



An
Bord
Pleanála

Inspector's Report

ABP-318708-23

Development

The construction of 2 no. commercial/light industrial units with ancillary office accommodation

Location

Cloghmacsimon Industrial Park,
Cloghmacsimon, Bandon, County Cork

Planning Authority

Cork County Council

Planning Authority Reg. Ref.

22/6851

Applicant(s)

Gerard Collins

Type of Application

Planning Permission

Planning Authority Decision

Notification to Grant

Type of Appeal

Third Party (1 no.)

Appellant(s)

John Piper

Observer(s)

1. Donal & Deirdre O'Donoghoe
2. John Ahern

Date of Site Inspection

9th October 2024

Inspector

Gary Farrelly

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.1811 hectares and is located within the townland of Cloghmacsimon within Bandon town, County Cork. The site represents the last undeveloped greenfield site within the business/industrial park known as Cloghmacsimon business park. The business/industrial park is located to the southeast of the town centre and is accessed off the N-71 Bandon Relief Road. The park consists of 7 no. buildings comprising of a range of units such as manufacturing, food production and commercial uses.
- 1.2. The subject site is located at the end of a cul-de-sac roadway. The topography of the site slopes gently downwards from the south boundary to the north boundary. The existing levels range from 45mAOD within the southern section of the site to 43mAOD within the northern section of the site. The site is bounded by a residential estate, known as Glasslyn, to the north.
- 1.3. The dwellings immediately bounding the northern boundary of the site are numbers 56-62. The boundary with numbers 62 and 61 is defined by a high boundary wall. This boundary wall steps down in height to house number 56. The ground level of the adjoining residential properties is located below the ground level of the subject site.

2.0 Proposed Development

- 2.1. Permission is sought to construct 2 no. industrial units (*reduced from 3 no. units at further information stage*), with ancillary office accommodation. The finished floor level (FFL) of the building is proposed to be 42.11 metres (*reduced from 42.70 metres at further information*). The submitted section drawing also illustrates that it is proposed to cut/level the overall site to be in line with the FFL. The height to eaves of the proposed building will be 5.5 metres on the north elevation and the overall ridge height will measure 6.8 metres. The ground floor area of the structure will measure 416sqm and the total floor area will measure 610sqm (*which includes the mezzanine levels*). The structure is proposed to be sited approximately 11.95 metres from the northern boundary and approximately 4 metres from the southern boundary.

- 2.2. The internal layout of each unit will comprise of offices and a w.c. on the ground floor with mezzanine levels above. The external finishes of the structure will comprise of part smooth plaster finish and 'Kingspan' panelling to the walls and roof.
- 2.3. The proposed development also involves the construction of a new stone terra retaining wall along the southern boundary that adjoins an existing industrial unit. A new in-situ concrete retaining wall is proposed along the northern boundary of the site within a proposed 4-metre-wide landscaping zone with proposed hedging.
- 2.4. A total of 8 no. car parking spaces (including 1 no. disabled space) and 7 no. bicycle spaces are proposed. It is proposed to connect to an existing foul sewer network located within the access road to the east of the site. Storm water is proposed to be treated via a 76m³ attenuation tank and hydrocarbon interceptor before discharging to the existing stormwater mains within the access road. This stormwater mains (39.38 metres) is located 2.73 metres below the finished floor level of the proposed building (FFL 42.11m). It is also proposed to connect to the public water mains within the access road.

3.0 Planning Authority Decision

3.1. Decision

In considering the application, the planning authority (PA) sought further information on a range of issues, including the following:

- The reduction of the number of industrial units, the reduction in the footprint of the building and the reduction in the overall height.
- The increase in the separation distance between the structure and northern boundary and the omission of the 2-storey glass on the northern elevation.
- The omission of carparking along the northern boundary and the provision of a 4-metre buffer zone.
- Details of the days and hours of operation of the proposed units.
- Confirmation that the attenuation tank calculations are large enough to contain runoff for a 1/100-year storm event + 20% for climate change.

- The submission of an engineer's report on the potential of the works affecting the structural stability of the boundary wall along the northern boundary.

The PA decided to grant permission by Order dated 20th November 2023, subject to 23 no. conditions.

- Condition number 2 required the proposed users to be confirmed and agreed with the PA, the prohibition of any subdivision, hours of operation and delivery times to be agreed and details of any lighting to be agreed.
- Condition number 4 required the fencing off of the 4-metre buffer zone during construction and the planting of a second row of hedgerow within the buffer zone.
- Condition number 5 required the payment of an €8,000 security for completion of the landscaping proposals.
- Condition numbers 6 and 7 related to noise levels during the construction and operational phases.
- Condition number 11 required the submission of a construction and demolition plan prior to commencement of the development.
- Condition number 12 required a revised site layout plan which maximises the amount of car and bicycle parking on the site.
- Condition number 13 required details of full design calculations for the storm water attenuation, details on the tank design in consideration of the storm manhole in the road invert level and details on the connection to the outfall pipeline from the tank to the hydrocarbon interceptor to be submitted for approval.
- Condition number 21 required the method of construction of the retaining wall along the northern boundary to have approval of the developer's engineer and for it not to affect the structural stability of the existing wall.
- Condition number 23 required the payment of a financial contribution of €11,579.37.

3.2. Planning Authority Reports

Planning Report

There are a total of 2 no. area planner (AP) reports that assessed the development in terms of the principle of the development, residential amenity in terms of carparking along the northern boundary, the scale of the development and hours of operation, car parking standards, engineering issues, screening for appropriate assessment and EIA preliminary examination. Further information was originally recommended which was endorsed by the Senior Executive Planner and the second AP report recommended a grant which was endorsed by the Senior Planner.

The AP noted the relationship between the finished floor level of the proposed building and existing dwellings to the north being approximately 3 metres below the level of the proposed building and there were concerns regarding the scale of the building and first floor glazing. After submission of the further information which reduced the scale of the building to a floor area of 610sqm (from 756sqm), increased the setback from the northern boundary to 11.95 metres, the provision of a 4 metre buffer zone, the lowering of the finished floor level by 0.59 metres, the removal of the first floor windows on the northern elevation, the AP was satisfied with the relationship of the development with existing residential development.

Other Technical Reports

- Area Engineer (*reports dated 21/02/2023 and 13/09/2023*) – This report originally requested further information with regards to design calculations for the attenuation tank, the services layout of the development, bicycle parking and measures to ensure the structural integrity of the existing boundary wall. After submission of the further information, no objection was raised subject to conditions.
- Environment Section (*report dated 13/02/2023*) – It had no objection to the development subject to conditions.

3.3. Prescribed Bodies

- Transport Infrastructure Ireland – It stated that it would rely on the PA to abide by policy regarding developments that affect national roads.

- Uisce Éireann – It had no objection subject to a connection agreement.

3.4. Third Party Observations

A total of 5 no. third party observations were received which objected to the development in terms of a loss of privacy of their dwellings to the north of the site, overshadowing concerns, noise/vibration issues, concerns with devaluation of properties, concerns with odour and the impact of lighting, including security lighting.

4.0 Relevant Planning History

PA ref. 22/4941 (Subject Site)

Gerard Collins was refused permission for the construction of 4 no. light industrial units with ancillary office accommodation.

Reason for Refusal

- 1. Having regard to the topography of the site, the limited separation distances proposed, along with the scale, height, form and relationship of the proposed building to existing residential dwellings to the north of the site, it is considered that the proposed development would be overbearing and would seriously injure the amenities of property in the vicinity, by reason of overshadowing and visual intrusion. It is considered that the proposed development, by reason of its site coverage, design, scale and insufficient car parking provision would also constitute overdevelopment of the site and would accordingly be contrary to the proper planning and sustainable development of the area.*

5.0 Policy Context

5.1. Cork County Development Plan 2022-2028

The subject site is zoned 'Existing Mixed/General Business/Industrial Uses MGB'. The areas identified as Existing Mixed/General Business/Industrial Uses consists of a mix of employment uses generally including long term establishments. These areas include (but not exhaustively) a large range of uses including general warehousing, manufacturing, storage, builders' provider/yard, food processing facility, logistics,

vehicle sales outlets, high technology manufacturing, plant and tool hire, public services, service station, vehicle servicing/maintenance garage. This zoning will protect existing uses and support expansion where appropriate of existing uses while not permitting uses that would threaten the vitality and integrity of the primary use of these areas.

Objective ZU 18-10 Existing Mixed/General Business/Industrial Uses

Facilitate development that supports in general the employment uses of the Existing Mixed/General Business/Industrial Areas. Development that does not support, or threatens the vitality or integrity of the employment uses of these areas shall not be permitted.

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

(a) Require that all new developments incorporate sustainable drainage systems (SuDS). Efforts should be taken to limit the extent of hard surfacing and impermeable paving.

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

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

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

5.2. Natural Heritage Designations

The subject site is not located within any designated site. The nearest designated sites are the Bandon Valley West of Bandon proposed Natural Heritage Area (pNHA), which is located approximately 1.5km west of the subject site, and the Bandon Valley Above Inishannon pNHA, which is located approximately 2km northeast of the subject site. The nearest designated European sites are Courtmacsherry Bay Special Protection Area (SPA) (Site Code 004219) and Courtmacsherry Estuary Special Area of Conservation (SAC) (Site Code 001230), which are located approximately 8km south of the subject site.

5.3. Environmental Impact Assessment (EIA) Screening

Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. I refer the Board to Appendix 1 regarding this preliminary examination.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal was lodged to the Board on 15th December 2023 by John Piper. The grounds of appeal are summarised as follows:

- The Appellant resides in a dwelling immediately to the north of the site (No. 60 The Glasslyn). It is stated that the appeal is also supported by Colette O'Donovan (No. 86 Casement Road) and Ann Lehane (No. 59 Glasslyn).
- The development has not addressed the reason for refusal for application ref. 22/4941. A copy of the appellant and Collette O'Donovan's objection are provided as well as photographs of the site
- Regard should be had to Chapter 3 of the Development Plan in relation to settlements and placemaking and the checklist set out in Table 3.2 has not been referenced. No design statement has been submitted.
- There has been no consultation with stakeholders in the area.
- There is a conflict of interest on the part of the Council being the vendor of the site.
- The submitted drawings are inaccurate and misleading and Section drawing A-A shows the lands of the rear gardens of the houses in line with the floor levels of the house which is not the case. The rear boundary wall is built on top of an embankment and is not as shown on the site section drawings. No heights or dimensions of the existing boundary walls are provided.

- The position and configuration of the proposed in-situ concrete retaining wall does not take into account the nature and change in levels of the top of the embankment.
- There is concern that the inaccurate representation of the actual situation has the potential to comprise the integrity of not only the boundaries but the adjacent building to the south, including from the 3 meter deep cut and 1.5 metre high retaining wall along the south part of the site. It is questioned why the PA did not adopt the approach they did under application ref. 23/5853 (*This was an application for a dwellinghouse where the PA sought further information on, inter alia, design of a retaining wall*).
- The public notices do not specify that the intended use is related to the pharmaceutical industry. Such use would give rise to a different set of consequences such as storage and use of chemicals, potential spillages and health and safety concerns.
- There are no shadow projection diagrams provided to address the previous refusal and the issue of overshadowing or overbearing nature of the design approach. Shadow projection diagrams were provided by Ms Collette O'Donovan which demonstrates overshadowing at the winter solstice which has not been contested by the applicant.
- No traffic counts, traffic assessment or road safety audit has been submitted and no assessment of the impact with the nearby schools has been undertaken. There is concern in relation to a traffic hazard as a result of increased traffic during the construction and operational stages as the existing roadway acts as a holding area for cars.
- The inclusion of hedging along the northern boundary above the boundary wall will result in an increase in the overall height of the boundary. The second line of hedging conditioned by the Council will provide an enclosed area not overlooked and will attract anti-social behaviour. No information is provided in relation to the maximum growth height and Condition no. 4 imposed by the PA does not consider the type of landscaping, its height or the maintenance agreement and there is no requirement for agreement.

- No information is provided in relation to lighting standards, their location and no artificial light spillage survey has been carried out. Such lighting will be required between 7am and 11pm for staff arrival and departure times which will create a significant nuisance in terms of light pollution on residential amenity.
- The conditioned noise limits during the operational and construction phases are questioned due to them being in excess of the operational hours stated by the applicant. The noise sensitive locations are not specified and exclude the appellant from any involvement and such conditions encourage nuisance and disruption.
- The omission of a construction and waste management plan as part of the application is inappropriate and inadequate and such condition excludes the appellant contrary to natural justice and fairness.
- The wording of condition nos. 13 and 21 which states a planning compliance condition for approval are questioned.
- Issues relating to odours, dust, traffic related noise and vibrations have been ignored.
- The applicant's response to the area engineer further information request under Item 5 does not take into account the inaccurate and misleading representation of the boundary wall and there should have been a more accurate survey undertaken.
- The proposed development will be injurious to residential amenity and will result in a diminution in the value of adjoining homes.
- The proposed development will be contrary to the proper planning and orderly planning and sustainable development of the area.
- It is requested that the Board reverses the decision of the PA and refuses permission for the development.

6.2. Planning Authority Response

On 18th January 2024, the PA issued a response to the grounds of appeal and considered that all relevant issues were covered in the technical reports forwarded to the Board as part of the appeal documentation and had no further comment to make.

6.3. Observations

There has been a total of 2 no. observations received from Donal & Deirdre O'Donoghue on 21st December 2023 and John Ahern on 18th January 2024.

Donal and Deirdre O'Donoghue's observation is summarised as follows:

- They request that their first objection is revisited and viewed in more detail with regards to the effect of the development on surrounding housing and privacy in the estate in terms of overlooking. It is stated that they are in full support of the third-party appeal.

John Ahern's observation is summarised as follows:

- There will be overshadowing and a sketch of the shadow cast is attached. Greenfield run-off calculations and stormwater storage calculations are provided, and it is stated that the required storage is 87m³, not 76m³ as stated by the applicant. There are concerns that the site could be at a serious risk of flooding as it is questioned whether a gravity system from the attenuation tank to the storm sewer can be achieved.

6.4. Further Response from Appellant

On 14th February 2024, the third-party appellant issued further comments in response to Mr. John Ahern's observation. The response is summarised as follows:

- The shadow projection diagrams submitted by Mr. John Ahern (JA) reflect the optimum circumstances at midday at the winter solstice and demonstrate overshadowing of private open space and the rear elevation of the dwellings.
- The issues raised by JA support the need for a flood risk assessment and the absence of same conflicts with national policies and objectives and section 11.10 and 11.11 of the Development Plan. Condition no. 13 is insufficient to

assess the reality of the risk and the development will have an injurious impact on the receiving environment.

6.5. First Party Response

On 14th February 2024, the first party issued a response to the issues raised within Mr. John Ahern's observation. The response is summarised as follows:

- The minor difference in the attenuation calculations is due to the system provider considering the green field runoff rated as an assumed percentage, whilst the applicant's calculation has been carried out for the site prior to the development.
- A site layout plan is enclosed illustrating a difference in level between the finished floor level of the building and the invert of the storm manhole of 2.73 metres. A full construction stage design will be submitted as provided for under condition 13.
- In relation to loss of daylight, the site layout was revised to move the building to the southern side of the site, the building was reduced in size and the alignment of the roof was amended to take account of the line of the roof of the adjoining building to the south.
- The proposed development is located within an industrial estate where there is an established precedent of commercial use and is the last available plot within the estate to be developed. The development meets with proper planning.

6.6. Further Response from Planning Authority

On 14th February 2024, in response to Mr. John Ahern's observation, the PA issued a response from the Area Engineer stating that the final design of the storm water attenuation system is covered by compliance under condition no. 13 and there is a requirement to abide by condition no. 14.

7.0 Assessment

7.1. 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 planning authority and having inspected the site, and having regard to relevant local, regional and national policies and guidance, I consider that the substantive issues in this appeal to be considered are the following:

- Zoning
- Flood Risk
- Design and Layout
- Residential Amenity
- Traffic Safety

7.2. The Board should note that permission was previously refused on the subject site for 4 no. industrial units within a 975sqm building as part of application ref. 22/4941. I note that this previous building was proposed to be sited approximately 5 metres from the northern boundary and it was proposed to have a ridge height of 7.4 metres. The PA considered that the development would have an overbearing impact on the dwellings to the north due to its proximity as well as potential for overshadowing.

7.3. With regards to this application, the Board should note that the proposed building has been reduced to a height of 6.8 metres (*reduced from 7 metres at further information stage*), will have a ground floor area of 416sqm (610sqm to include the mezzanine levels) (*reduced from 756sqm at further information stage*), is sited along the south boundary of the site approximately 11.95 metres from the northern boundary (*increased from 10.6 metres at further information stage*) and will accommodate 2 no. units (*reduced from 3 no. units at further information stage*).

Zoning

7.4. The applicant has applied for ‘*commercial/light industrial units with ancillary office accommodation*’, as described in the public notices. Within the cover letter submitted with the application it states that the applicant “*intends to use 2 of the units to service an existing and established business to cater for equipment validation and additional services associated with the pharmaceutical industry*”. I note that the PA considered

that the development was in accordance with the land use zoning. I also note that the appellant has raised concerns with the use for pharmaceutical purposes.

- 7.5. The Board should note that the subject site is located within an existing established business/industrial park on lands zoned 'Existing Mixed/General Business/Industrial Uses (MGB)' under the Cork County Development Plan 2022-2028 (CDP). This zoning considers a number of uses appropriate including general or trade warehousing, manufacturing, storage and high technology manufacturing. A number of other uses are also stated, however, the CDP states that the list is not exhaustive. The primary purpose of the zoning is to "*protect existing uses and support expansion where appropriate of existing uses while not permitting uses that would threaten the vitality and integrity of the primary use of these areas*". Therefore, the Board should note that the zoning does not specifically prohibit any class of use.
- 7.6. Therefore, having regard to the title of the application which refers to light commercial/light industrial use with ancillary office accommodation, the Board should note that I am satisfied that the proposed development does not contravene the land use zoning and therefore, the proposed development is acceptable in principle.
- 7.7. However, having regard to the appellant's concerns, if the Board are minded to grant permission, I recommend that a condition is attached that restricts the light industrial use of the facility to the use as defined by Article 5(1) of the Planning and Development Regulations 2001, as amended, in order to protect the residential amenities of the area.

Flood Risk

- 7.8. The appellant and observer have raised concerns regarding potential pluvial flood risk as a result of the proposed development. Their concerns are primarily due to the capacity calculations of the attenuation tanks and uncertainty on whether the storm water from the site can be connected to the existing storm water mains by means of gravity.
- 7.9. With regards to the gravity issue, I note that the existing storm water manhole is 3.32 metres below the ground level of the existing access road (+42.70 TBM) at an invert level of 39.38 metres. The finished floor level of the building will be 42.11 metres and I note that it is proposed to site the attenuation tanks under an area to the east of this building. Having regard to this, the Board should note that I am satisfied that a gravity

connection can be achieved to the storm water mains, subject to design, which I note has been conditioned to be agreed with the PA. I consider this to be a standard condition and recommend a similar condition if the Board are minded to grant permission.

7.10. With regards to the capacity calculations, I note that the development originally proposed a 11.36m³ attenuation tank at the western boundary of the site and this was amended at further information stage to include for 2 no. tanks with a total capacity of 76m³. The applicant stated that this included for 30% extra for climate change. The applicant states that the calculations provided by the appellant are based on a green field run off rate as an assumed percentage whilst the applicant has calculated it for the site prior to the development. I note that the PA conditioned for the full design calculations to be submitted. I consider this to be a reasonable condition, and am satisfied that adequate attenuation capacity can be accommodated onsite. I recommend that such details are submitted prior to commencement of the development. The Board should also note that it is proposed to connect to the public storm mains and therefore I am satisfied that subject to the final design details to be agreed with the PA that the proposed development will not increase the risk of pluvial flooding onsite or elsewhere.

7.11. With regards to fluvial and coastal flood risk, the Board should note that the subject site is located outside flood risk zones A and B as identified within the Cork County Development Plan 2022-2028.

Design and Layout

7.12. I note the appellant states that the development does not comply with Chapter 3 of the CDP and questions why no design statement was submitted. I note that the CDP requires such statement for all medium to large and complex developments in accordance with the Table 3.2 design standards checklist.

7.13. Having regard to the nature of the development being commercial/light industrial with ancillary offices, to the location of the development within an established business/industrial park and to its location within 'Existing Mixed/General Business/Industrial (MGB)' zoned lands, to the scale, height, design and layout of the scheme being similar to that of the other existing units within the park, I consider that

the design and layout is acceptable and compliments the existing buildings within the park. Therefore, I do not consider that a design statement is necessary in this regard.

Residential Amenity

- 7.14. I note that the appellant has raised a number of concerns with the application in terms of the potential impact on adjoining residential amenity. These concerns include overshadowing, noise from the construction and operational phases, external lighting and proposed landscaping along the northern boundary.

Overshadowing

- 7.15. Firstly, the proposed building has been sited approximately 11.95 metres from the northern boundary and approximately 21 metres from the rear elevation of the Glasslyn properties (Nos. 58-60). Having inspected the site, I noted that the ground level of the Glasslyn properties are below the ground level of the subject site.
- 7.16. I note the concerns of the appellant regarding the accuracy of the submitted A-A section drawing. Having inspected the site, I measured the height of the northern boundary wall (on the side of the subject site) as 2 metres at the rear of No. 60 Glaslynn, reducing to 1.9 metres at the rear of No. 59 which the A-A section drawing represents. I did also note that the rear gardens sloped downwards on the other side of the wall to a lower level and were not level as illustrated on the submitted section drawing. Furthermore, having measured the A-A Section drawing the height of the existing boundary wall is c. 1.4 metres from ground level which I note is not accurate in relation to No. 59's rear boundary.
- 7.17. Notwithstanding this, the Board should note that having regard to the 21 metre separation distance between the proposed building and the residential properties, to the 6.8 metre high ridge height of the building, to the proposed 42.11 metre finished floor level and to the existence of a c. 2 metre-1.9 metre high boundary wall to the rear of No. 60 and No. 59, I consider that the proposed building would not result in an adverse impact on the appellant's residential amenity in terms of overshadowing. Furthermore, having regard to the above and to the scale of the building, I do not consider that it would result in an overbearing impact on nearby properties.
- 7.18. I note that the shadow projection diagrams provided by the third party illustrate the impact during the winter solstice. However, all parties should note that Paragraph

3.3.17 of the BRE Site Layout Planning for Daylight and Sunlight, A Guide to Good Practice 2022 Guidelines states that for gardens or amenity areas to appear adequately sunlit throughout the year, at least half of a garden or amenity area should receive at least two hours of sunlight on 21st March. Therefore, having regard to paragraph 7.17 above, to the height and separation of the proposed development from the boundary and to the orientation of the garden spaces, I consider that this is achievable. The Board should also note that a similar arrangement exists between an existing unit and Glasslyn property nos. 49-55 to the east of the subject site.

Overlooking

- 7.19. The issue of overlooking is raised by the observer. However, the Board should note that I have no significant concerns in relation to this due to the absence of first floor windows on the proposed building (*which were omitted from the proposals at further information stage*) and to the 11.95 metre distance of the proposed building from the northern boundary.

Boundary Treatment

- 7.20. The appellant also raises concerns with the proposed boundary treatment along the northern boundary in terms of overshadowing and potential for anti-social behaviour. The existing boundary is defined by a block wall. I note that the applicant stated in its further information response that it is proposed to construct a reinforced concrete wall inside the line of the existing wall which will be independent of same. The submitted section drawing illustrates this as an 'in-situ concrete retaining wall' within a 4 metre buffer zone with proposed native hedging along the northern boundary.
- 7.21. The Board should note that the proposals include a retaining wall along the southern boundary of the site between the proposed development and the existing business/industrial unit to the south. The PA conditioned for all retaining walls to be designed and constructed to an engineer's specification, for the method of construction to have approval from an engineer and for the subsequent construction to be overseen by an engineer. Whilst I acknowledge that the appellant has concerns regarding the structural integrity of the existing boundary wall to the north boundary and of the existing unit to the south as a result of the construction of the retaining walls and excavation works, the Board should note that I am satisfied that these concerns

can be alleviated by the PA conditions. Therefore, it is my recommendation that these conditions are attached if the Board are minded to grant permission.

- 7.22. With regards to the anti-social behaviour concerns, I consider these to be reasonable concerns and recommend to the Board that only a single line of indigenous hedgerow is planted along the northern boundary. I am satisfied that this will achieve its purpose of ensuring adequate privacy of adjoining properties, which would be consistent with the boundary treatment between the unit and Glasslyn properties nos. 55-51 to the east of the subject site. Furthermore, whilst the submitted section drawing illustrates a hedgerow height of c. 2.4 metres, which would be above the height of the boundary wall, it is my recommendation that a condition is attached that maintains such hedgerow to a maximum height of 2 metres.

Noise

- 7.23. I note the appellant's concerns regarding noise from the development and the questioning of the noise conditions imposed by the PA. Having reviewed the PA's noise condition for the operational phase, notwithstanding the proposed operational hours of the facility, the Board should note that this is a standard condition as recommended by the Environmental Protection Agency (EPA) guidance document – Guidance Note for Noise: Licence Applications, Surveys and Assessments in relation to Scheduled Activities (NG4). The condition sets out emission limit values for daytime, evening and nighttime at noise sensitive locations (i.e. dwellings). Whilst this development does not comprise a licenced facility, I have no major issue with this condition.
- 7.24. With regards to the operational opening hours, the applicant stated in the further information response that the units would operate between the hours of 0730 hours and 1800 hours Monday to Friday and 0800 hours to 1300 hours on Saturdays. Therefore, I recommend that a condition is attached that ensures these operational hours are adhered to in the interest of residential amenity.
- 7.25. With regards to the construction noise condition, due to the nature and scale of the proposed construction works, I consider that in order to safeguard residential amenity during the construction phase it would be more appropriate to condition for site development and building works to be only carried out between 08:00 to 18:00 Mondays to Fridays and between 08:00 to 14:00 on Saturdays. This will ensure that

nuisance and disruption will be kept to a minimum. The Board should note that I have no significant concerns regarding noise during the construction phase having regard to the limited scale and short term nature of the proposed works.

Other Construction Related Impacts

- 7.26. The appellant also states that issues relating to odour, dust, traffic related noise and vibrations have been ignored. The Board should note that having regard to the nature of the development being for commercial/industrial units on zoned urban lands within an established business/industrial park and to the scale of such development, it is my view that any construction impacts will be limited in scale and short term in nature.
- 7.27. Whilst I note that there will be site excavation across the site (*approximately 3 metres along the northern section*) to accommodate a new 42.11 metre finished floor level of the building and ground level of the site, I consider that a condition for a construction management plan and a resource waste management plan to be agreed with the PA is appropriate in this instance. Whilst the appellant considers the absence of these plans in the application as inappropriate and the conditioning of same being against natural justice and fairness, the Board should note that these are standard conditions attached to any development of this nature that ensures such development manages and minimises waste in an environmentally sustainable way and is carried out with minimal disruption to the surrounding environment. Therefore, I have no major concerns with the attachment of these conditions in terms of public participation.

External Lighting

- 7.28. The subject site is located within an urban area with street lighting on the industrial estate cul-de-sac road and on adjacent residential streets. I note the appellant's concerns regarding external lighting from the proposed development and the potential for overspill onto adjacent properties. I note that the submitted drawings do not illustrate any external lighting either within the site or on the proposed building. Notwithstanding this, if the Board are minded to grant permission I recommend that a condition is attached that ensures any external lighting is agreed in advance with the PA and is designed to address potential overspill beyond the site boundaries.

Devaluation of Homes

- 7.29. I note the concerns raised in the grounds of appeal in respect of the devaluation of neighbouring property. However, having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

Traffic Safety

- 7.30. The appellant considers the application deficient as no traffic counts, traffic assessment or road safety audit was carried out. It is also stated that the cul-de-sac roadway is used as a holding area for cars for the schools. I note that whilst Transport Infrastructure Ireland (TII) submitted an observation on the application it did not object to the proposed development.
- 7.31. I note that 8 no. car parking spaces are proposed, as well as 7 no. bicycle spaces. I note that the PA conditioned for a revised plan to maximise the level of car parking within the site and to relocate the bicycle parking. Therefore, I recommend that this condition is attached if the Board are minded to grant permission.
- 7.32. The Board should note that the proposed access to the site is from an existing established cul-de-sac roadway that serves the industrial estate. This access road is accessed off the N-71 Bandon ring road. Having inspected the site, I noted that the entrance to the industrial park is located within the 60kph zone. I noted no obstacles when exiting the industrial park that impeded my lines of sight in both directions. Therefore, in this regard I am satisfied that the access arrangements to the existing industrial park are acceptable in terms of traffic safety.

8.0 Appropriate Assessment (AA) Screening

- 8.1. I have considered the project in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. The subject site is located approximately 8km north of the Courtmacsherry Bay Special Protection Area (SPA) (Site Code 004219) and Courtmacsherry Estuary Special Area of Conservation (SAC) (Site Code 001230).

8.2. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European site. The reason for this conclusion is as follows:

- Having visited the site and having reviewed the Environmental Protection Agency's AA Mapping Tool, I note that there are no direct hydrological connections between the subject site and the designated site.
- Having regard to the discharge of wastewater to the public mains and to the discharge of surface water to the stormwater mains via attenuation.
- Having regard to the distance from the European site regarding any other potential ecological pathways and intervening lands.
- Having regard to the screening determination of the PA.

8.3. I conclude that on the basis of objective information, that the development would not likely have a significant effect on any European Site, either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

I recommend that permission is **Granted** subject to conditions, for the following reasons and considerations.

10.0 Reasons and Considerations

Having regard to the location of the proposed development within an existing established industrial/business park, to the 'Existing Mixed/General Business/Industrial Uses (MGB)' zoning of the site under the Cork County Development Plan 2022-2028, to the separation of the proposed development to residential properties, to the topography of the site and adjoining lands, to the nature, scale, height, design and layout of the proposed development and to the quality of the road network serving the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of property in the vicinity, would not increase the risk of pluvial

flooding and would be acceptable in terms of traffic safety. The proposed development would comply with objective ZU 18-10 (Existing Mixed/General Business/Industrial Uses) of the Cork County Development Plan 2022-2028 and, therefore, would 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 received by the planning authority on the 21st day of August 2023, the 25th day of September 2023 and the 25th day of October 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.

Reason: In the interest of clarity.

2. (a) The units shall be used for light industrial/commercial uses only and all office use within the development shall be ancillary to the main use within each unit.

(b) Any use associated with light industrial shall be in accordance with its definition under Article 5(1) of the Planning and Development Regulations 2001, as amended.

Reason: In the interest of clarity.

3. The units shall only operate between the hours of 0730 hours and 1800 hours Monday to Friday and 0800 hours to 1300 hours on Saturdays.

Reason: To protect the residential amenities of property in the vicinity of the site.

4. Details of the proposed external finishes to the proposed building including details in respect of colour, texture and materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. The attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: In the interest of public health.

6. Prior to the commencement of development the developer shall enter into a Connection Agreement with Uisce Éireann (Irish Water) to provide for a service connection to the public water supply and wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

7. (a) All foul sewage and soiled water shall be discharged to the public foul sewer.
(b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system. No surface water runoff from the site shall be discharged to the public road or to adjoining properties.

Reason: In the interest of public health.

8. During the operational phase of the proposed development the noise level shall not exceed (a) 55 dB(A) rated sound level between the hours of 0700 to 1900, (b) 50dB(A) between the hours of 1900 and 2300 and (c) 45 dB(A) 15min Leq, at all other times, as measured at the nearest noise sensitive location.

Reason: To protect the residential amenities of property in the vicinity of the site.

9. 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 agreed waste facilities shall be maintained and 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 and the amenities of properties in the vicinity.

10. Site development and building works shall be carried out between the hours of 0800 to 1800 hours Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

Reason: To safeguard the amenity of property in the vicinity.

11. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the Environmental Protection Agency's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP shall be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all

resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of proper planning and sustainable development.

12. Prior to commencement of works, the developer shall submit to, and agree in writing with the planning authority, a Construction Management Plan, which shall be adhered to during construction. This plan shall provide details of intended construction practice for the development, including noise and dust management measures, the maintenance of a 4 metre buffer zone along the northern boundary and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and amenity.

13. Prior to commencement of the development, the developer shall submit to the planning authority for written approval a revised plan detailing car parking and bicycle parking provisions.

Reason: In the interest of traffic safety.

14. Details of any proposed external lighting shall be submitted to the planning authority for written approval prior to commencement of the development. Any external lighting shall be directed and cowled away from residential properties such as to reduce, as far as possible, the light scatter over adjacent houses and gardens.

Reason: In the interest of residential amenity.

15. All goods, including raw materials, manufactured goods, packaging, crates etc. shall be stored or displayed only within the units.

Reason: In the interest of visual amenity.

16. (a) No dust, mud, debris or other material shall be carried onto or deposited onto the public road.

(b) The developer shall be responsible for the full cost of repair in respect of any damage caused to the public roadway arising from the construction works and operations and shall make good any damage to the road to the satisfaction of the planning authority.

Reason: In the interest of traffic safety.

17. The developer shall control odour emission from the units in accordance with measures including extract duct details, which can be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public health and to protect the amenities of the area.

18. (a) A landscaping scheme indicating boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This boundary treatment scheme shall provide a single line of screening along the northern boundary, consisting of shrubs and hedging of indigenous species. The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the substantial completion of external construction works.

(b) Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

(c) Planting shall be maintained at a maximum height of 2 metres.

Reason: In order to screen the development, in the interest of visual amenity.

19. (a) All retaining walls shall be designed and constructed to an engineer's specification and the construction shall be overseen by an engineer.

(b) Prior to commencement of the development, the developer's engineer shall submit to the planning authority for its written approval the method of construction of the retaining walls along the south and north boundaries. The construction shall not affect the structural stability of the existing boundary wall along the northern boundary during both the construction phase and at any time after the works are completed.

Reason: To ensure the structural stability of the existing boundary wall is not affected by the works.

20. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the completion of landscaping proposals, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any plants on the site or the replacement of any such plants which die, are removed or become seriously damaged or diseased within a period of five years from the substantial completion of the development with others of similar size and species. 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.

Reason: To secure the protection of trees on the site.

21. 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.

Gary Farrelly
Planning Inspector
29th October 2024

Appendix 1

(a) Form 1: EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-318708-23			
Proposed Development Summary	The construction of 2 no. commercial/light industrial units with ancillary office accommodation			
Development Address	Cloghmacsimon Industrial Park, Bandon, County 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			EIA Mandatory EIAR required	
No	X		Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?				
		Threshold	Comment (if relevant)	Conclusion
No				No EIAR or Preliminary Examination required
Yes	X	Class 10(a) Industrial estate development projects, where the area would exceed 15 hectares. Class 10(b)(iv) Urban development which would involve an area greater	The subject site is within an urban area that measures 0.18 hectares.	Proceed to Q.4

		than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.		
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4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

(b) Form 2 - EIA Preliminary Examination

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.		
	Examination	Yes/No/ Uncertain
Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment? Will the development result in the production of any significant waste, emissions or pollutants?	<p>The development is for 2 no. industrial units within an undeveloped greenfield site within an established business/industrial park on zoned urban lands. The nature of the development is not exceptional in the context of the existing park.</p> <p>The development will consist of typical construction related activities and works including excavation works to accommodate a finished floor level of 42.11 metres. Development to be undertaken in accordance with a construction management plan (CMP) and a resource waste management plan (RWMP).</p> <p>It is proposed to connect to the public wastewater mains and to the storm water mains (via attenuation and hydrobrake).</p>	No
Size of the Development Is the size of the proposed development exceptional in the context of the existing environment?	<p>The development site measures 0.18 hectares. The size of the development is not exceptional in the context of the existing environment.</p> <p>Having reviewed the Department of Housing, Local Government and Heritage's National Planning Application database and EIA Portal and the Cork</p>	No

Are there significant cumulative considerations having regard to other existing and/or permitted projects?	County Council's planning register, I note that there are no other plans or projects for potential significant cumulative effects on the environment.	
Location of the Development Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location? Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?	The subject site is not located within any designated site. The nearest designated sites are the Bandon Valley West of Bandon proposed Natural Heritage Area (pNHA), which is located approximately 1.5km west of the subject site, and the Bandon Valley Above Inishannon pNHA, which is located approximately 2km northeast of the subject site. The nearest designated European sites are Courtmacsherry Bay Special Protection Area (SPA) (Site Code 004219) and Courtmacsherry Estuary Special Area of Conservation (SAC) (Site Code 001230), which are located approximately 8km south of the subject site. My Appropriate Assessment screening undertaken concludes that the proposed development would not likely have a significant effect on any European Site. Additionally, I consider that the proposed development would not have any significant impact on any national designated sites. There are no features on site of ecological significance or other features of cultural heritage in the vicinity of the site. The subject site is located outside Flood Zones A and B for coastal or fluvial flooding.	No
Conclusion		
There is no real likelihood of significant effects on the environment. EIA not required. X	There is significant and realistic doubt regarding the likelihood of significant effects on the environment. Schedule 7A Information required to enable a Screening Determination to be carried out.	There is a real likelihood of significant effects on the environment. EIAR required.