and east of the site that the proposed scheme would not result in any undue overshadowing, overbearing, or overlooking impact of neighbouring residential properties.

Visual impact

7.2.14. Reference is made in the appeals to the potential visual impact of the proposed development in terms of it negatively impacting the skyline of Kinsale when viewed from the Harbour. In relation to this matter, I note that the site is elevated and lies at circa the 60m contour. Regarding the height of the proposed dwellings, a mix of house types is proposed with two-storey and three-storey properties proposed. The proposed three-storey dwellings are proposed primarily along the eastern and southern site boundaries. These dwellings have a ridge height of 10.57m. I note that existing properties within Abbeyfort to the east of the site contain similarly designed dwellings with living accommodation in the attic space. The proposed Site Section drawing no: 21011-OMP-00-ZZ-DR-A-3001 illustrates the height of the proposed development relative to the existing surrounding properties. In this regard I note that the ridge height of dwellings in Abbeyfort to the east are indicated as 70.5m and 70.3m while the ridge heights of the three-storey dwellings within the proposed development are range between 68.3m and 68.68m. The height of the proposed dwellings is therefore below that of the exiting permitted houses immediately to the east. Accordingly, I am satisfied that the height and design of the proposed dwellings

are in keeping with that of the surrounding development and that it would not unduly impact upon the visual amenities of the area.

Open space provision

- 7.2.15. The grounds of appeal refer to the loss of the existing open space. They contend that the proposed development would not represent a planning gain. In respect of this matter, I would note that the appeal site has been zoned for residential development under the provisions of the Cork County Development Plan 2022-2028. Furthermore, Kinsale GAA has been granted permission by Cork County Council to relocate to lands at Cappagh, Kinsale circa 125m to the north-west of the existing grounds. These lands are zoned KS-GA-12 – Open Space suitable for active recreation. Accordingly, the proposed residential development of the subject lands and the relocation of the existing Kinsale GAA grounds are entirely in accordance with the zoning and Development Plan provisions.

7.3. Access and traffic

- 7.3.1. The proposal entails the provision of a total of 71 no. dwelling units. Vehicular access is proposed onto the Bandon Road the L3234. The grounds of appeal refer to the additional vehicular traffic the scheme would generate and the impact it would have on the existing roads. They raise the condition of the existing road network in the area and the future development of the Kinsale northern relief road and western relief road. The grounds of appeal also referred to issues concerning pedestrian and cycle facilities and connectivity to the town centre.
- 7.3.2. In relation to the proposed site entrance as indicated on Drawing No: 6438_0012_F – Site Layout Showing Sightlines there is sight distance of 49m provide in both directions at the entrance with a setback distance of 2.4m which in accordance with section 4.4.5 of Design Manual for Urban Roads and Streets (DMURS).
- 7.3.3. In response to the matter of traffic generation the first party highlight that the site is within walking distance of Kinsale Town Centre. They also cited the Traffic and Transport Assessment (TTA).
- 7.3.4. A Traffic and Transport Assessment (TTA) was undertaken by DBFL Consulting Engineers was submitted with the planning application. The proposal comprises 71 no. dwellings. A total of 142 no. car parking spaces are proposed and 94 no. cycle

parking spaces are also proposed. In terms of the trips generated by the proposed development it is projected that during the AM peak there would be 47 no. two-way vehicular trips and during the PM peak there would be 69 no. two-way vehicular trips. As detailed in the TTA three junctions were analysed, Junction 1 - The Proposed Site Access, Junction 2 - Woodlands/Rathbeg/Bandon Road and Junction 3 - Hillcrest/Bandon Road. For each of these junctions the analysis demonstrated that for 2025 opening year and also 2040 Future Design Year that it is predicted that for each of the junctions they are predicted to operate with significant reserve capacity. Accordingly, I am satisfied that as established in the TTA that as a result of the proposed development that it will not adversely impact the operational performance of the local junctions.

- 7.3.5. The grounds of appeal refer to the Northern Relief Road and the Western Relief Road. As set out in the section 1.5.50 of Volume Five – West Cork of the Development Plan the Kinsale Transportation Study (2009) made a series of recommendations to address movement issues within the town these included the provision of northern and western relief roads. The Western Relief Road is considered an important long-term objective and is an important strategic element in the future movement strategy for the town. In relation to the development of the Kinsale Northern Relief Road it is stated in the plan that it would require an upgrade of the existing Northern Relief Route with some new construction to connect to the R605 Bandon Road and that it would significantly reduce through traffic in Kinsale Town Centre. In relation to the northern relief road and the western relief road, I note that reports of the Planning Officers and the Traffic & Transport Section do not specifically refer to them. Furthermore, as discussed above, it is concluded in the Traffic and Transport Assessment that the traffic generated by the proposed development will not adversely impact on the operational performance of local junctions which will continue to operate with significant levels of reserve capacity.
- 7.3.6. In relation to pedestrian and cycle improvements as indicated on Drawing no: 6438 0013F – ‘Proposed Road Boundary Treatment’ a shared pedestrian and cycle path is proposed along the roadside boundary on the Bandon Road. The report of DBFL-Consulting Engineers -Technical Note 210166-DBFL-TR-XX-TN-C-0002 refers to the design and layout of the proposed scheme in terms of its compliance with the provisions and guidance of Design Manual for Urban Roads and Streets (DMURS)

2019. It is set out that the scheme has been designed to reinforce the priority to pedestrians within the secondary local streets with “homezone” arrangements proposed. The design proposed comprises a 5.5m primary access road with 5.0m secondary local access roads/homezone. The further information requested that the only ‘home zone’ to be retained is the short cul-de-sac which provides access to house no’s 66-71. In relation to the matter the applicant submitted in response to the use of “home zones” that it is supported by the provisions of DMURS. They also highlighted that if all the road widths within the scheme were increased to 5.5m that it would impact the provision of open space and also that it would necessitate the removal of planting to the front gardens and prioritise cars over more vulnerable road users. The applicant provided examples of recently constructed examples of residential development which included similar ‘home zones’ and a DMURS compliance statement was submitted with the further information. Section 3.7 of the statement refers to pedestrian and shared surfaces and it states that DMURS recognises the use of shared surfaces as being highly desirable where ‘movement priorities are low and there is a high place value in promoting more liveable streets (i.e. homezones) such as on local streets within neighbourhood.’ In relation to the proposed scheme the secondary local access streets are designed with ‘homezone’ type treatments to ensure drivers recognise that they must proceed within a low speed environment and that they are likely to be sharing the space with non-motorised users. The report from the Estates Engineer on foot of the submission of further information noted the case made by the applicant in respect of the use of ‘homezones’. It was acknowledged in their report that the requested amendments would impact on both the housing density and the open space provision and on that basis, they were satisfied that that layout as originally proposed be kept. The report of the Planning Officer which assessed the further information noted the reports from the Council Estate and local engineers were satisfied with the case made to retain the proposed ‘homezones’. Accordingly, having regard to the case made by the applicant in relation to the proposed layout containing ‘homezones’, I would concur with the Planning Authority that they are acceptable.

- 7.3.7. Regarding the matter of pedestrian and cycle connectivity, section 2.2 of the DMURS Compliance Statement refers to permeability and legibility. The design features within the scheme which provide permeability and legibility are a 3m wide

cycle/pedestrian connection with the adjoining Abbeyfort, a 3m wide cycle/pedestrian link along Bandon Road along the site boundary to tie in with potential future active travel improvements along Bandon Road and a Toucan pedestrian across the Bandon Road. These proposed design features are in compliance with the design principles in DMURS. As part of the further information request the Council sought the submission of a Road Safety Audit. The Stage 1 Road Safety Audit was prepared by Burton Consulting Engineers in January 2023. The report identified a number of problems which have associated safety improvement suggestions. In relation to this, I note that the reports from the Estates Engineers and Area Engineer in response to the further information were satisfied with the information provided including the findings and recommendations of the Road Safety Audit.

7.3.8. In relation to the matter of pedestrian and cycle connectivity the planning authority in their appeal response highlighted that Kinsale is one of six towns within the county which is included in an Active Towns Strategy which is aimed at promoting walking and cycling in the town. The consultants have prepared a preliminary strategy for a Kinsale Active Strategy and the work is near completion. It includes preferred options which aims to address the continuity and upgrade of connectivity especially between residential areas and schools. Regarding the funding of this I note that the National Transport Authority has allocated funds to local authorities for spending on walking and cycling infrastructure and that Cork County Council has received €21.39m active travel grant. Accordingly, plans and funding are in place to provide for improved pedestrian and cycle within the town.

7.3.9. In conclusion, I am satisfied with the proposed scheme in respect of access and traffic considerations.

7.4. Water Infrastructure

Foul sewerage

7.4.1. The grounds of appeal raised matter of the capacity of the existing foul sewerage infrastructure to accommodate the proposed development. It was noted that the County Development Plan identifies the infrastructural deficiencies in relation to wastewater treatment and the provision of drinking water. Reference is made to Section 1.5.59 of the Development Plan.

- 7.4.2. In relation to the capacity of the Kinsale wastewater treatment plant the appellants referred to the EPA Annual Environmental Report – D0132-01 for the facility which stated a Plant Capacity PE of 9,800 and that it was increased in 2021. They stated that the increase in capacity has been made without apparent infrastructure upgrades.
- 7.4.3. The appellants also referenced a Site Visit Report of Kinsale Wastewater treatment plant produced by the Environmental Protection Agency (EPA) dated 07/07/2023 which highlighted a number of breaches in emission limit values.
- 7.4.4. Volume Five of the Cork County Development Plan 2022-2028 refers to West Cork and Section 1.5.59 refers to Waste Management in Kinsale. It states that Wastewater in Kinsale is conveyed via a largely combined sewer system to the Kinsale Waste Water Treatment Plant (capacity 3800 p.e.). Extensions of some sewers are required in order to accommodate proposed growth in Kinsale. Kinsale WWTP currently has inadequate spare capacity to accommodate proposed development in Kinsale.
- 7.4.5. Regarding the operation of the treatment plant, I note the Site Visit Report of Kinsale Wastewater treatment plant of the EPA dated 07/07/2023. A summary of the findings was that it was noted that some works had progressed while others need to be given greater urgency. There were a number of exceedances of the Ammonia limit in the discharge in 2023 which required measures to be implemented to restore compliance. Regarding the capacity of the plant, I note the point made by the appellants where they queried the increase in capacity provided. As detailed in the EPA report dated 07/07/2023 drum thickeners are now running in the sludge building at Kinsale WWTP and this is expected to yield improved capacity and process performance.
- 7.4.6. The Uisce Éireann Wastewater Treatment Capacity Register published in June 2023 indicates that spare capacity is available in the Kinsale Wastewater Treatment Plant. I note that there is a proviso in place on this status which states that connection applications and enquiries currently being processed may impact on capacity available and that connection applications will be assessed on an individual basis considering their specific load requirements and that engagement with Uisce Éireann's Connections and Developer Services Team ahead of planning and project is required.

- 7.4.7. The first party in response to the matter referred to the documentation they received from Irish Water which provided the confirmation of feasibility that the development is feasible without infrastructural upgrade by Irish Water. Therefore, they submit that there are no infrastructural issues or constraints that restrict the development of the site and that the proposed development will not have a negative impact on wastewater capacity and treatment. The documentation submitted with the application includes an Infrastructure Report produced by Denis O'Sullivan & Associates. Section 5 of the report refers to Foul Sewer System and it references the Confirmation of Feasibility received from Irish Water a copy of which is appended to the report. It confirms that a wastewater connection to the proposed development is feasible without upgrade by Irish Water.
- 7.4.8. The Planning Authority in their appeal response noted that concern was raised in the appeal documentation about the adequacy of the Kinsale Wastewater Treatment Plant. They would refer to the correspondence received from Irish Water dated 19/8/22 which clearly stated that there was no objection to the proposal.
- 7.4.9. Accordingly, notwithstanding the statement in section 1.5.59 of Volume Five of the Cork County Development Plan 2022-2028 which refers to the capacity of the Kinsale WWTP having regard to the details set out above I am satisfied that sufficient capacity is available within the Kinsale WWTP to accommodate the additional loading the proposed development would generate.

Surface water drainage

- 7.4.10. The matter of surface water drainage is raised by the appellants with specific reference for the potential of flooding arising downhill from the loss of greenfield attenuation. Regarding flood risk, having regard to the Development Plan map of Kinsale contained in Section 1.5 of Volume Five of the Cork County Development Plan 2022-2028, I note that the appeal site is not located within an area which is identified as liable to flooding.
- 7.4.11. In relation to the issue of surface water the Planning Authority sought further information requiring the submission of a more detailed site layout plan clearly illustrating the layout of the surface water attenuation system including the levels, location and route of the drainage system through the attenuation tank and the hydrocarbon interceptor. It was required that the layout demonstrate that the

infrastructure can be accommodated within the green area adjoining the estate entrance. The applicant was also required to provide details on the composition and make up of the proposed SUD's Drainage system and biofiltration planters.

- 7.4.12. In response to this as indicated on Drawing no: 6438_0020_K – The proposed Drainage Layout, the attenuation system is proposed to be located within the greenspace to the western side of the site. As indicated on Drawing no: 6438_0011_C the Proposed Bio-Retention Landscaping Details, biofiltration planting is proposed within the two greenspace areas within the scheme and interspersed in the scheme. In relation to these proposals, I note that the Estates Engineer and Area Engineer were satisfied with the further information.

Water supply

- 7.4.13. Water supply is raised in the grounds of appeal. Reference is made to section 1.5.61 of Volume Five of the Cork County Development Plan 2022-2028 which states, “A new reservoir in Kinsale may be required in order to provide that adequate storage and also adequate pressure for high areas. At present there is no Irish Water Scheme to upgrade Innishannon WS. Drinking water is supplied from two different sources. Additional reservoir storage and a general upgrading of the scheme are required. Water supply improvements are required to service land that is currently zoned for development.”
- 7.4.14. In relation to this matter, I note content of the report from Irish Water dated 15/07/2022 which confirms that the developer liaised with Irish Water and a confirmation of feasibility was issued. Irish Water stated that they have no objection to the proposed subject to the constraints outlined in the confirmation of feasibility.
- 7.4.15. Section 4 of the Infrastructure report prepared by Denis O'Sullivan & Associates Consulting Engineers refers to water supply. This sets out the Irish Water reference number for the Confirmation of Feasibility is CDS21007481. This confirms that the proposed connection to Irish Water infrastructure can be put in place. A copy of the Confirmation of Feasibility document is appended with the engineer's report. In relation to water connection it confirms that it is feasible without infrastructure upgrade by Irish Water.

7.5. Other issues

Archaeology

- 7.5.1. The grounds of appeal refer to the archaeological significance of this site and the general hinterland is identified in the County Development Plan. The documentation submitted with the application includes an Archaeological Assessment prepared by John Cronin & Associates dated July 2022. The appellants request that regard is had to the Archaeological Assessment.
- 7.5.2. The report of the Council Archaeologist dated 07/09/2022 highlighted that the site is located within the zone of notification of Recorded Monument C0112-098 Military Camp (Thomand 2 camp). They recommended that further information be sought.
- 7.5.3. As part of the request for further information the Planning Authority sought further details in relation to archaeological assessment. The further information raised concern at the possible extent of ground disturbance in the context of the potential for large scale cut features associated with the Camp site and siege within the development site. Accordingly, it was required that targeted minimal testing be carried out to explore these concerns.
- 7.5.4. In response to the matter an updated Archaeological Assessment prepared by John Cronin & Associates dated March 2023 was submitted. As detailed in the assessment the excavation licence number is 22E0818 and testing was carried out on 03/11/2022. Two linear test trenches were dug measuring 1.5m in width and with a combined length of 75m. The trenches were excavated across the area on the site located within the zone of notification for military camp (C0112-098---). It is confirmed in the assessment that no artefacts, features or deposits of archaeological significance were revealed within the excavated test trenches. The testing demonstrated that the eastern and south-eastern portions of the site have been subject to significant ground truncation from past site levelling activities and therefore this area would have negligible archaeological potential. The area of the site away from this appears to have ground truncation to a lesser extent and therefore the remainder of the site away from the eastern and southern margins has a degree of archaeological potential. It is recommended in the assessment that if permission is granted for the proposed development that all groundworks associated with the development be subject to a programme of licensed archaeological monitoring.

- 7.5.5. The report of the Council Archaeologist dated 28/03/2023 states that they have read and assessed the Archaeological Assessment dated March 2023 and that they are satisfied that the archaeological issues have been addressed and that they concur with the mitigation proposed which entails archaeological monitoring of all ground works. Having regard to the details provided in the Archaeological Assessment dated March 2023, I would concur with the Council Archaeologist that subject to archaeological monitoring of all ground works the proposal would be acceptable in terms of archaeological considerations.
- 7.5.6. Condition no. 19 attached by the Planning Authority requires that the applicant engage the services of a suitably qualified archaeologist to monitor under licence from the National Monuments Service (NMS) all ground works associated with the development. Accordingly, Should the Board decide to grant permission for the proposal, I would recommend the attachment of a similarly worded condition.

Kinsale GAA Club application - Reg. Ref. 22/5388

- 7.5.7. The appeals refer to the application made by Kinsale GAA Club under Reg. Ref. 22/5388 for the provision of new club facilities and all ancillary site works at Cappagh, Kinsale, Co. Cork. It is set out in the grounds of appeal that there is a disconnect between what was applied for and permitted under Reg. Ref. 22/5388 and what is detailed in condition no. 4 of this application Reg. Ref. 22/5657
- 7.5.8. In response to the matter the first party state that it is detailed in the application material submitted that they were fully aware of the application made by Kinsale GAA Club for their new facility at Cappagh, Kinsale. As detailed in the Planning and Design Statement prepared by Mc Cutcheon Halley Planning Consultants that under the 2022 Cork County Development Plan it is intended that the existing GAA club/facilities would be relocated to the nearby lands zoned as 'KS-GA-12' where new and improved facilities will be provided.
- 7.5.9. They prepared a draft Section 47 agreement as part of the documentation submitted with the application. The first party stated that the redevelopment of the current GAA grounds will not commence until such time that the new facility at Reg. Ref. 22/5388.
- 7.5.10. In relation to the application made by Kinsale GAA Club under Reg. Ref. 22/5388, Cork County Council granted permission for the development on the 23/02/2023. The site is located circa 125m to the north-west of the existing GAA grounds. The

development granted comprises 4 no. full sized playing pitches, an astroturf pitch, single storey clubhouse building, single storey gym building, single storey equipment store, surface car park and children's playground. Ancillary development works include the provision of a pedestrian crossing on the L-3234 local road to connect the existing footpath network and servicing proposals including the diversion/undergrounding of existing overhead lines.

7.5.11. The Planning Authority did not raise the matter of the application by Kinsale GAA Club for new grounds in the request for further information. Condition no. 4 as attached to the permission by the Planning Authority specified that the developer shall enter into a legal agreement with the Planning Authority under the provisions of section 47 of the Planning and Development Act, 2000 as amended which an undertaking is given to (a) only commence development once an equivalent standard i.e. one main playing pitch, one training pitch, car park are provided on the new permitted Kinsale GAA facility granted under Reg. Ref. 22/5388, unless otherwise agreed in writing with the Planning Authority. The reason for the attachment of the condition was in order to ensure that existing communities are not disadvantaged by the relocation of club facilities as per paragraph 14.5.6 of the Development Plan and Objective GI 14-4 (Recreation & Amenity) and GI 14-5 (Replacement/Redevelopment).

7.5.12. Paragraph 14.5.6 of the Development Plan refers to replacement/redevelopment of leisure and recreational facilities. This section of the plan acknowledges that some recreational/sport club facilities can become either unsuitable in terms of size to cater for a growing membership or that the premises may become inadequate for modern needs and it advises that care must be taken in planning for new or replacement facilities to ensure that existing communities are not disadvantaged by the relocation of clubs and facilities. County Development Plan Objective GI 14-4 refers to Recreation and Amenity it supports the provision of recreation and amenity facilities in new developments and seeks to ensure the protection and enhancement of existing recreational facilities and public open space. County Development Plan Objective GI 14-5 refers specifically to replacement/redevelopment of leisure and recreational facilities. It is specified under section (ii) of this objective where a change of use or redevelopment or existing leisure or recreational facilities are proposed suitable replacement facilities of a higher quality than the existing facility

are identified that are both accessible and benefit the community served by the facility being replace.

7.5.13. Accordingly, in the case of the subject scheme which entails the redevelopment of the existing Kinsale GAA Club the provision for new grounds and facilities has occurred with the permission granted under Reg. Ref. 22/5388. This is in accordance with paragraph 14.5.6 of the Development Plan and Objective GI 14-4 (Recreation & Amenity) and GI 14-5 (Replacement/Redevelopment).

7.5.14. As mentioned above the Planning Authority attached condition no. 4 to the subject permission granted under Reg. Ref. 22/5657. Condition no. 4 requires that the developer shall enter into a legal agreement with the Planning Authority under the provisions of section 47 of the Planning and Development Act, 2000, as amended to only commence development once equivalent replacement facilities of an equivalent standard i.e. one main playing pitch, one training pitch, car park, are provided on the new permitted Kinsale GAA facility granted under Planning Register No.22/5388, unless otherwise agreed in writing with the Planning Authority. This condition serves to ensure that community is not disadvantaged by the relocation of the club which is in accordance with the policies and objectives as discussed above. Accordingly, should the Board decide to grant permission I would recommend the attachment of a similarly worded condition in this regard.

Reference to material contravention report

7.5.15. The appeals refer to a material contravention report. For clarity, I note that the material contravention report which is referenced relates to a separate planning application Reg. Ref. 22/5145. Under Reg. Ref. 22/5145 permission was granted for 95 no. houses and all ancillary site development works at Glasheen and Park Laurance (townlands), Kinsale on lands to the north of the appeal site. The issue of material contravention arose because that application was lodged after the adoption of the Cork County Development Plan 2022-2028 and before it came into effect on the 06/06/2022 and because there was material planning policy change between the superseded statutory plan the Bandon-Kinsale Municipal District Local Area Plan, 2017 and Cork County Development Plan 2022-2028. Accordingly, the matter is not relevant to this current application and appeal.

Procedural issues

- 7.5.16. The grounds appeal refers to the availability of planning application documents. It was stated that they were not available in a timely manner and the availability of pre-planning consultation documents was also raised.
- 7.5.17. In response to the matter the first party stated that the application documents were submitted to Cork County Council in accordance with the Planning and Development Act and were available in full to view at the offices of the Planning Authority or online through their Eplan portal. A copy of stamped receipt of the cover page of the application pack lodged to Cork County Council on July 15th 2022. The acknowledgement receipt attached to the appeal response reiterates that the application was received on July 15th 2022. They state that the notices submitted with application clearly stated that there was opportunity for the planning application to be inspected or purchased at a fee. A submission or observation in relation to the application could be made to the Authority in writing on payment of the prescribed fee within the period of 5 weeks beginning on the date of receipt by the Authority of the application. The first party therefore consider that the application material was fully available to all members of the public at the offices of the Local Authority during the planning application process. In relation to the site notices the first party stated that 4 no. notices were erected on site to provide suitable notice to the public in relation to the proposed development.
- 7.5.18. The Board will note that the appellants in this instance successfully submitted observations to the Planning Authority in respect of the proposed development and have obviously submitted appeals to the Board in respect of the Planning Authority's decision. Accordingly, I do not consider that third party right have in any way been compromised in this regard.

8.0 AA Screening

8.1. Description of the project

- 8.1.1. I have considered the proposal the construction of 71 no. dwelling units in light of the requirements of S177U of the Planning and Development Act 2000 as amended.
- 8.1.2. Accompanying this application is an Appropriate Assessment Screening Report dated 7/7/2022 prepared by Brady Shipman Martin.

- 8.1.3. The subject site is located Kinsale GAA Grounds, Kinsale, Co Cork. The site contains the GAA pitch with associated goal posts, fencing, team dug outs and dressing room building. The area surrounding the site is characterised by residential development. The site is not in or immediately adjacent to any Natura 2000 site.
- 8.1.4. The following Natura 2000 sites are identified as being in the potential zone of influence of the appeal site. Sovereign Islands SPA (Site Code 004124) is situated 6.5km to the south-east of the appeal site. Courtmacsherry Estuary SAC (Site Code 001230) is situated 10.6km to the west of the appeal site. Courtmacsherry Bay SPA (Site Code 004219) is situated 10.9km to the south-east of the appeal site. Old Head of Kinsale SPA (Site Code 004021) is situated 10km to the south of the appeal site.
- 8.1.5. I have provided a detailed description of the development in Section 2.1 of my report and detailed specifications of the proposal are provided in the AA screening report and other planning documents provided by the applicant.

8.2. Potential effect mechanisms from the project

- 8.2.1. In relation to the matter of habitat loss or alteration the proposed development site is not located directly adjacent to any European sites and therefore there will be no direct loss or alteration of the habitat. Regarding the issue of habitat/species fragmentation the proposed development would not result in any direct habitat loss or fragmentation.
- 8.2.2. In relation to the matter of disturbance and/or displacement of species the proposed development does not have the potential to cause a disturbance and/or displacement to species of qualifying interest in the European sites identified within the zone of influence of the appeal site.
- 8.2.3. The proposed development is not considered to have the potential to result in the reduction in the baseline population of species associated with any of the European sites identified within the zone of influence.
- 8.2.4. There is no direct surface water connection between the appeal site and any of the European sites identified within the zone of influence. However, in relation to indirect impacts there is a potential surface water pathway via the wider surface water drainage network and there is a potential risk to surface water and ground water

arising from contaminants during the construction phase including silt, suspended solids, hydrocarbons and concrete/cement products.

- 8.2.5. In relation to the operational phase in direct effects are not anticipated on the basis that surface water arising at the proposed development will be dealt with on site using an attenuation tank and infiltration system with SuDS elements. Furthermore, based on OPW records there have been no previous floods recorded in the area and flooding therefore is not considered to be an issue at this location.
- 8.2.6. The foul effluent from the proposed development would drain to the wastewater treatment plant for Kinsale. In relation to the capacity of the treatment plant, the Infrastructure Report prepared by Denis O'Sullivan & Associates and submitted with the application includes in Appendix A – a Confirmation of Feasibility letter from Irish Water. The letter states that water and wastewater connections are feasible without infrastructure upgrade by Irish Water. Therefore, significant effects in relation to wastewater management arising as a result of the operation of the development on Natura 2000 sites can be excluded.

8.3. European Sites at risk

- 8.3.1. In relation to the Natura 2000 sites are identified as being in the potential zone of influence of the appeal site. Sovereign Islands SPA (Site Code 004124) is situated 6.5km to the south-east of the appeal site. Courtmacsherry Estuary SAC (Site Code 001230) is situated 10.6km to the west of the appeal site. Courtmacsherry Bay SPA (Site Code 004219) is situated 10.9km to the south-east of the appeal site. Old Head of Kinsale SPA (Site Code 004021) is situated 10km to the south of the appeal site. In determining whether there is a potential for significant effect on any European Sites it is necessary to establish qualifying interest features at risk. In respect of Courtmacsherry Bay SPA (Site Code 004219) I note that the status of the conservation objective of each of the species of qualifying interest is to maintain the favourable conservation condition. In respect of Old Head of Kinsale SPA (Site Code 004021) the species of qualifying interest are Kittiwake and Guillemot. The conservation objective is a generic conservation object to maintain or restore the favourable condition of the bird species listed as Special Conservation Interest for this SPA. In relation to Sovereign Islands SPA (Site Code 004124) the species of

qualifying is Cormorant. The conservation objective is a generic conservation object to maintain or restore the favourable condition of the bird species listed as Special Conservation Interest for this SPA. In relation to Courtmacsherry Estuary SAC (Site Code 001230) the following species of qualifying interest have a conservation object to maintain the favourable conservation condition, Estuaries, Mudflats and sandflats not covered by seawater at low tide, Annual vegetation of drift lines, Perennial vegetation of stony banks, Mediterranean salt meadows, embryonic shifting dunes, white dunes and fixed coastal dunes. Two species of qualifying interest have a conservation objection to restore the favourable conservation condition they are salicornia and other annuals colonising mud and sand and Atlantic salt meadows.

Table 1.

Effect mechanism	Impact pathway/Zone influence	European Sites	Qualifying interest features at risk
Surface water pollution	surface water drainage network	Courtmacsherry Estuary SAC (Site Code 001230)	Salicornia and other annuals colonising mud and sand [1310]
Ground water pollution	surface water drainage network		Atlantic salt meadows [1330]

8.4. Likely significant effects on the European site(s) alone

- 8.4.1. Accordingly, in order to determine any likely significant effects on the identified European site Courtmacsherry SAC (Site Code 001230) it is necessary to examine the qualifying interests which are specifically at risk in terms of the status of their conservation objective being to restore them.

Table 2.

Table 2: Could the project undermine the conservation objectives 'alone'		
European Site and qualifying feature	Conservation objective (summary)	Could the conservation objectives be undermined (Y/N)?

	[provide link/ refer back to AA Screening Report]	Siltation	Const. Pollution
Courtmacsherry Estuary SAC (Site Code 001230)	Courtmacsherry Estuary SAC National Parks & Wildlife Service (npws.ie)		
Salicornia and other annuals colonising mud and sand [1310]	Restore favourable conservation status; Target increase habitat; No decline in distribution; Maintain/restore natural circulation of sediments and organic matter; Maintain creek & pan structure; Maintain natural tidal regime; Maintain range of coastal habitats	No On the basis that standard construction measures being undertaken and having regard to the significant separation distance of over 10km between the proposed development and the European Site.	No On the basis that standard construction measures being undertaken and having regard to the significant separation distance of over 10km between the proposed development and the European Site.
Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]	Restore favourable conservation status; Target increase habitat; No decline or change in distribution; Maintain natural circulation of sediments and organic matter; Maintain creek & pan structure; Maintain natural tidal regime; Maintain range of coastal habitats	No On the basis that standard construction measures being undertaken and having regard to the significant separation of over 10km distance between the proposed development and the European Site.	No On the basis that standard construction measures being undertaken and having regard to the significant separation of over 10km distance between the proposed development and the European Site.

8.4.2. As detailed above, in respect of the qualifying interests potentially at risk within the Courtmacsherry Estuary SAC which are Salicornia and other annuals colonising mud and sand [1310] and Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330] that there is no potential risk from siltation or construction pollution on the basis that standard construction measures being undertaken and having regard to the significant separation of over 10km distance between the proposed development and the European Site.

- 8.4.3. I conclude that the proposed development would have no likely significant effect 'alone' on any of the qualifying features of Courtmacsherry Estuary SAC (Site Code 001230).

8.5. In combination effects

- 8.5.1. The AA screening report refers to in combination effects in the context of existing plans and projects. In relation to future plans and other projects a planning search was carried out for applications within the immediate vicinity of the site. None were identified in the vicinity of the site which would in combination with the subject development give rise to significant effects. I have carried out a search of current applications and I note that there are none which would in combination with the proposal give rise to significant effects. In relation to plans that refer to the area the Cork County Development Plan 2022-2028 includes the Volume 5 (West Cork) and Section 1.5 which refers to Kinsale. The plan was prepared in accordance with European and national legislation, Cork County Council has carried out: a Strategic Environmental Assessment of the Plan; Appropriate Assessment under the Habitats Directive; and a Strategic Flood Risk Assessment, all of which informed the preparation of the County Development Plan.

8.6. Overall Conclusion – Screening Determination

- 8.6.1. In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, I conclude that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (stage 2) under Section 177V of the Planning and Development Act 2000 is not required.
- 8.6.2. This conclusion is based on:
- Objective information presented in the Screening report
 - Standard pollution controls that would be employed regardless of proximity to a European Site and effectiveness of same.
 - Distance from European Sites.

- The absence of meaningful pathway to any European site.

8.6.3. No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

9.0 Recommendation

9.1. I recommend that planning permission is granted for the proposed development in accordance with the following reasons and considerations:

10.0 Reasons and Considerations

10.1.1. Having regard to the provisions of the Cork County Development Plan 2022 – 2028 Volume 5 (West Cork) and Section 1.5 which refers to Kinsale, and in particular the 'Existing Residential/Mixed Residential and Other Uses' zoning objective and Objective KS-RAP-01 Residential Additional Provision, and the relevant provisions of the Sustainable Residential Development & Compact Settlement Guidelines, issued by the Department of Housing, Local Government and Heritage and having regard to the pattern of existing development in the area and the design, scale and layout of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area and would be acceptable in terms of pedestrian and traffic safety. The Board noted the submissions on file but considered that the elevation differences and separation distances proposed were sufficient to ensure that the residential amenity of neighbouring properties would not be seriously injured. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the planning authority on the 6th day of March 2023 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Prior to the commencement of development, the developer shall enter into water and/or waste water agreement(s) with Uisce Éireann.

Reason: In the interest of public health.

3. Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses and duplex units permitted, 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.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

4. Prior to the commencement of any development, or, at the discretion of the Planning Authority, within such further period or periods of time as it may nominate in writing the developer shall enter into a legal agreement with the Planning Authority under the provisions of section 47 of the Planning and Development Act, 2000, as amended in which an undertaking is given to:

(a) only commence development once equivalent replacement facilities of an equivalent standard i.e. one main playing pitch, one training pitch, car park, are provided on the new permitted Kinsale GAA facility granted under Planning Register No.22/5388, unless otherwise agreed in writing with the Planning Authority.

Reason: In order to ensure that existing communities are not disadvantaged by the relocation of club facilities as per paragraph 14.5.6 and Plan Objectives GI 14-4 (Recreation & Amenity) and GI 14-5 (Replacement/Redevelopment) in the County Development Plan 2022.

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

Reason: In the interest of public health.

6. The mitigation detailed in the Ecological Appraisal report and appended Bat Survey Report submitted to the Planning Authority on the 15th of July 2022, shall be implemented as part of the development.

Reason: In the interest of wildlife protection.

7. The following roads, traffic and pedestrian arrangements serving the site shall be in accordance with the detailed requirements of the planning authority for such works, and shall be carried out at the developer's expense.

(a) The proposed crossing over the Bandon Road shall be suitable for both pedestrians and cyclists (toucan crossing). The location and detailed design shall be submitted for the written approval of the Planning Authority in advance of any construction works.

(b) Full pedestrian and cycle connectivity shall be provided between the development at the eastern boundary and adjoining Abbeyfort. The developer shall ensure that the area is fully lit up and the design of this street lighting shall be submitted to the Planning Authority in advance of the works.

Reason: In the interest of public safety and orderly development.

8. The internal road and vehicular circulation network serving the proposed development, including turning bays, junctions, parking areas, footpaths, and kerbs shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets. Drawings and particulars showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of amenity and of traffic and pedestrian safety.

9. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

10. Each proposed house shall be used and occupied as a single dwelling unit for residential purposes and shall not be sub-divided or used for any commercial purposes (including short-term letting) without a separate planning permission.

Reason: In the interest of clarity and to ensure the maintenance of a residential community.

11. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any unit.

Reason: In the interests of amenity and public safety.

12. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

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

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

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

13. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. All existing ground cables shall be relocated underground as part of the site development works.

Reason: In the interest of visual and residential amenity.

14. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

15. A minimum of 10% of all communal car parking spaces shall be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted to, and agreed in writing with, the planning authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

16. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the

development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

17. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials [and for the ongoing operation of these facilities] [within each house plot] shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

18. The development, including all roads, footpaths, verges, public lighting, open space, surface water drains, attenuation infrastructure and all other services, as permitted under this development, shall be carried out and completed in accordance with the “taking-in-charge” standards of the planning authority.

Reason: In the interest of proper development and in order to comply with national policy in relation to the maintenance and management of residential estates.

19. Proposals for an estate/street name, house/apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable

to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility.

20. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:-

- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
- (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
- (c) details of proposed street furniture, including bollards, lighting fixtures and seating;
- (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.
- (e) The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

21. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be

referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

22. Prior to the commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of streets, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part therefore to the satisfactory completion of any part of the development. The form and amount of security shall be as agreed between the planning authority and the developer, or in default of an agreement shall be determined by An Bord Pleanála.

Reason: To ensure the satisfactory completion of the development.

23. The developer shall pay a financial contribution of €71,497.00 (seventy one thousand four hundred and ninety seven euro) to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of works proposed to be carried out, for the provision of Contribution towards equivalent delivery of footpath and cycle connectivity between existing Kinsale GAA and permitted Kinsale GAA, which benefits the proposed development. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development, and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority in respect of public services, which are not covered in the Development Contribution Scheme or the Supplementary Development Contribution Scheme and which will benefit the proposed development.

24. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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.

Siobhan Carroll
Planning Inspector

31st of May 2024

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

An Bord Pleanála Case Reference	ABP 316840-23		
Proposed Development Summary	Construction of 71 houses and all ancillary, associated site works.		
Development Address	Kinsale GAA Grounds, Bandon Road, Rathbeg, Abbeylands and Cappagh, Kinsale, Co. Cork.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	✓
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		N/A	EIA Mandatory EIAR required
No	✓	Class 10(b)(i), Schedule 5 Part 2	Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No		N/A	No EIAR or Preliminary Examination required
Yes	✓	Class 10(b)(i), Schedule 5 Part 2	Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	✓	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP 316840-23	
Proposed Development Summary	Construction of 71 houses and all ancillary, associated site works.	
Development Address	Kinsale GAA Grounds, Bandon Road, Rathbeg, Abbeylands and Cappagh, Kinsale, Co. Cork.	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain

<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The proposed development is a residential scheme of 71 no. dwellings. The site at Bandon Road, Kinsale comprises the grounds of Kinsale GAA. It is situated immediately to the north of a cul de sac Rathbeg which contains a number of detached residential properties. There are further residential properties to the west of the appeal site on the opposite side of the Bandon Road located within a number of cul de sacs. Immediately to the east of the appeal site the Aster housing estate is located and the Abbey Fort Housing development is under construction immediately to the north of the appeal site. Therefore, proposal is not exceptional in this context.</p> <p>No significant emissions resultant.</p>	<p>No</p>
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>No, the proposed development entails the construction of 71 no. dwellings. The proposal is at a greater density than the surrounding development but would not be described as exceptional.</p> <p>No significant emissions resultant of this project combined with any existing or permitted.</p>	<p>No</p>
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the</p>	<p>It is located over 6.5km to any ecologically sensitive sites. Having regard to the topography of the area it does not provide a direct pathway to the closest ecologically sensitive site.</p> <p>Having regard to the nature and scale of the proposal which comprises a residential scheme of</p>	<p>No</p>

potential to significantly affect other significant environmental sensitivities in the area?	71 no. dwellings to connect to public foul sewer with attenuation of surface on site, it does not have the potential to significantly affect other significant environmental sensitivities in the area.	
Conclusion		
There is no real likelihood of significant effects on the environment. EIA not required	There is significant and realistic doubt regarding the likelihood of significant effects on the environment. Schedule 7A information required to enable Screening Determination to be carried out	There is a real likelihood of significant effects on the environment. EIA not required

Inspector: _____

Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)