



An
Bord
Pleanála

Inspector's Report

ABP-318260-23

Development	93 no. two storey dwellings, single storey creche and all associated site works. Natura Impact Statement (NIS) submitted with the planning application.
Location	The Miles Road, Clonakilty, Co. Cork.
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	2320
Applicant(s)	Cloncastle Developments Limited
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Regina Campbell and John Maguire
Observer(s)	CoAction CLG
Date of Site Inspection	29/05/2024
Inspector	Lorraine Dockery

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1.0 Site Location and Description

- 1.1. The subject site, which has a stated area of 4.26 hectares is located at the western environs of Clonakilty, Co. Cork, approximately 1.5km from the town centre. The site is accessible from the east via the Miles Road from the N71 National Road and from the west via the L8052 local road. There are residential estates to the east and southeast of the site, a row of one-off houses along the western boundary and an agricultural field to the north.
- 1.2. The site slopes steadily from north to south and is undeveloped. It comprises two distinct areas- a field of improved agricultural grassland and a field of recently felled woodland. The Tawnies Lower Stream runs along part of the southern boundary of the site.

2.0 Proposed Development

- 2.1 The proposal comprises the construction of 93 no. two storey dwellings, single storey creche and all associated site works. A Natura Impact Statement (NIS) was submitted with the planning application.
- 2.2 The following table sets out some key parameters of the proposal:

Table 1:

Site Area	4.26 hectares
Breakdown of Houses- 93 no. (to be constructed in 3 phases)	19 x two-bed 67 x three-bed 7 x 4-bed
Other Uses	Childcare Facility- 278m ² (can accommodate 33 children)(to be constructed in Phase 1)
Part V	9 units

Density	24.74 units/ha
Public Open Space	13.64%

3.0 Planning Authority Decision

3.1 Decision

Permission GRANTED, subject to 52 no. conditions

Further Information was requested by the planning authority in relation to (i) water services infrastructure (ii) layout and boundary treatments (iii) waste management plan (iv) traffic and transport matters (v) updated NIS and EcIA (vi) revised landscape plan (vii) submission of Drainage Impact Assessment and SuDS statement (viii) revised CEMP (ix) Part V details (x) public lighting details.

Unsolicited Further Information was received by the planning authority on the 20/09/2023 in relation to Part V obligations.

3.2 Planning Authority Reports

3.2.1 Planning Reports

- Area Planner- Reflects decision of planning authority; recommends grant of permission
- Senior Executive Planner- Reflects decision of planning authority; recommends grant of permission

3.2.2 Other Technical Reports

Engineering Section- No objections, conditions recommended (14/09/2023)

Environment Report- No objections, subject to condition (05/09/2023)

Archaeology Section- Condition recommended (06/09/2023)

Housing Section- No objection, subject to condition (21/09/2023)

Estates Section- No objection, subject to conditions (08/09/2023)

Ecology Section- Clarification required in relation to lux levels of lighting, Invasive Species Management Plan and information/location of hedgehog highways, bat boxes and insect hotels (14/09/2023)

3.3 Prescribed Bodies

Uisce Eireann: Confirmation of Feasibility has issued. No objections to the proposal subject to the constraints outlined in CoF and specified conditions, which include:

Water- Feasible subject to upgrades. To facilitate the proposed connection, the Uisce Eireann watermain network will need to be extended by approximately 120m. They currently do not have any plans to extend its network to this area. These works will be carried out by Uisce Eireann and the costs included in the developers Connection Agreement

Wastewater- Feasible subject to upgrades. A network upgrade is planned for the existing WW infrastructure, however the developer may be required to provide a contribution, which will be assessed and included in Connection Agreement

Inland Fisheries Ireland: Requests that Uisce Eireann signifies that there is sufficient capacity in existence to dispose of effluent from the proposed development. Condition recommended.

3.4 Third Party Observations

Observations were received by the planning authority which raised issues similar to those contained in the appeal submission.

4.0 Planning History

ABP-312691-22 (PA Reg Ref. 20740)

Permission REFUSED for 93 houses, childcare facility and ancillary site works for one reason as follows:

Having regard to the lack of supply in the Clonakilty Water Supply System, and notwithstanding the indication from Irish Water of their intention to upgrade the

Clonakilty Water Supply System as part of a programme to provide additional supply for the development of new homes, it is considered that, pending clarity and certainty on the timelines to progress the upgrade through design, planning and all relevant consents, the proposed development would be premature by reason of the existing deficiency in the provision of water supply facilities in the area, would lead to further demands on the water supply system, and would, therefore, likely give rise to a risk to public health and would be contrary to the proper planning and sustainable development of the area.

ABP-316374-23

Appeal under section 653J(1) of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the Residential Zoned Land Tax Map. Determination of local authority CONFIRMED.

Adjacent Sites

18/605- Permission GRANTED for 81 no. houses and a childcare facility.

18/703- Permission GRANTED for 99 no. houses and a creche.

5.0 Policy Context

1.3. National Planning Policy

Section 28 Ministerial Guidelines

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

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities
- Urban Development and Building Heights, Guidelines for Planning Authorities
- Design Manual for Urban Roads and Streets
- The Planning System and Flood Risk Management (including the associated Technical Appendices)
- Childcare Facilities – Guidelines for Planning Authorities

- Architectural Heritage Protection, Guidelines for Planning Authorities
- Appropriate Assessment Guidelines for Planning Authorities
- EIA Guidance for Consent Authorities regarding Sub-Threshold Development
- Climate Action Plan

Other policy documents of note:

- National Planning Framework
- Regional Spatial & Economic Strategy for the Southern Region

5.1 Development Plan

The Cork County Development Plan 2022-2028 applies

Section 2.6 Clonakilty

Clonakilty designated as a Key Town in the settlement typology

The subject site is zoned 'Residential' in the Cork County Development Plan 2022-2028.

Section 2.6.6- For this plan period to 2028, Clonakilty has a population target of 6,162 representing growth of 1,570 persons on the 2016 census figure. In order to accommodate this level of population growth, an additional 600 net new housing units will be required.

Under the Core Strategy and in line with the NPF and RSES, a significant portion of County Cork's proposed growth will be in the County Cork Metropolitan Area and the two Key Towns of Mallow and Clonakilty.

It is stated in the Plan: "Outside of the Cork MASP, the Key Towns of Mallow and Clonakilty are large scale urban centres functioning as self-sustaining regional drivers. They are strategically located urban centres with good accessibility and significant influence in a sub-regional context. While significant development is proposed for both Key Towns, as Clonakilty is proportionally a smaller settlement in population terms, it will exceed the 30% population increase on its 2016 population (34%) growth on 2016 population.

The site is subject to Specific Development Objective CK-R-01 which states: 'Medium B Density Residential Development. The site should be subject to a detailed landscape plan. Provision should be made for retention and protection of existing boundary hedgerows and mature trees and for the protection of the small stream on the southern boundary which supports biodiversity networks.'

There is a national monument (CO135-148 fulacht fia) located approximately 65 metres to the east of the site.

Objective BE 15-6: Biodiversity and New Development

Provide for the protection and enhancement of biodiversity in the development management process and when licensing or permitting other activities by:

- a) Providing ongoing support and guidance to developers on incorporating biodiversity considerations into new development through preplanning communications and the Council's guidance document 'Biodiversity and the Planning Process – guidance for developments on the management of biodiversity issues during the planning process' and any updated versions of this advice;
- b) Encouraging the retention and integration of existing trees, hedgerows and other features of high natural value within new developments;
- c) Requiring the incorporation of primarily native tree and other plant species, particularly pollinator friendly species in the landscaping of new developments;
- d) Fulfilling Appropriate Assessment and Environmental Impact Assessment obligations and carrying out Ecological Impact Assessment in relation to development and activities, as appropriate;
- e) Ensuring that an appropriate level of assessment is completed in relation to wetland habitats subject to proposals which would involve drainage or reclamation. This includes lakes and ponds, watercourses, springs and swamps, marshes, heath, peatlands, some woodlands as well as some coastal and marine habitats;
- f) Ensuring that the implementation of appropriate mitigation (including habitat enhancement, new planting or other habitat creation initiatives) is incorporated into new development, where the implementation of such development would result in unavoidable impacts on biodiversity - supporting the principle of biodiversity net gain.

5.2 Natural Heritage Designations

The appeal site is not located within any designated European sites however a stream runs along part of the southern boundary of the site, and this is directly linked to Clonakilty Bay SPA (site code: 004081) and Clonakilty Bay SAC (site code: 000091), which are located approximately 1.8km to the southeast.

5.3 EIA Screening

See Appendix 1, Form 1

Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

The proposed development is for 93 dwellings on a site c. 4.2 ha. The proposed development is considered to be sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b) (i) and (iv) of the Planning and Development Regulations 2001 (as amended). Accordingly, it does not attract the need for a mandatory EIA. The site is located within the designated development boundary of Clonakilty, on lands zoned for residential purposes. Furthermore, as this proposal would fall below the relevant threshold, I conclude that, based on its nature, size, and location, there is no real likelihood of significant effects upon the environment and so the preparation of an EIAR is not required.

6.0 The Appeal

6.1 Grounds of Appeal

- Proximity of House No. 58 and 64 to appellants property and subsequent visual impact; loss of residential and visual amenity; impacts on privacy; impacts on enjoyment of their dwelling; devaluation of property
- Site located in rural area and proposal would impact on their quiet enjoyment of their property and that of their neighbours
- Proximity, location, height and overall mass of No. 58 and 64; requests revised layout which omits these proposed dwellings/reduced in height from two-storey to single storey
- Finish and location of boundary treatments between proposal and their property; request a solid masonry wall/concrete block wall, minimum 2.1m high with natural stone facing be constructed; concerns regarding impacts on their planting; wall at boundary where footpath ends should also be 2m high; lack of clarity in PA decision relating to same and how proposed widened road/footpath would tie in with their property
- Loss of biodiversity and heritage- tree/hedgerow/scrub removal; underestimation of same in submitted drawings; contrary to policy objective BE15-6 of operative CDP; should be no net biodiversity loss caused by the development; 50m buffer from stream should be included in proposal; water quality mitigation measures need to be further enhanced due to connectivity with designated sites
- Other Matters- safety concerns due to increased traffic; construction impacts; invasive species concerns; lack of information/clarity in submitted drawings; lack of consultation
- Images submitted in support of appeal

6.2 Applicant Response

- Refutes grounds of appeal

- In terms of proximity of House No. 58 and 64 to appellants property, contends that these dwellings have been designed to ensure that visual and residential amenities are protected; adjoin appellant's property in a north-south layout; no fenestration along western elevations; separation distance of c.30m from rear of these dwellings to appellant's dwelling
- No proposal to alter existing boundary; proposal for shared boundary is considered acceptable; proposal will be contained within red line boundary; propose to provide a concrete post and infill panel fence along shared boundary, inset 1m from centreline of existing boundary to protect existing hedgerow; no significant impacts on established boundary and its associated visual amenity
- In terms of loss of biodiversity and heritage, notes that habitat being removed is largely of low local value; minor negative impacts on biodiversity; proposal retains significant levels of trees/hedgerows and involves native tree planting; complies with Objective BE 15-6 of operative CDP
- In terms of construction impacts, a CEMP was submitted following revisions to NIS, which provides clarity regarding measures to be put in place during construction phase; CEMP also highlights ecological considerations.
- In terms of spread of alien species, highlights Condition 10 of grant of permission which requires submission of Alien Species Management Plan

A response was received on behalf of the applicants on the 23/01/2024, which included a revised site and newspaper notice in light of a revised NIS submitted to the planning authority during the application stage, as was requested by An Bord Pleanála by letter dated 04/01/2024.

6.3 Planning Authority Response

None

6.4 Observations

An observation was received on behalf of CoAction CLG (West Cork) which highlights that they have an established wayleave for foul drainage over a small area

of the applicant's land forming part of the planning application site, which does not appear to have been taken into account in the layout of the proposed development. The established use of this ground is stated as being a percolation area. Should the proposal be constructed as proposed, it appears that CoAction would be prevented from use of this percolation area, which would negatively affect the operation of their facilities. The observation sets out the background to the wayleave and submits maps/drawings in support of their case. Also have concerns regarding damage to existing pipework of percolation area by construction of boundary wall and its footings. They require access to their percolation area to carry out regular maintenance. Requesting adjustment to the site layout for the relevant part of the applicant's site to accommodate CoAction's existing wayleave/percolation area. Request uninterrupted use of this area and that it be protected by relevant conditions.

6.5 Further Responses

None

7.0 Assessment

7.1 I highlight to the Board that an almost identical application/appeal was refused permission by An Bord Pleanála in July 2022 (ABP-312961-22) with the decision of the planning authority being upheld. There was one reason for refusal only in that case based on prematurity of development by reason of the existing deficiency in the provision of water supply facilities in the area. At that time, there was an indication from Irish Water of their intention to upgrade the Clonakilty Water Supply System as part of a programme to provide additional supply for the development of new homes, however it was considered that, pending clarity and certainty on the timelines to progress the upgrade through design, planning and all relevant consents, the proposal would be premature, would lead to further demands on the water supply system, and would, therefore, likely give rise to a risk to public health. In the interim, this matter appears to have been addressed and a Confirmation of Feasibility issued from Uisce Eireann in April 2023. The report of Uisce Eireann to the planning authority (dated 15/09/2023) is noted and I refer the Board to same, which states

that they have no objections to the proposal subject to the constraints outlined in CoF and specified conditions, which includes for an extension of the watermain network by approximately 120m. These works will be carried out by Uisce Eireann, at the developer's expense. They further state that connection to the wastewater network is feasible subject to upgrades, with a contribution to cost of same to be paid by the developer.

- 7.2 Furthermore, I note the decision of the Board in ABP-316374-23 regarding the inclusion of these lands on the map of Residential Zoned Land tax by Cork County Council, dated October 2023. In that case, the Board decided that the lands are zoned residential, are located within an established urban area with services available and no capacity or other reasons have been identified that would prevent the development of these lands in principle for residential purposes...and that there are no matters arising which would warrant exclusion of the site from the map.
- 7.3 The planning authority have not raised concerns in this regard. It appears, based on the information before me, that this previous reason for refusal has been overcome and I am satisfied in this regard.
- 7.4 I also highlight to the Board that an observation has been received from a third party, CoAction CLG, which contends that there is a wayleave to the rear of their property for foul drainage over a small area of the applicant's land forming part of the planning application site, which does not appear to have been taken into account in the layout of the proposed development. The established use of this ground is stated as being a percolation area. CoAction states that should the proposal be constructed as proposed, it appears that they would be prevented from use of this percolation area, which would negatively affect the operation of their facilities. The observation sets out the background to the wayleave and submits maps/drawings in support of their case. Also, the observation raises concerns regarding possible damage to the existing pipework of the percolation area by the construction of boundary wall and its footings. I highlight to the Board that this matter was not raised in the previous appeal on the site, nor was it addressed by any party at application stage. Neither the applicant nor planning authority have made comment on the matter at appeal stage.

- 7.5 The area in question, which is shown on documentation submitted with the observation is stated as being approximately 72m², located along the western boundary of the site, located approximately on the proposed cul-de-sac serving Dwelling No.s. 60-68. In such cases, I am of the opinion that the Board has the option of requesting Further Information from the applicant in relation to this matter, which may result in a redesigned layout for this element of the proposed scheme. Alternatively, a second option and the one which I am recommending, is that Dwelling No.s 60-68, together with the associated access road and any associated infrastructure be omitted from the current proposal, until the matter has been resolved by the parties. A revised application, which takes account of the wayleave, if necessary, could be submitted to the planning authority for this area at a future date. In the interim, this area should be appropriately landscaped, to the satisfaction of the planning authority. This option would allow for the remainder of the proposal to proceed, if permitted by the Board, until such time as this legal matter has been resolved and this is therefore the option I am recommending in this instance. In this regard I refer the Board to Section 5.13 of the Development Management Guidelines (2020) which outline that the planning system is not designed to resolve disputes about title to land and even if there is doubt in relation to the legal title, the planning authority may still decide to grant permission. Such permission is subject to the terms of Section 34(13) of the Planning and Development Act 2000, as amended, which states that 'a person shall not be entitled solely by reason of permission under this section to carry out any development'. If the Board is disposed towards a grant of permission, I recommend that a note to this effect be attached to any such grant.
- 7.6 With regards the matter of boundary wall impacting on pipes associated with this percolation area, I recommend that a Construction Methodology Statement be submitted to the planning authority, detailing exactly how the works are to be undertaken to ensure no damage to third party property. This matter could be adequately dealt with by means of condition.
- 7.7 Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, prescribed bodies, observations, having inspected the site and having regard to the relevant local/regional/national policies and guidance, I consider that

the substantive planning issues in this appeal are as follows: (i) impacts on visual and residential amenity (ii) biodiversity (iii) other matters.

- 7.8 I highlight to the Board that while I recommend the omission of Dwellings No. 60-68 for legal reasons, I am assessing the proposal in its entirety from a planning perspective.

Impacts on visual and residential amenity

- 7.9 The matter of visual amenity has been raised as a concern in the third-party submission received, namely that the proposal would impact negatively on the visual amenity of the area; that the site is located within a rural area and the proposal if permitted would impact on the quiet enjoyment of their dwelling. The planning authority have not raised concern in this regard, neither was it raised as a concern in the previous ABP decision on this site. I am generally satisfied with the design approach put forward in this instance. I highlight to the Board that the site, while currently greenfield and undeveloped, lies within the development boundary of Clonakilty, a Key Town in the settlement hierarchy. It is recognised in the operative County Development Plan that Key Towns are large scale urban centres functioning as self-sustaining regional drivers and that in order to accommodate the anticipated level of population growth, an additional 600 net new housing units will be required within the development boundary of Clonakilty. The site is zoned for residential development and is subject to Specific Development Objective CK-R-01, as set out in the operative County Development Plan which states: 'Medium B Density Residential Development. The site should be subject to a detailed landscape plan. Provision should be made for retention and protection of existing boundary hedgerows and mature trees and for the protection of the small stream on the southern boundary which supports biodiversity networks'. Section 4.9.1 of the operative County Development Plan sets out ranges for density in Medium B locations- net density of 20-35 units/ha. The proposed density is just less than 25 units/ha, which is considered to be in compliance with the density range for this site. A detailed landscape plan has been submitted with the application documentation. Adequate provision has been made for the retention and protection of existing boundary hedgerows and mature trees and for the protection of the small stream on

the southern boundary which supports biodiversity networks. Compensatory planting is proposed. I am satisfied that the proposal is in compliance with Specific Development Objective CK-R-01. The planning authority are satisfied in this regard. In terms of national guidance, I note the Sustainable and Compact Settlements, Guidelines for Planning Authorities (2023) and as per these Guidelines, I consider that this site is located within 'Key Town/Large Town- Suburban/Urban Extension' whereby it is a policy and objective of the Guidelines that residential densities in the range of 30-50 dph(net) shall generally be applied at suburban and urban extension locations. While the proposed figure of 25 units/hectare falls short of this guidance, I do consider it be in accordance with the operative County Development Plan. I also note the edge of settlement location of the subject site and note that the s.28 guidelines give some flexibility in that they state 'shall generally be applied...' as opposed to 'shall be applied'. The Board did not raise issue with the proposed density on the previous appeal on this site, although I do acknowledge that these Guidelines were not in place at that time. As a note, the recommended omission of proposed Dwelling No. 60-68 from the proposal, in the absence of legal clarity, would reduce the proposed density to just short of 20 units/hectare (19.95 units/hectare). I consider that the proposal continues to be in compliance with Development Plan policy in this regard, given the marginal shortfall.

- 7.10 Generally, I do not consider the proposal to be excessively dominant, overbearing or obtrusive in its context and I consider that the subject site has capacity to accommodate a development of the nature and scale proposed, without detriment to the visual amenities of the area. The height and scale reflects existing, recently permitted development in the area. The proposal is two-storey in height, with the exception of the proposed childcare facility which is single storey in height. The height of the proposed dwellings is similar to that of the appellants property and other properties within the wider area. I am satisfied with the heights proposed and consider that they would integrate well with existing development in the immediate locality. I do not consider the proposal to be out of character with existing development in the vicinity nor does it represent over-development of the site. I am satisfied that the proposed development is in accordance with the operative Development Plan in this regard. The planning authority have not raised concern in

this regard. This was not raised as a concern by the Board in their previous decision on this site.

7.11 In terms of impacts on residential amenity, I note the concerns raised in the third-party appeal submission including issues of proximity/separation distances, impacts on privacy and height, scale and massing of proposed development. Concerns have been expressly raised in relation to proposed Dwellings No. 58 and 64. In terms of impacts on residential amenity, I am cognisant of the relationship of the proposed development to neighbouring properties. Having examined the proposal, I am of the opinion that separation distances typical (or actually greater) of what would normally be anticipated within such location are proposed with existing properties. This will ensure that any impacts are in line with what might be expected in an area such as this. I highlight to the Board that both proposed dwellings are perpendicular to the shared boundary with the appellants property, with a separation distance of circa 40m proposed and a dense screen of native hedging along the boundary, which is to largely retained and reinforced with a 2m concrete post and infill panel fencing. There are no windows at either ground or first floor level to either proposed dwellings, so therefore are no issues of overlooking. Given the height and design of the proposed dwellings, I am of the opinion that the proposed houses would not unduly overbear, overlook or overshadow adjoining properties, and would not seriously injure the amenities of property in the vicinity of the site. I am satisfied that there would be negligible impacts on privacy and these would not be so great as to warrant a refusal of permission. There is an acknowledged housing crisis and this is a serviceable site, in within the development boundary of Clonakilty, where there are adequate services, facilities and employment in close proximity. The planning authority have not expressed concerns in this regard. It was also not raised as an issue by the Board in the previous appeal on this site.

7.12 In terms of concerns raised by the appellants regarding construction impacts including noise, dust and other matters, I note that this was addressed by the planning authority in their request for Further Information when a Construction and Environmental Management Plan was sought and duly submitted by the applicant. The planning authority were satisfied in this regard and attached Conditions No. 3 and 47 to their grant of permission, which deals with the matter of construction

management. Any construction impacts would be short-lived in duration and temporary in nature and I consider that any such negative impacts arising from the construction phase of development would not be so great as to warrant a refusal of permission. I recommend that the matter of construction management be dealt with by means of condition, if the Board is disposed towards a grant of permission. This matter was not raised as an issue by the Board in their previous decision on the site.

- 7.13 The third-party appellants have raised concerns regarding the proposed boundary treatments, in particular that along the western boundary as it adjoins their property. The appellants request that the proposed concrete post and infill panel fencing be omitted and replaced with a 2.1m high concrete block wall, faced with stone. They also raise concerns regarding damage to/removal of planting within their ownership. The first party respond by stating that there is no proposal to alter the existing boundary; the works will be contained within red line boundary. They propose to provide a concrete post and infill panel fence along the shared boundary, inset 1m from centreline of existing boundary to protect existing hedgerow. I am generally satisfied that a quality boundary treatment is proposed. The matter of boundary treatments could be adequately dealt with by means of condition, if the Board is disposed towards a grant of permission. The planning authority has not raised concerns in this regard.
- 7.14 To conclude this matter, I am of the opinion that the layout of the proposed scheme is such that it has had due regard to the amenity of established neighbouring houses. The separation distances and existing/proposed screening is such that there could be no significant impacts relating to overlooking of the established dwellings. The height, scale and massing reflects that currently existing within the wider area. I am therefore of the opinion that there would not be significant adverse impacts on the amenities of established residents. I am generally satisfied in this regard.
- 7.15 Finally, to reiterate I am recommending the omission of Units No. 60-68 due to the lack of clarity relating to legal matters, namely the purported wayleave over a portion of these lands. In the interim, this area should be landscaped in accordance with a scheme to be agreed with the planning authority. I am of the opinion that the applicant can apply for planning permission at a later date for this area, with the

layout revised accordingly, if necessary, once this matter has been dealt with appropriately. I do not have issue with the design and/or layout of any of these units.

Biodiversity

- 7.16 In this regard, I also refer the Board to the Appropriate Assessment below, together with Appendix 2 of this report. In the interests of brevity, I will not reiterate what has been outlined in these aforementioned sections.
- 7.17 The third-party appellants raise concerns regarding the removal of hedgerow/trees and scrub to facilitate the proposed development; request that a 50m buffer be provided from the edge of the stream and that there should be no net biodiversity loss caused by the development. The first party responded by noting that the habitat being removed is largely of low local value; that would be minor negative impacts on biodiversity as a result of the proposed development and that the proposal retains significant levels of trees/hedgerows and involves native tree planting. The first party are of the opinion that the proposal complies with Objective BE 15-6 of operative County Development Plan.
- 7.18 Objective BE 15-6 of the operative County Development Plan relates to Biodiversity and New Development and seeks to provide for the protection and enhancement of biodiversity in the development management process and when licensing or permitting other activities by a number of means. I am of the opinion that the proposal is generally in compliance with Objective BE 15-6 of the Plan. Pre-planning consultation took place with the planning authority, Further Information was also requested in this regard whereby the retention and integration of existing trees, hedgerows and other features into the development was encouraged. A landscape plan was submitted which shows for the planting of native species. An EcIA and NIS were submitted with the documentation, which includes for appropriate mitigation and additional planting. I am generally satisfied in this regard.
- 7.19 The development site can be best described as Improved Agricultural Grassland (GA1), Wet Grassland (GS4), Recently Felled Woodland (WS5) and Scrub (WS1) as per Fossitt (2000). There are no designated species or habitats on the site or in its

immediate vicinity. There are no special designations pertaining to the site. No badger setts were found with no evidence of badgers on the site. The stream is considered sub-optimal for use by otters due to its small size. There are two large/old trees with cracks for/holes suitable for bats, there are no buildings on site while lands are likely to be more important for foraging/commuting bats. The preparation of a bat survey could be dealt with by means of condition. It is inevitable that there will be some loss of vegetation in order to facilitate the proposed works. The EclA concludes that with full implementation of all mitigation measures, no impacts on biodiversity are likely to occur which are of moderate negative or greater in magnitude.

- 7.20 Approximately 140m of native hedgerow is to be removed, primarily along the roadside boundary, to facilitate the proposed development. Habitat to be removed is largely of low/negligible value (although a portion of high value is also proposed to be removed). Retained hedgerows are to be fenced off as part of the tree protection plan. Lighting will not be directed at hedgerows or along the stream corridor. There will be no loss of native treeline or habitat at the riparian zone of the Tawnies Lower stream. A minimum setback of 10m will be maintained between the stream edge and the nearest building/road. The submitted landscaping plan includes new native hedgerow and tree planting, together with wildflower areas which are designed to be pollinator friendly.
- 7.21 There is a contradiction in the submitted EclA with regards to invasive species. It is stated in the EclA that there are no plants growing on site which are listed as alien invasive, as per SI No. 477 of 2011. On page 12, however it is stated that three-cornered leek is growing near the stream and this is listed as an alien species. This is also referenced in the NIS (page 7). The matter of control/eradication of this species has not been dealt with. I concur with the opinion of the planning authority in this regard and consider that the submission of an Invasive Species Management Plan should be submitted by the applicant, prior to the commencement development. This matter could be adequately dealt with by means of condition.

Other Matters

7.22 Concerns have been raised in the third-party appeal submission regarding traffic issues, primarily safety concerns regarding increased traffic; that the location of one proposed entrance may interfere with an entrance to their property and concerns regarding how the proposed road/footpath would tie in safely and aesthetically with their northern boundary and gate. I highlight to the Board that a comprehensive assessment of this matter was undertaken in the previous Inspector's Report relating to that appeal and the Board did not raise issue in this regard. A Transport Assessment and Road Safety Audit were submitted with the application documentation in this current appeal and the matter of traffic and transport was also dealt with by means of a Further Information request by the planning authority. Traffic surveys were undertaken on 16th January 2020. The proposed development would utilise the existing road infrastructure and network at this suburban location in Clonakilty town. A footpath, public lighting and road widening have been undertaken close to this subject site, associated with the development constructed to the east. The proposed works in this current appeal would tie into that, which would also involve widening the public carriageway (to 6m) which adjoins the northern site boundary and extending the existing footpath across the full extent of the roadside boundary (2m in width) as part of this proposed development. Relevant engineering drawings have been submitted (for example see Drwg No. 18105/C/003). I am of the opinion that this element of the proposal can be adequately dealt with by condition, if the Board is disposed towards a grant of permission. In terms of impacts of proposed western site entrance on the existing entrance to appellants property, I note that there is in excess of 40m distance between the two. Raised tables are indicated at both proposed vehicular entrances. The planning authority have not raised concern in this regard. I have no information before me to believe that the local road network does not have capacity to accommodate the level of traffic generated by the proposed development. I also have no information before me to believe that the proposal would lead to the creation of a traffic hazard or obstruction of road users. The widening of the carriageway and provision of a footpath along the roadside boundary of the site will improve safety, aid in connectivity to the town and would be beneficial to both existing and future residents. The phasing plan show these works would be undertaken during Phases 1 and 2,

however if the Board is disposed towards a grant of permission, I recommend that a condition be attached stipulating that the proposed upgrade works/provision of footpath/public lighting be fully completed and available for use, prior to the occupation of any dwelling units.

- 7.23 While consultation with local residents is welcomed and often beneficial for all parties, I note that there is no obligation in legislation for the applicants to consult with local residents prior to submission of a planning application.
- 7.24 Lack of clarity in the information submitted by the first party has been raised in the third-party submission. I am satisfied that there is adequate information on file for me to undertake a comprehensive assessment of the proposed development.
- 7.25 I am generally satisfied with the remainder of the proposal, subject to compliance with conditions. The proposal will be an attractive addition to the area at this location and would contribute to the residential mix in the area, in accordance with the zoning objective for the area. The public gain from the proposed pedestrian enhancements will be a benefit to the wider community. The proposal is considered to be generally in compliance with relevant policies and objectives of the operative Development Plan and the proper planning and sustainable development of the area.

8.0 Appropriate Assessment

- 8.1 See Appendix 2, Form 2
- 8.2 I highlight to the Board that the matter of water quality mitigation measures has been raised in the third-party appeal submission, namely the need for these to be further enhanced due to connectivity with designated sites. The planning authority assessed the proposal in terms of appropriate assessment and requested Further Information in relation to this and other ecological matters. The applicant duly responded, and the planning authority now have no objections to the proposal, subject to conditions.

- 8.3 I note that a comprehensive assessment was undertaken in the Inspector's Report on the previous appeal on this site (ABP-312691-22) and I refer the Board to same. The Board did not raise issue in relation to this matter in the previous appeal on this site.
- 8.4 A Screening Report for Appropriate Assessment was not included with the documentation. An updated Natura Impact Statement was submitted to the planning authority as part of the Further Information response, and I refer the Board to same. It is this updated NIS upon which I am basing my assessment. The NIS is light on information, however there is sufficient information included within the documentation for me to undertake a comprehensive assessment and to comply with relevant legislation. It is stated within the NIS that the report was based on a Screening Report for AA which was prepared by Cork County Council and which concluded that significant effects to the Clonakilty Bay SAC and SPA could not be ruled out. An Ecological Impact Statement and Construction and Environmental Management Plan (CEMP) are also included in the documentation.
- 8.5 The submitted NIS does not refer to any other designated sites. From an examination of mapping tools and NPWS website, I note that there are five sites within c.15km of the appeal site: Galley Head to Duneen Point SPA (site code 004190) approx. 4.8km to the south; Seven Heads SPA (site code 004191) approx. 7.3km to the south east; Kilkeran Lake and Castlefreke Dunes SAC (site code 001061) approx. 7.8km to the south west; Courtmacsherry Estuary SAC (site code 001230) approx. 7.9km to the east; and Courtmacsherry Bay SPA (site code 004219) approx. 7.9km to the east. These five sites were all screened out by the applicants in the previous appeal on this site and were considered not to be within the Zone of Influence due to a lack of ecological/hydrological connectivity, the nature of qualifying interests, and/or physical distance. The Inspector concurred with this opinion in the previous appeal. The Board did not raise issue in this regard.
- 8.6 Having examined all of the information before me, I am of the opinion that due to the hydrological connection between the subject site and Clonakilty Bay SAC (Site Code 000091) and Clonakilty Bay SPA (Site Code 004081), these are the only two sites that are necessary to screen in and require further assessment. All the remaining

sites, due to distance, lack of hydrological connection and nature of Qualifying Interests are recommended to be screened out.

8.7 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 is likely to have a significant effect on identified Qualifying Interests of the Clonakilty Bay SAC (Site Code 000091) and Clonakilty Bay SPA (Site Code 004081) 'alone' with the most likely impacts on the integrity of the designated sites resulting from pollution during construction, namely impacts to invertebrate communities within mudflat habitats, which in turn could have impacts on birds which rely on same. There is a direct hydrological connection between the site (Tawnies Lower stream) and the transitional waters of Clonakilty Harbour/Deasys Quay by way of the River Feagle. Clonakilty Harbour/Deasys Quay form part of the Clonakilty Bay SAC and SPA. It is therefore determined that Appropriate Assessment (Stage 2), under Section 177V of the Planning and Development Act 2000, is required on the basis of the effects of the project 'alone'.

8.8 In terms of invasive species, it is noted that three-cornered leek is growing within the riparian zone and this is considered an invasive species, as listed on SI No. 477 of 2021. This has not been screened in as part of the NIS and appropriate assessment. The planning authority request the submission of an Invasive Species Management Plan, by means of condition. Given the small scale of the stream, its distance from the nearest designated site and the limited extent of invasive species, I do not consider that significant effects are likely with regards to this invasive species. I consider that the submission of the Invasive Species Management Plan would be submitted in any such instance, irrespective of whether it is likely to have significant effects on a designated site, or not. It would be submitted by a competent developer at such location. I am satisfied to screen significant effects from invasive species out. This matter was not raised in the previous appeal on the site and the planning authority have not raised concerns in this regard subject to conditions.

Stage 2- Appropriate Assessment

Introduction

- 8.9 The application included an NIS for the proposed development at The Miles Road, Clonakilty, Co. Cork. An updated NIS was submitted by the applicants to the planning authority on foot of a request for Further Information and it is this updated NIS upon which I am basing my assessment. This was informed by an additional walkover survey in May 2023. The NIS provides a description of the project and the existing environment. Further details are provided within the submitted CEMP, page 4-10 inclusive. The NIS also provides a background on the screening process. Potential impacts arising from the proposed development are outlined in section 2 (page 9-11 inclusive). The most likely impact on the integrity of the designated sites was identified as impacts on designated species and/or habitats resulting from decline in water quality due to pollution from construction activities in the absence of mitigation measures. A hydrological pathway exists from the development site to the Feagle Estuary/Clonakilty Bay SAC and SPA. Details of mitigation measures are outlined in section 4 (pages 16-19). Pages 10-12 inclusive of the NIS considers the potential for in-combination effects on nearby designated sites arising in combination with other plans or projects and lists permitted developments in the area. It is not anticipated that other projects will act in-combination with the proposed development to give rise to cumulative effects on any European sites.
- 8.10 The NIS concludes that with the implementation of the mitigation measures during the construction and operational phases, that the proposed development will not have adverse effects on the integrity of the Clonakilty Bay SAC (Site Code: 000091) or Clonakilty Bay SPA (Site Code: 004081).
- 8.11 On the basis of objective information, it is my opinion, that the designated sites which have a source-pathway-receptor link to the development site, requires further consideration only. Based on the above, I consider that it is not possible to exclude that the proposed development, individually or in combination with other plans or projects, will have a likely significant effect on the following sites:

Table 2:

Site Name	Site Code	Distance	Connections (source, pathway, receptor)
Clonakilty Bay SAC	000091	1.8km to E	Hydrological
Clonakilty Bay SPA	004081	1.8km to E	Hydrological

Appropriate Assessment of implications of the proposed development on each European Site

8.12 The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the Clonakilty Bay SAC and Clonakilty Bay SPA using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

8.13 I have relied on the following guidance:

- Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities, DoEHLG (2009);
- Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC, EC (2002);
- Guidelines on the implementation of the Birds and Habitats Directives in Estuaries and coastal zones, EC (2011);
- Managing Natura 2000 sites, The provisions of Article 6 of the Habitats Directive 92/43/EEC, EC (2018).

8.14 A description of the designated sites and their Conservation Objectives and Qualifying Interests, including any relevant attributes and targets, are set out in the NIS. I have also examined the Natura 2000 data forms as relevant and the Conservation Objectives/Statutory Instrument supporting documents for these sites available through the NPWS website (www.npws.ie).

Appropriate Assessment of implications of the proposed development on each European Site

Special Area of Conservation- Clonakilty Bay SAC

8.15 The development is located wholly outside of any European site, Clonakilty Bay SAC is located approximately 1.8km to the east of the development site. Potential impacts of the proposed development on key habitats and species have been set out in section 2 (Step 2) of the NIS and I refer the Board to same. I also refer the Board

to Appendix 2 of this report. As identified above, I consider the likely significant effects on European sites to be construction related concerning the uncontrolled disposal of surface water/silt/construction related pollution. These pollutants could have a significant effect on the invertebrate community within mudflat habitats and then have knock-on impacts to birds which rely on these invertebrates as a food source. In relation to the SAC, given the direct hydrological link via the surface water drainage system there is potential for a pollution event to affect the mudflats.

Table 3:

Designated Site	Qualifying Interests (*QI most likely to be impacted highlighted in BOLD)	Conservation Objective (favourable status)
Clonakilty Bay SAC	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> [2120] Fixed coastal dunes with herbaceous vegetation [2130] Atlantic decalcified fixed dunes [2150]	Maintain/Restore the favourable conservation status of habitats and species of community interest

- 8.16 The development will not result in any habitat loss either within or adjacent to any designated site. The construction site is too far removed from the SAC to result in disturbance effects wither during construction/operation phases and therefore no habitats will be directly disturbed. Although temporary in nature, it is acknowledged that construction pollutants to the estuary could result in impacts to invertebrate communities with mudflat habitats. This could have knock-on impacts to birds which rely on these invertebrates as a food source and therefore significant effects on Clonakilty SAC cannot be ruled out. Pollution during the operational phase is not anticipated as the use of SuDS techniques in the design of the project will ensure that negative impacts to water quality do not arise from surface water run-off when the project is established. No significant effects are anticipated during the operational phase of development or from abstraction.

- 8.17 The key issue that could give rise to adverse effects on this designated site are changes in water quality as a result of a pollution event during construction/operation impacting on mudflats and sandflats not covered by seawater at low tide. The Conservation Objective of this Qualifying Interest is 'To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide'. The site is hydrologically linked to the SAC/habitat via the existing surface water drainage system which discharges directly to the estuary. There is potential for effects through run-off or a pollution event during construction. There is currently no treatment of surface water from the site.
- 8.18 Mitigation measures, which are primarily general protection measures that would be used by any competent developer in the construction of a similar type development are proposed. Mitigation measures have been outlined in Step 4. Construction will follow guidance from Inland Fisheries Ireland for the protection of fish habitat. Buffer zones will be maintained. Silt traps/fences will be installed; staff will be appropriately trained; materials will be properly stored on site; refuelling will be confined to designated areas. A Water Management Programme shall be established.
- 8.19 There is no potential for the proposed development to undermine the integrity of Clonakilty Bay SAC, acting in-combination with other plans or projects. Foul and surface water will only be discharged to the mains sewer under authorisation from Uisce Eireann and the local authority. All works will be undertaken in accordance with Uisce Eireann standard details and codes of practice. The planning authority have not raised concerns in this regard. I am satisfied that it is not likely that any pollution event at the development site could result in significant impacts on the SAC. Adverse effects on the site can be excluded and with the implementation of the mitigation measures the potential for significant effects can be ruled out.

Special Protection Area – Clonakilty Bay SPA

- 8.20 The subject site is located approximately 1.8km east of the Clonakilty Bay SPA. The potential for the 5 bird species selected as SCIs for this SPA to be negatively impacted is low/unknown but is considered a possibility. Significant impacts due to direct disturbance were ruled out, impacts on water quality from contaminants or harm to prey are the main possible impacts. These species are reliant on the habitat for foraging and would be impacted by any reduced quality of habitat and impact on

prey species. Some of the bay could be rendered unsuitable for foraging with alternative feeding areas having to be found and increased competition for a common food source.

Table 4:

Designated Site	Qualifying Interests (*QI most likely to be impacted highlighted in BOLD)	Conservation Objective (favourable status)
Clonakilty Bay SPA	Shelduck [A048] Dunlin [A149] Black-tailed Godwit [A156] Curlew [A160] Wetland and Waterbirds [A999]	Maintain the favourable conservation status of habitats and species of community interest

8.21 Impact prediction to Clonakilty Bay SPA are set out in section 2 (Step 2) of NIS. The lands are not suitable for regularly occurring populations of wetland or wading birds, which are associated with the Clonakilty Bay SPA. No ex-situ impacts can arise from this proposed development. The development will not result in any habitat loss either within or adjacent to any designated site. The construction site is too far removed from the SPA to result in disturbance effects (noise, human activity or artificial lighting) either during construction/operation phases and therefore no habitats will be directly disturbed. Although temporary in nature, it is acknowledged that construction pollutants to the estuary could result in impacts to invertebrate communities with mudflat habitats. This could have knock-on impacts to birds which rely on these invertebrates as a food source and therefore significant effects on Clonakilty SPA cannot be ruled out.

8.22 There are 5 no. SCI/QI features associated with this designated site. The Conservation Objective for all species is 'To maintain the favourable conservation condition' of the species. All potential impacts are via the same hydrological pathway identified for the SAC and mitigation measures are as identified above. These are outlined in Step 4 of the NIS and also within the submitted CEMP. I have dealt with this in the Clonakilty Bay SAC section above and I refer the Board to same. Similarly, foul and surface water will only be discharged to the mains sewer under

authorisation from Uisce Eireann and the local authority. All works will be undertaken in accordance with Uisce Eireann standard details and codes of practice. There is no potential for the proposed development to undermine the integrity of Clonakilty Bay SPA, acting in-combination with other plans or projects. The planning authority have not raised concerns in this regard. I am satisfied that it is not likely that any pollution event at the development site could result in significant impacts on the SPA and with the implementation of the mitigation measures the potential for significant effects as a result of a pollution event can be ruled out. The Board did not raise concern in relation to this matter, the previous appeal on this site (ABP-312961-22).

Appropriate Assessment Conclusion

- 8.23 The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.
- 8.24 Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on two European Sites.
- 8.25 Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of its conservation objectives.
- 8.26 Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of these European Sites, in view of the site's Conservation Objectives.
- 8.27 This conclusion is based on:
- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures and ecological monitoring in relation to the Conservation Objectives of the aforementioned designated sites.
 - Detailed assessment of in combination effects with other plans and projects including historical projects, current proposals and future plans.

9.0 Recommendation

- 9.1 I recommend that the decision of the planning authority be UPHELD and that permission be GRANTED, subject to the following conditions.

10.0 Reasons and Considerations

Having regard to the pattern of development in the area and its residential zoning under the Cork County Development Plan 2022-2028, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the character of the area or the amenities of property in the vicinity, would provide an adequate standard of residential amenity to future occupiers and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by Further Information received by the planning authority on 03rd August 2023 and Unsolicited Further Information received by the planning authority on 20th September 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 commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>This grant of permission authorises 85 no. dwellings only. Units No. 60-68 inclusive, together with associated access cul-de-sac and other infrastructure are not permitted. In the absence of legal clarity regarding a cited wayleave, this area shall be landscaped in accordance with a scheme</p>

	<p>approved by the planning authority, prior to the commencement of any works on site.</p> <p>The construction methodology for the proposed post and concrete panel boundary fence along the western boundary, shall be agreed in writing with the planning authority, prior to the construction of works, so as to ensure no damage to any drainage infrastructure located within this area.</p> <p>Reason: In the interests of clarity</p>
3.	<p>The proposed creche facility shall be fully constructed and made available for use before the 75th dwelling is occupied in site</p> <p>Reason: In the interests of clarity and to ensure orderly development.</p>
4.	<p>No dwelling unit shall be occupied until such time as the proposed road widening, provision of footpath and other works along northern boundary are fully completed and available for use</p> <p>Reason: In the interest of residential amenity, to ensure proper phasing of development and orderly development</p>
5.	<p>Prior to the commencement of any works on site, the applicant shall submit the following for the written agreement of the planning authority,</p> <p>(a) an Invasive Species Management Plan detailing precise site-specific methods for the removal and/or treatment of species listed under the 3rd Schedule of the European Communities (Birds and Natural Habitats) Regulations 2011</p> <p>(b) detailed phasing plan</p> <p>(c) details of proposed boundary treatments including a Construction Methodology Statement outlining how it is proposed to construct boundary treatments in the vicinity of the identified wayleave, so as to ensure no damage to third party property.</p> <p>(d) details of proposed finish to rear boundary of Dwelling No.s 18-21 inclusive, given that the external facing shall be visible to the public realm</p>

	<p>(e) omission of 1.8m high palisade fence surrounding creche facility and its replacement with a more decorative fence</p> <p>(f) details of proposed compensatory planting to offset the loss of trees/hedgerows to facilitate the proposed development</p> <p>(g) revised lighting scheme which provides for a reduction in Lux levels along ecological corridors within the site</p> <p>(h) details of signage for proposed creche facility</p> <p>Reason: In the interests of proper planning and sustainable development</p>
6.	<p>Prior to commencement of development, the developer shall submit to the planning authority a schedule of ecological proposals as detailed in the Ecological Impact Assessment Report, Natura Impact Statement and the Construction Environmental Management Plan submitted with the application. The schedule shall set out the timeline for implementation of each proposal and assign responsibility for implementation. All of the proposals shall be implemented in full and within the timescales stated.</p> <p>In this regard:</p> <ul style="list-style-type: none"> a. The applicant shall appoint and retain the services of a qualified ecological consultant for the duration of the development. The consultant shall ensure that the mitigation measures recommended are implemented in full. b. Removal of scrub, hedgerows and trees shall only take place outside the bird breeding season (March 1st- August 31st) c. All trees/hedgerow proposed for felling shall be examined for evidence of bats, prior to any works by a bat specialist. If required, an NPWS derogation licence shall be obtained. An operational stage tree management plan for bats shall also be submitted.

	<p>d. The applicant shall appoint a bat ecologist to carry out a bat survey, during the appropriate period, prior to commencement of development on site and to determine if a derogation licence for bats would be required. The bat survey shall include a range of trees and buildings by several surveyors on several nights. The bat ecologist shall also review the engineer's lighting plan for the development and make such recommendations for adjustments to the plan as necessary to mitigate light spill on feeding bat habitats</p> <p>e. After installation of the external lighting, a report shall be submitted, prepared by the bat specialist, for the written satisfaction of the planning authority, confirming that it is operating according to specification</p> <p>Reason: In the interests of clarity, protection of the environment and the proper planning and sustainable development of the area.</p>
7.	<p>Prior to the commencement of any house 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, pursuant to Section 47 of the planning and development Act 2000, as amended, that restricts all houses permitted, to first occupation by individual purchasers, ie those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>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.</p>
8.	<p>Details of the materials, colours and textures of all the external finishes to</p>

	<p>the proposed buildings shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
9.	<p>The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. In particular:</p> <p>(a) The roads and traffic arrangements serving the site (including signage) 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.</p> <p>(b) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii;</p> <p>(c) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the Planning Authority for such road works,</p> <p>(d) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site</p> <p>Reason: In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.</p>
10.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1800, 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.</p>

	Reason: In order to safeguard the residential amenities of property in the vicinity.
11.	<p>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.</p> <p>Reason: In the interest of public health and to ensure a satisfactory standard of development.</p>
12.	<p>The applicant shall enter into water and wastewater connection agreements with Uisce Éireann, prior to commencement of development.</p> <p>Reason: In the interest of public health.</p>
13.	<p>(a) The site shall be landscaped in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within 3 years of planting shall be replaced in the first planting season thereafter.</p> <p>(b) Removal of scrub, hedgerows and trees shall only take place outside the bird breeding season (March 1st- August 31st)</p> <p>Reason: To ensure a satisfactory completion and maintenance of the development in the interests of residential amenity and in the interests of protecting the environment</p>
14.	<p>Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning</p>

	<p>authority prior to commencement of development/installation of lighting.</p> <p>Reason: In the interests of amenity and public safety</p>
15.	<p>Proposals for the development name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and 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).</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.</p>
16.	<p>The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide, inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including hours of working, noise and dust management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
17.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance</p>

	<p>with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.</p> <p>Reason: In the interest of sustainable waste management.</p>
18.	<p>All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interest of orderly development and the visual amenities of the area.</p>
19.	<p>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 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.</p> <p>Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.</p>
20.	<p>The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall</p>

	<p>assess the site and monitor all site development works. The assessment shall address the following issues: (i) the nature and location of archaeological material on the site, and (ii) the impact of the proposed development on such archaeological material. A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.</p>
21.	<p>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.</p> <p>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.</p>
22.	<p>Prior to commencement of development, the developer shall lodge with the</p>

	<p>planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion of the development.</p>
23.	<p>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.</p> <p>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.</p>
24.	<p>The developer shall pay a financial contribution 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 a roundabout at the junction of the N71 and</p>

	<p>the L-4007-52 which shall be provided by Cork County Council and which benefits the proposed development. The amount of the contribution 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 for determination. 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.</p> <p>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.</p>
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Note: The applicants are advised to note section 34(13) of the Planning and Development Act, 2000 (as amended) which states that a person shall not be entitled solely by reason of a permission to carry out any development.

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.

Lorraine Dockery
Senior Planning Inspector

25th June 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-318260-23		
Proposed Development Summary	Construction of 93 no. two storey dwellings, single storey creche and all associated site works. Natura Impact Statement (NIS) submitted with the planning application.		
Development Address	The Miles Road, Clonakilty, Co. Cork		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	x
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No	x		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No		N/A	x
			No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	
			Proceed to Q.4

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

Inspector: Lorraine Dockery Date: 25th June 2024

Appendix 2- Form 2

Screening for Appropriate Assessment Screening Determination

Step 1: Description of the project

I have considered the proposed residential development and associated site works in light of the requirements of S177U of the Planning and Development Act 2000 as amended. The subject site is not located within any designated European site but is located approximately 1.8km east of the Clonakilty Bay SAC (Site Code 000091) and the Clonakilty Bay SPA (Site Code 004081).

It is proposed to construct a residential development comprising 93 dwellings, creche, two vehicular access points and ancillary works at The Miles Road, Clonakilty, Co. Cork.

The development site can be best described as Improved Agricultural Grassland (GA1), Wet Grassland (GS4), Recently Felled Woodland (WS5) and Scrub (WS1) as per Fossitt (2000).

I have provided a detailed description of the development in my report and detailed specifications of the proposal are provided in the NIS, EclA and other planning documents provided by the applicant.

Step 2: Potential impact mechanisms from the project [consider direct, indirect, temporary/permanent impacts that could occur during construction, operation and, if relevant, decommissioning]

The proposed development will not result in any habitat loss of any European Site. The proposed project is not directly connected with or necessary to the management of any Natura 2000 site.

Examples of indirect impacts and effect mechanism include:

- Surface water pollution (silt/ hydrocarbon/ construction related) from construction works resulting in changes to environmental conditions such as water quality.
- Potential for decline in habitat quality due to contaminant input/construction activities which may impact on foraging opportunities of annexed species
- Indirect habitat alteration/fragmentation/disturbance impacts owing to hydrology changes due to construction activities

Step 3: European Sites at risk

With reference to the potential impact mechanisms from the proposal, identify the European site(s) and qualifying features potentially at risk. Examine Site specific conservation objectives and relevant and supporting documents.

Table 1 European Sites at risk from impacts of the proposed project

Effect mechanism	Impact pathway/Zone of influence	European Site(s)	Qualifying interest features at risk
Potential for decline in water quality due to contaminant input	Site is hydrologically linked to the SAC/habitat via the existing surface water drainage system which	Clonakilty Bay SAC	Mudflats and sandflats not covered by seawater at low tide [1140]
Potential for decline in habitat quality due to			

contaminant input/construction activities	discharges directly to the estuary.		
Impacts affecting prey species			
Water Quality – Reliant on habitat for foraging and would be impacted by any reduced quality of habitat and impact on prey species. Some of the bay could be rendered unsuitable for foraging with alternative feeding areas having to be found and increased competition for a common food source.	Mobility of species between sites	Clonakilty Bay SPA	Shelduck [A048] Dunlin [A149] Black-tailed Godwit [A156] Curlew [A160] Wetland and Waterbirds [A999]

The Clonakilty Bay SAC (Site Code 000091) and the Clonakilty Bay SPA (Site Code 004081) are the only Natura 2000 sites considered to be potentially impacted by the development. All others have been screened out due to distance, lack of suitable habitat, lack of hydrological connections, together with nature and scale of development proposed.

Step 4: Likely significant effects on the European site(s) 'alone'

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)?			
		Water Quality	Pollution/contamination	Siltation	
Clonakilty Bay SAC (Site Code 000091)	<u>Clonakilty Bay SAC National Parks & Wildlife Service (npws.ie)</u>				
Mudflats and sandflats not covered by seawater at low tide [1140]	Maintain FCS Habitat area stable or increasing; conserve sand to sandy mud with <i>Tubificoides benedii</i> and <i>Peringia ulvae</i> community complex	Y	Y	Y	
Annual vegetation of drift lines [1210]	Maintain FCS Permanent habitat area stable or increasing; no decline in habitat distribution, maintain vegetation/physical structure/composition;	N	N	N	
Embryonic shifting dunes [2110]	Maintain FCS Habitat area stable or increasing; no decline in habitat	N	N	N	

	distribution. Maintain vegetation/physical structure/ composition				
Shifting dunes along the shoreline with <i>Ammophila arenaria</i> [2120]	Maintain FCS Permanent habitat area stable or increasing; no decline in habitat distribution, maintain vegetation/physical structure/ composition;	N	N	N	
Fixed coastal dunes with herbaceous vegetation [2130]	Restore FCS Habitat area stable or increasing; no decline in habitat distribution, maintain vegetation/physical structure/ composition	N	N	N	
Atlantic decalcified fixed dunes [2150]	Maintain FCS Permanent habitat area stable or increasing; maintain the natural circulation of sediment and organic matter, the range of coastal habitats including transitional zones. Bare ground should not exceed 10% of fixed dune habitat, maintain vegetation/physical structure/ composition;	N	N	N	
Clonakilty Bay SPA (Site Code 004081)	<u>Clonakilty Bay SPA National Parks & Wildlife Service (npws.ie)</u>				
Shelduck [A048]	Maintain FCS Long term population trend stable or increasing; No significant decrease in the range, timing or intensity of use of areas by shelduck, other than that occurring from natural patterns of variation	Y	Y	Y	
Dunlin [A149]	Maintain FCS Long term population trend stable or increasing; No significant decrease in the range, timing or intensity of use of areas by dunlin, other than that occurring from natural patterns of variation	Y	Y	Y	
Black-tailed Godwit [A156]	Maintain FCS Long term population trend stable or increasing; No significant decrease in the range, timing or intensity of use of areas by black-tailed godwit, other than that occurring from natural patterns of variation	Y	Y	Y	
Curlew [A160]	Maintain FCS Long term population trend stable or increasing; No significant decrease in the range, timing or intensity of use	Y	Y	Y	Y

	of areas by curlew, other than that occurring from natural patterns of variation				
Wetland and Waterbirds [A999]	Maintain FCS Permanent area occupied by the wetland habitat should be stable and not significantly less than the area of 508 hectares, other than that occurring from natural patterns of variation	Y	Y	Y	

There is no direct habitat loss. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

I conclude that the proposed development would have a likely significant effect 'alone' on conservation objectives of the Clonakilty Bay SAC (Site Code 000091) and Clonakilty Bay SPA (Site Code: 004081) from effects on water quality as a result of a pollution event during construction/operation. An appropriate assessment is required on the basis of the effects of the project 'alone'. Further assessment in-combination with other plans and projects is not required at this time.

Inspector: Lorraine Dockery

Date: 25th June 2024