



An
Bord
Pleanála

Inspector's Report

ABP-319312-24

Development	Construction of 11 dwellings and all associated site works.
Location	Site bound by Beach Road and Bay View Road, Maulbaun, Passage West, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	236580
Applicant(s)	Karl Shane Diskin
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Karl Shane Diskin.
Observer(s)	(1) Ozren Colovic (2) Ellen Miller (3) Eoghan Fahy (4) John O'Connor (5) Dock Cottage Residents (6) Ann Harding

- (7) Padraig Spillane
- (8) Marcia D'Alton
- (9) Seamus McGrath
- (10) Deirdre Maxwell
- (11) Joe Malone
- (12) Bernard McCarthy
- (13) Paul Kearney
- (14) Dáithí Ó Scannláin
- (15) Grainne Crowley
- (16) Residents Of Marina View
- (17) Bayview Core Committee
- (18) June O'Sullivan and Gavin
O'Connor
- (19) Josephine and Sean O'Connor

Date of Site Inspection

13th December 2024.

Inspector

Oluwatosin Kehinde

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	7
3.3. Prescribed Bodies	8
3.4. Third Party Observations	9
4.0 Planning History	10
5.0 Policy Context	10
5.4. Natural Heritage Designations	18
5.5. EIA Screening	19
6.0 The Appeal	19
6.1. Grounds of Appeal	19
6.2. Planning Authority Response	22
6.3. Observations	23
7.0 Assessment	25
8.0 AA Screening	44
9.0 Recommendation	45
10.0 Reasons and Considerations	45
Appendix 1 – EIA Pre-Screening and Preliminary Examination	

1.0 Site Location and Description

- 1.1. The 0.23ha site is located in Passage West. Passage West is a linear settlement along the western inlet of Lough Mahon.
- 1.2. The site is irregular in nature and rises significantly from the level at Beach Road to extend sharply to Dock Cottages/Bayview. The site is bounded on all sides by residential properties.
- 1.3. Dock Cottages/Bayview adjoining the site on the north side consists of a narrow street with a row of 12 terraced houses. Marina View also to the north contains small single/two storey cottages included in the National Inventory of Architectural Heritage (NIAH). East of the site are properties along Beach Road consisting of predominantly two storey houses and west of the site are single storey cottages. Southern boundary of the site is characterised by an overgrown green area with trees. These areas bounding the site are within the Passage West Architectural Conservation Area (ACA).
- 1.4. There is a tunnel underneath the site which previously accommodated the former Passage West and Crosshaven Railway. This tunnel is protected under the provisions of the Cork County Development Plan 2022-2028.

2.0 Proposed Development

- 2.1. Planning permission is being sought for the development of 11. No dwellings laid out in 2 no. buildings, a bicycle parking enclosure, car parking, landscaping, new site access points at Bay View and Marina View and all associated site works.
- 2.2. The development is contemporary in nature and presents two building blocks on the site. Block 1 is located on the upper tier in the north- south direction and Block 2 is located on the lower tier of the site in the east-west direction.
- 2.3. Block 1 consists of 6 no. 2-bedroom duplexes and 1 no. 3-bedroom apartment. Block 2 comprises 3 no. 1-bedroom apartment and 1 no. 3-bedroom apartment.
- 2.4. On appeal, the applicant proposes to omit 1 no. 1 bedroom unit and replace it with a bin storage area in Block 2. The applicant also proposes to revise the external

material to a rendered finish and change the roofs to a slated finish. The projecting oriel windows in block 1 will also be replaced with portrait-orientated windows.

- 2.5. The proposed development is within the curtilage of a railway tunnel which is a protected structure (RPS no. 01470).

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority (PA) refused permission for the following four reasons:

- *Reason 1 – Notwithstanding the siting of this site within the existing built up area of Passage West, and the general national policy support for promoting increased residential densities within existing urban areas, having regard to the site context and characteristics, including the steep sloping topography, and based on the available information, it is considered that the proposed development, by virtue of its layout, design, scale, massing and material finish fails to respect the character, pattern and tradition of the surrounding site context, materials and built forms and would not fit appropriately into the landscape. In addition, it is considered that the proposed development would have a detrimental impact upon the character of the adjoining Passage West ACA, the setting of the railway tunnel which is an RPS (RPS ID 01470), and the setting and visual amenity of nearby RPS and NIAH buildings.*

The proposed development would, therefore, not provide an acceptable contribution to place-making and does not provide an appropriate response to the site's context and topography on an elevated hillside location in Passage West, adjacent to the Passage West Architectural Conservation Area, within an area of High Value Landscape and affording extensive views over the River Lee / Cork Harbour and the wider urban and coastal landscape. It is considered that the proposal would materially contravene objectives PL 3-3 and HE 16-21 of the Cork County Development Plan 2022. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

- *Reason 2 – It is noted that it is proposed to access the development site via Bayview. Having regard to the narrow road width of Bayview along with the existing level of on-road parking it is considered that this road does not have the capacity to facilitate construction traffic to the proposed development and it is considered that the traffic movements likely to be generated by the development would interfere with the free flow of traffic, create traffic congestion and endanger public safety by reason of obstruction of road users.*

In addition, the application has also failed to adequately demonstrate to the satisfaction of the Planning Authority that the proposed development is served by adequate infrastructure for emergency vehicles and bin collection vehicles.

The plans and particulars submitted do not provide for adequate off-road parking facilities to serve the proposed development. The proposed development would increase the incidence of on-road parking and would be likely to lead to overspill car parking in the surrounding area and exacerbate car parking pressures in the area.

The proposed development would endanger public safety by reason of a traffic hazard and obstruction of road users. Therefore, the proposed development would be contrary to the proper planning and sustainable development of the area.

- *Reason 3 – Having regard to the existing and proposed ground levels and the proximity of the proposed development to the tunnel of the former Cork-Crosshaven railway line (RPS ID RPS 01470), on the basis of the information submitted the applicant has not demonstrated to the Planning Authority, that the development could be constructed as proposed without affecting the structural stability and long-term use of the tunnel, the preservation of which is desirable for heritage and infrastructural reasons. It is a policy of the Cork County Development Plan 2022, supported by national legislation, that the context and curtilage of buildings listed on the Record of Protected structures be protected through the planning and development process. It is considered that the proposed development would materially contravene objectives HE 16-14; 16-15 and 16-20 of the Cork County Development Plan. Therefore, the*

proposed development would be contrary to the proper planning and sustainable development of the area.

- *Reason 4 – On the basis of the information submitted and the proposed design, and having regard to the variance in levels, relationship and separation distances between the proposed development and immediately adjacent residential properties to the east of Block 1 and to north and south of Block 2, it is considered that the proposed development would seriously injure the amenities of property in the vicinity as it would have an significant negative impact upon the amenity of occupiers of existing residential properties by reason of overlooking, loss of privacy, and overbearing impacts.*

Furthermore, it is considered that it has not been demonstrated to the satisfaction of the Planning Authority that the proposed development would provide a high standard of amenity for future residents having regard to the proposed building design and inadequate levels of internal natural lighting afforded to the proposed development, the quality of private amenity areas, and the location and quality of public open space within the proposed development. Accordingly, it is considered that the proposed development would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The decision to refuse permission by the PA is consistent with the Planning Officer's (PO) report.

3.2.2. Other Technical Reports

- Area Engineer – Report dated 22nd February 2024 recommended that the development be refused. The report stated that the development would endanger public safety by reason of traffic hazard.
- Estates Engineer – Report dated 8th February 2024 offered no comments
- Housing Officer – Report dated 26th January 2024 stated no objection to the development.

- Sustainable Travel Unit – Report dated 19th February 2024 recommended that further information be requested. A geotechnical report, road safety audit and transport statement information were needed to fully assess the development.
- Architectural Conservation Officer – Report dated 15th February 2024 considered that the development will have a detrimental impact on the character of the nearby ACA, the setting of the tunnel, and the nearby protected buildings. The report recommended that further information be requested.
- Council Architect – Report dated 20th of February 2024 concluded that while the introduction of new housing is supported on the site, it is considered that the design is potentially detrimental to the special character and integrity of the site and its context.
- Public Lighting Officer – Report dated 19th January 2024 stated no objection subject to conditions.

3.3. Prescribed Bodies

Uisce Eireann – Report dated 25th January 2024 recommended further information on the outcome of the pre-connection enquiry. Uisce Eireann stated that they were in liaising with the applicant regarding a pre-connection enquiry and requested that the outcome of the enquiry be submitted to the PA as the response to the further information request.

Inland Fisheries Ireland – Report dated 12th January 2024 requests that Uisce Eireann/Cork County Council signify that there is sufficient capacity for the development.

The application was also referred to the following prescribed bodies and no submissions were received.

- Heritage Council
- Arts Council
- An Taisce
- DAU (Architectural Heritage)

- Gas Networks Ireland
- ESB
- Bus Eireann

3.4. Third Party Observations

The PA received several submissions regarding the development and can be summarised as follows:

- There are concerns regarding safe access to and from the development.
- There are concerns about what impact additional vehicles, heavy machinery and construction works will have on the structural integrity of the existing houses in the area.
- Lack of adequate parking associated with the development and there is no supporting infrastructure in the area to support a “car light” development.
- There is no high frequency bus corridor in the area and residents of Passage West use cars as their main mode of transportation.
- The development will further exacerbate the parking issues in the area.
- The development site is not a brownfield site and the application appears to be speculative in nature.
- There are concerns regarding waste management services accessing the site to collect bins.
- The impact of the development on the former railway tunnel.
- The impact of the development on the water tank is unknown.
- The proposal is not in keeping with the architecture of the area and the development represents overdevelopment of the site.
- It is stated that the site is a greenfield site and its development would remove much needed green within an urban area.
- The height of the development is of concern and a shadow and light analysis needs to be completed.

4.0 Planning History

PA Plan Reg. 17/7321 – Planning permission refused for the construction of a single detached two storey dwelling house and associated site works on a site of 0.045 Ha, which is within the curtilage of a railway tunnel, which is a protected structure (RPS 01470). The reason for refusal was based on the traffic movements likely to be generated by the development.

PA Plan Reg. 17/5593 – Planning permission refused for the construction of two semi-detached two storey, three bedroom dwellinghouses and associated site works on a site of 0.045Ha, which is within the curtilage of a railway tunnel, which is a protected structure (RPS 01470). This application was also refused because of the traffic movements the development would generate.

PA Plan Reg. 15/6203 – Planning permission granted for a – Residential development of 4 no. 2-storey semi-detached dwellings, car parking, and all associated site development and landscaping works. The proposed development is within the curtilage of a railway tunnel, which is a protected structure (RPS 01470).

PA Plan Reg 08/4773 & ABP 04.229086 – Planning permission refused for a residential development of 4 no. three storey town houses, 2 no. two bed ground floor apartments and 2 no. three bed duplex apartments, provision of 6 no. off-street car parking spaces and all associated site works. Reasons for refusal relate to overdevelopment, inadequate car parking and the impact on the structural stability of the tunnel.

5.0 Policy Context

5.1. National Policy

The following are considered to be of relevance to the proposed development.

5.1.1. Project Ireland 2040, National Planning Framework (2018)

Chapter 4 of the National Planning Framework (NPF) is entitled 'Making Stronger Urban Places' and it sets out to enhance the experience of people who live, work and visit the urban places of Ireland.

A number of key policy objectives are noted as follows:

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

National Policy Objective 11 provides that 'In meeting urban development requirements, there be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth'.

National Policy Objective 13 provides that "In urban areas, planning and related standards, including, in particular, height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected".

Chapter 6 of the NPF is entitled 'People, Homes and Communities' and it sets out that place is intrinsic to achieving a good quality of life.

A number of key policy objectives are noted as follows:

National Policy Objective 27 seeks to 'Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages'.

National Policy Objective 33 seeks to 'Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location'.

National Policy Objective 35 seeks 'To increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights'.

5.1.2. **Section 28 Ministerial Guidelines**

The following is a list of Section 28 - Ministerial Guidelines considered to be relevant 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 (2024)

The creation of sustainable communities also requires a diverse mix of housing and variety in residential densities across settlements. This will require a focus on the delivery of innovative housing types that can facilitate compact growth and provide greater housing choice that responds to the needs of single people, families, older people and people with disabilities, informed by a Housing Needs Demand Assessment (HNDA) where possible.

- Urban Development and Building Heights, Guidelines for Planning Authorities

It is Government policy that building heights must be generally increased in appropriate urban locations. There is therefore a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility.

- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (DoHPLG, 2023).

The focus of this Guidance is on the locational and planning specific aspects to apartment developments generally.

- Architectural Heritage Protection – Guidelines for Planning Authorities 2011

These guidelines issue objectives for protecting structures, or part of structures, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest and for preserving the character of architectural conservation areas.

5.1.3. Other National Guidelines

- Design Manual for Urban Roads and Streets

To ensure compact, connected neighbourhoods based on street patterns and forms of development that will make walking and cycling, especially for local trips, more attractive.

- National Biodiversity Action Plan 2023 – 2030

The plan includes five strategic objectives aimed at addressing existing challenges and new and emerging issues associated with biodiversity loss.

- Climate Action Plan 2024

Climate Action Plan 2024 sets out the roadmap to deliver on Ireland’s climate ambition. It aligns with the legally binding economy-wide carbon budgets and sectoral ceilings that were agreed by Government in July 2022.

5.2. Regional Policy

5.2.1. Regional Spatial and Economic Strategy (RSES)

The Southern Regional Assembly’s RSES seeks to achieve balanced regional development and full implementation of the National Planning Framework. The RSES provides a long-term, strategic development framework for the future physical, economic and social development of the Southern Region and includes Metropolitan Area Strategic Plans (MASPs) to guide the future development of the region’s three main cities and metropolitan areas – Cork, Limerick-Shannon and Waterford.

5.3. Development Plan

The Cork County Development Plan 2022 – 2028 is the pertinent statutory plan and the site is zoned **ZU 18-9** – Existing Residential/Mixed Residential and Other Uses with the following specific development objective:

“to conserve and enhance the quality and character of established residential communities and protect their amenities. Infill developments, extensions, and the refurbishment of existing dwellings will be considered where they are appropriate to the character and pattern of development in the area and do not significantly affect the amenities of surrounding properties. The strengthening of community facilities and local services will be facilitated subject to the design, scale, and use of the building or development being appropriate for its location”.

Chapter 3 of the Development Plan relates to Settlements and Placemaking and it is the vision of the plan “To protect and enhance the unique identity and character of County Cork’s towns and villages and improve quality of life and well-being through

the delivery of healthy placemaking underpinned by good urban design, with the creation of attractive public spaces that are vibrant, distinctive, safe and accessible and which promote and facilitate positive social interaction and supports the needs of the community”.

Section 3.5.13 seeks “To make the most sustainable use of existing urban land within the built envelope of a settlement, the planning authority will encourage the development of infill housing on suitable sites, subject to adherence to residential amenity standards and avoiding any undue impacts on the established character of an area. The layout and design of infill schemes should respect existing building lines and should generally follow established roof profiles, buildings heights and use of materials within the street”.

Objective PL 3-3: Delivering Quality and Inclusive Places states

In assessing future development proposals the Plan will implement and promote a series of aims outlined in the Guidelines on Sustainable Residential Development in Urban Areas and accompanying Urban Design Manual and the Design Standards for New Apartments, which seek to create high quality inclusive places including:

- a. To achieve/ reinforce a better sense of place and distinctiveness therefore, strengthening local character.
- b. Prioritise walking, cycling and public transport, and minimise the need to use cars.
- c. Deliver a quality of life which residents and visitors are entitled to expect, in terms of amenity, safety and convenience.
- d. Provide a good range of community and support facilities, where and when they are needed.
- e. Present an attractive, well maintained appearance, with a distinct sense of place and a quality public realm.
- f. Easy to access and navigate through the delivery of a clear urban structure including landmarks and vistas.
- g. Promote the efficient use of land and energy and minimise greenhouse gas emissions.

- h. Provide a mix of land uses (where relevant) to minimise transport demand.
- i. Promote social integration and provide accommodation for a diverse range of household types and age groups; and
- j. Enhance and protect the built and natural heritage.

Chapter 4 of the Development Plan relate to accommodating the full range of current and future housing needs for all members of the society throughout the county.

Chapter 12 of the Development Plan relate to transport and mobility and seeks “To support the delivery of an efficient transport system in the County, supporting connectivity and competitiveness, and to make sustainable travel modes an attractive and convenient choice for as many people as possible in order to deliver economic, social, health, wellbeing, environmental and climate action benefits”.

Objectives HE 16-14: Record of Protected Structures states

- a) The identification of structures for inclusion in the Record will be based on criteria set out in the Architectural Heritage Protection Guidelines for Planning Authorities (2011).
- b) Extend the Record of Protected Structures in order to provide a comprehensive schedule for the protection of structures of special importance in the County during the lifetime of the Plan as resources allow.
- c) Seek the protection of all structures within the County, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest. In accordance with this objective, a Record of Protected Structures has been established and is set out in Volume Two Heritage and Amenity, Chapter 1 Record of Protected Structures.
- d) Ensure the protection of all structures (or parts of structures) contained in the Record of Protected Structures.
- e) Protect the curtilage and attendant grounds of all structures included in the Record of Protected Structures.
- f) Ensure that development proposals are appropriate in terms of architectural treatment, character, scale and form to the existing protected structure and not

detrimental to the special character and integrity of the protected structure and its setting.

g) Ensure high quality architectural design of all new developments relating to or which may impact on structures (and their settings) included in the Record of Protected Structures.

h) Promote and ensure best conservation practice through the use of specialist conservation professionals and craft persons.

i) In the event of a planning application being granted for development within the curtilage of a protected structure, that the repair of a protected structure is prioritised in the first instance i.e. the proposed works to the protected structure should occur, where appropriate, in the first phase of the development to prevent endangerment, abandonment and dereliction of the structure.

Objectives HE 16-15: Protection of Structures on the NIAH

Protect where possible all structures which are included in the NIAH for County Cork, that are not currently included in the Record of Protected Structures, from adverse impacts as part of the development management functions of the County.

Objective HE 16-16: Protection of Non-Structural Elements of Built Heritage states

“Protect non-structural elements of the built heritage. These can include designed gardens/garden features, masonry walls, railings, follies, gates, bridges, shopfronts and street furniture. The Council will promote awareness and best practice in relation to these elements”.

Objective HE 16-18: Architectural Conservation Areas states

Conserve and enhance the special character of the Architectural Conservation Areas included in this Plan. The special character of an area includes its traditional building stock, material finishes, spaces, streetscape, shopfronts, landscape and setting. This will be achieved by;

(a) Protecting all buildings, structures, groups of structures, sites, landscapes and all other features considered to be intrinsic elements to the special character of the ACA from demolition and non-sympathetic alterations.

- (b) Promoting appropriate and sensitive reuse and rehabilitation of buildings and sites within the ACA and securing appropriate infill development.
- (c) Ensure new development within or adjacent to an ACA respects the established character of the area and contributes positively in terms of design, scale, setting and material finishes to the ACA.
- (d) Protect structures from demolition and non-sympathetic alterations.
- (e) Promoting high quality architectural design within ACAs.
- (f) Seek the repair and re-use of traditional shopfronts and where appropriate, encourage new shopfronts of a high quality architectural design.
- (g) Ensure all new signage, lighting advertising and utilities to buildings within ACAs are designed, constructed and located in such a manner they do not detract from the character of the ACA.
- (h) Protect and enhance the character and quality of the public realm within ACAs. All projects which involve works within the public realm of an ACA shall undertake a character assessment of the said area which will inform a sensitive and appropriate approach to any proposed project in terms of design and material specifications. All projects shall provide for the use of suitably qualified conservation architects/designers.
- (i) Protect and enhance the character of the ACA and the open spaces contained therein. This shall be achieved through the careful and considered strategic management of all signage, lighting, utilities, art works/pieces/paintings, facilities etc to protect the integrity and quality of the structures and spaces within each ACA.
- (j) Ensure the protection and reuse of historic street finishes, furniture and features which contribute to the character of the ACA.

Objectives HE 16-20: Historic Landscapes

- a) Recognise the contribution and importance of historic landscapes and their contribution to the appearance of the countryside, their significance as archaeological, architectural, historical and ecological resources.
- b) Protect the archaeological, architectural, historic and cultural element of the historic/heritage landscapes of the County of Cork.

c) All new development within historic landscapes should be assessed in accordance with and giving due regard to Cork County Councils 'Guidance Notes for the Appraisal of Historic Gardens, Demesnes, Estates and their Settings' or any other relevant guidance notes or documents issued during the lifetime of the Plan.

Objective HE 16-21: Design and Landscaping of New Buildings

- a) Encourage new buildings that respect the character, pattern and tradition of existing places, materials and built forms and that fit appropriately into the landscape.
- b) Promote sustainable approaches to housing development by encouraging new building projects to be energy efficient in their design and layout.
- c) Foster an innovative approach to design that acknowledges the diversity of suitable design solutions in most cases, safeguards the potential for exceptional innovative design in appropriate locations and promotes the added economic, amenity and environmental value of good design.
- d) Require the appropriate landscaping and screen planting of proposed developments by using predominantly indigenous/local species and groupings and protecting existing hedgerows and historic boundaries in rural areas. Protection of historical/commemorative trees will also be provided for.

GI 14-10: Draft Landscape Strategy

Ensure that the management of development throughout the County will have regard for the value of the landscape, its character, distinctiveness and sensitivity as recognised in the Cork County Draft Landscape Strategy and its recommendations, in order to minimize the visual and environmental impact of development, particularly in areas designated as High Value Landscapes where higher development standards (layout, design, landscaping, materials used) will be required.

5.4. Natural Heritage Designations

pNHA - Douglas River Estuary and Cork Harbour Special Protection Area (Site Code 004030) are located approximately 1.4km north of the site.

Special Area of Conservation: Great Island Channel (Site Code 001058) and pNHA – Great Island Channel are located approximately 1.5km northeast of the site.

6.0 EIA Screening

- 6.1. Having regard to the nature and scale of the proposed development, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.
- 6.2. Refer to Appendix 1- Form 1 (EIA Pre-Screening) and Form 2 (EIA Preliminary Examination) attached to this Report.

7.0 The Appeal

7.1. Grounds of Appeal

This is a First Party appeal by Karl Shane Diskin and the grounds of appeal, as raised in the submission can be summarised as follows:

- It is submitted that the PA appeared to have ignored the work undertaken to date with the applicant, referencing the AHIA report carried out on site. The report concluded that the development will have a positive visual impact on the streetscape and maintain a positive contribution to the surrounding ACA.
- It is stated that the applicant is willing to alter the design to specify a rendered finish to the development, to omit one ground floor unit in block 2 and replace with a bin storage area. The projecting oriel windows on the first floor of block 1 are to be replaced with portrait-orientated windows and the roofs to be in slate finish. Revised drawings reflecting these changes have been submitted as part of the appeal.
- The applicant believes that the development meets the guidelines on Sustainable Residential Development in Urban Areas and that the Planning Authority's interpretation is incorrect. The applicant further highlights that there is support for the development in Article 2.3 of the guidelines that relates to the sequential approach to developing lands in an urban area.

- The applicant also references other sections of the guidelines and highlights how the development proposed complies with them. The applicant states that the site meets the definition of brownfield lands having regard to the site size and its proximity to public transport corridors.
- The applicant also refers to the Sustainable Urban Housing – Design Standards for New Apartment guidelines and submits that the proposed development meets and surpasses all the specific planning policy requirements (SPPRs) in the document.
- The applicant refers to Objective HE 16-21 of the Development Plan and submits that the development is in keeping with the built context in the area, promotes sustainable approaches to housing development, fosters an innovative approach to design and using predominantly local species for landscaping.
- The applicant states that the PA is ignoring strategic national policy objectives and its own county planning policy in arriving at its decision to refuse permission.
- The applicant stresses that heavy construction traffic was not going to be brought to site via Bayview in the application and the site frontage on Beach Road is the more likely location for heavy construction traffic. The applicant also refers to other developments permitted by the PA which have brought in all their construction traffic via Bayview and that the PA should show consistency. The applicant is willing to accept a condition limiting all heavy vehicles to Beach Road entrance only.
- It is submitted that the development does not intend to interfere with the parking arrangements outside the Dock Cottages (Bayview). The development proposes six off-street parking spaces and it will not impinge on the width nor will it obstruct vehicle movements on Bayview.
- The applicant draws An Bord Pleanála's attention to Section 12.6 of the Development Plan entitled Transport Demand Management – Liveable Towns. It is submitted that the development proposed has been designed to align with the 10-minute town concept. The provision of reduced car parking

spaces of six complies with the County Development and the PA decision to refuse permission on the basis of inadequate off-street parking facilities is wrong.

- It is stated that the applicant is the registered owner of the tunnel and states that the council's guidelines on making planning applications did not require applicants to supply a fully resolved set of construction drawings. The applicant submitted a structural report and is of the view that by taking the recommendations of the report, the development can be constructed without affecting the stability and long-term use of the tunnel. The applicant is willing to carry out geotechnical studies but needs the assurance of a successful grant of permission.
- It is stated that the PA ignored the endorsement of qualified and experienced consultant civil and structural engineers on the development around the tunnel.
- The applicant questions the PA's definition of 'curtilage and attendant grounds' and refers to Sections 13.1 and 13.2.1 of the Department of the Environment, Heritage and Local Government's Architectural Heritage Protection Guidelines for Planning Authorities that offer a take on determining the curtilage of a protected structure.
- The applicant argues that the only ground that should be considered curtilage or attendant grounds of the tunnel is the ground immediately in front of the mouths of the tunnel and it is submitted that the PA did not apply the same consideration when it granted neighbouring permission.
- The applicant also notes Section 13.2.5 of the Architectural Heritage Protection Guidelines which relates to guiding the PA about what it wants to protect and to use other legislative powers such as ACAs to protect them rather than trying to stretch the definition of curtilage beyond its true meaning.
- The applicant submits that the development can be conditioned to monitor the tunnel and nearby protected structures throughout the construction phase.

- It is stated that the development respects the character, pattern and tradition of the area by following established building lines, heights, orientation and urban grain. The applicant contends the overlooking issues raised by the PA and states that the proposal achieves offset distances between opposing windows of between 18.5 – 20.5 meters.
- The applicant refers to Article 6.10 of the Heritage Protection Guidelines which relates to the recommended 22m separation distance and the flexibility of providing this distance within infill developments. The applicant expresses willingness to remove the projecting oriel windows which may allay concerns of overlooking.
- The applicant submits that the Housing Quality Assessment schedule provided demonstrates that the proposal complies with the PA amenity standards.
- The applicant notes Articles 3.39 and 4.12 of the 2022 Design Standards for New Apartments that state that for infill schemes of site up to 0.25Ha, private and communal amenity space requirements may be relaxed in part or whole. The applicant states that the PA is not demonstrating the innovation and flexibility essential in interpreting these standards.

7.2. Planning Authority Response

The Planning Authority (PA) notes the appeal and requests that the Board support their decision to refuse permission for the development as proposed. The PA highlights the zoning objective of the site and states that increased densities are encouraged within the settlement network and in particular areas within high quality public transport corridors and sites adjoining town centre zoning subject to appropriate standards. The PA submits it had considered and balanced these matters in a detailed assessment of the planning application.

The PA states that two pre-planning consultation meetings were held under the provisions of Section 247 of the Planning and Development Act (as amended). That the PA meeting note issued to the applicant in respect of the first meeting stated that the PA were not convinced that the proposal would accord with the zoning objective of the site. It is stated that the applicant submitted a revised proposal at the second

consultation meeting and the PA in their meeting note raised significant issues with the development.

In the interest of clarity, the PA confirms that the consultation concluded as a result of the initial concerns which had not been addressed as opposed to the development being considered acceptable.

7.3. Observations

19 submissions were received from the following observers:

Ozren Colovic, Ellen Miller, Eoghan Fahy, John O'Connor, Dock Cottage Residents, Ann Harding, Padraig Spillane, Marcia D'Alton, Seamus McGrath, Deirdre Maxwell, Joe Malone, Bernard McCarthy, Paul Kearney, Dáithí Ó Scannláin, Grainne Crowley, Residents of Marina View, Bayview Core Committee, June O'Sullivan and Gavin O'Connor, Josephine and Sean O'Connor.

The issues are summarised as follows:

- The appellant erroneously refers to the site as a brownfield site and it is submitted there hasn't been a structure on the site.
- It is submitted that the development of the site is welcomed but should be in the right shape and form. The development bears no resemblance to the surrounding properties.
- Having regard to the physical and topographical constraints of the site, it is submitted that the proposed development risks damaging protected structures on Marina View. It is submitted that the houses of Marina View were built in the 1800's and concerns are raised about constant vibrations from heavy vehicles accessing Bayview Road undermining the houses.
- There are concerns regarding land stability. It is submitted that the bedrock on which Passage West sits is Old Red Sandstone and there are fears of landslides which are said to have occurred in recent times in Glenbrook and Monkstown.
- There are safety and security concerns regarding the applicant's proposal to provide a cycle lane as well as pedestrian access on Marina View.

- The appellant does not reference the impact of construction traffic on Beach Road. It is submitted that the area does not have nor is it expected to have a high frequency bus corridor. It is stated that the area does not have the additional capacity to accommodate parking that will be generated by the development.
- The development does not take into account the construction impact on the area. The access points via Bayview and Beach Road are not adequate for the proposed development due to road access, traffic and family life in the area.
- It is submitted that, while vehicular access is not proposed via Marina View, there are concerns that the road cannot cope with a higher volume of traffic from the additional pedestrian or cycling activity proposed.
- It is submitted that the proposal is a “car-lite” development but Passage West does not have the infrastructure to support a “car-lite” lifestyle. It is stated that there is poor bus service for the area. A “car-lite” development in an area that lacks amenities, inadequate footpaths, narrow roads and a dangerous bus stop is not currently ideal or safe.
- There are no indications on the drawings where bin storage will be located. There are existing infrastructural issues at Bayview regarding bin collection, deliveries and emergency services due to its narrowness.
- The proposed access point at Beach Road has to be carefully reviewed and that as a result of construction activity on the site. There will be obstruction of traffic. The developer omits to explain how the excavation works required will be carried out.
- The development with its restricted allocated parking will add parking issues to the area and there is inadequate detail in the application regarding access by emergency services to the development.
- It is stated that the Council owns the tunnel and submits that detailed engineering analysis is warranted ahead of the planning process. The submission notes the development of a greenway of which the tunnel is expected to be a major feature.

- The developer has made no effort to demonstrate how the construction of the houses would not impact the railway tunnel structure. Regarding the MMOS engineering report, it is submitted that there is no guarantee that the applicant will retain their services for the project.
- The homes on Dock Cottages (Bayview) are a social housing scheme for elderly members of the community and there are concerns regarding the potential adverse effects of additional vehicles from the development using the road.
- The development will overlook the houses on Beach Road and if a shadow and light analysis had been completed, it would have supported this view.
- The proposed development is inappropriate and will not enhance the site and surrounding environs. The development would pose serious risk to the structural integrity of the protected railway tunnel and the steeply sloping land surrounding the site.
- The development in its design concept is not solving issues for the town centre but adding to its problems. The proposed building on Beach Road will cause shadowing, reduced light and privacy issues. The proposal is large and not in keeping with the existing pattern of development in the area.
- There are concerns about the amount of HGV movements on what is considered a narrow road with homes directly accessing onto the street.
- It must be noted that the applicant has not demonstrated legal right to access the road along Dock Cottages (Bayview).

8.0 **Assessment**

8.1. 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 local authority, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development

- Design, Scale, Massing, Finish and Landscape
- Density
- Access and Traffic
- Impact on the Protected Railway Tunnel
- Impact on adjoining Residential Amenity
- Proposed Residential Amenity
- Material Contravention
- Other Matters

8.2. Principle of Development

- 8.2.1. The Cork County Development Plan 2022-2028 zones the site “Existing residential/mixed residential and other uses” and states that development will be considered where they are appropriate to the character and pattern of development in the area and does not significantly affect the amenities of surrounding properties.
- 8.2.2. The proposal is an infill housing development and consists of the construction of 11 residential units in the built-up area of Passage West. I note that the Development Plan supports infill developments and seeks to make the most sustainable use of existing urban land within the envelope of a settlement.
- 8.2.3. In terms of national policy, the National Planning Framework (NPF) targets a significant proportion of future urban development on infill/brownfield development sites within the built footprint of existing urban areas. I refer the Board to NPO 11, which states that “In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth”.
- 8.2.4. In addition, the Board is referred to Regional Spatial and Economic Strategy (RSES) for the Southern Region, which seeks to maximise infill developments to achieve compact growth. I note RPO 151b which states that “Residential development will be carried out sequentially, whereby lands which are, or will be, most accessible by

walking, cycling and public transport– including infill and brownfield sites –are prioritised”.

- 8.2.5. The site is suitably zoned for a residential development and I note that the PA did not have any issue regarding the development of the site for housing. Having regard to the above, I consider that a housing development on the site is an appropriate use of the urban land.

8.3. **Design, Scale, Massing, Finish and Landscape**

- 8.3.1. The PA's first reason for refusal considered that, having regard to the context and characteristics of the site, the proposed development by virtue of its layout, design, scale, massing and finish will not respect the character, pattern and tradition of the surrounding site. The PA considered that the development would have a detrimental impact on the adjoining ACA, the railway tunnel and the setting and visual amenity of nearby RPS and NIAH buildings.

The PA considered that the proposed development will not provide an appropriate response to the elevated hillside location in Passage West, adjacent to ACA, within an area of high value landscape and affording extensive views over the wider urban and coastal landscape of Cork harbour.

The PA considered that the proposed development materially contravenes objectives PL 3-3 and HE 16-21 of the Development Plan. These objectives are set out in full in Section 5.3 above and are outlined in brief as follows:

PL3-3 – Ensure that future development proposals create high quality and inclusive places.

HE16-21 – Encourage new buildings to fit appropriately into site context, encourage energy efficiency in design, promote innovative design and provide appropriate landscaping.

Design, Scale, Massing and Finish

- 8.3.2. The PA considered that the proposal did not provide an acceptable contribution to placemaking and did not respond appropriately to the site's context. The applicant in their appeal argues against this refusal reason and submits that the development makes a positive contribution to its surroundings and has a positive visual impact on the streetscape.

- 8.3.3. I note that the applicant as part of the appeal, submitted a revised design for the development. The revision includes the omission of a ground floor unit in block 2 and the replacement of the same with a bin storage area. The projecting oriel windows on the first floor of block 1 are replaced with portrait-orientated windows. The external finishes have also been revised to a rendered finish and the roofs will now be in slate finish.
- 8.3.4. Chapter 3 of the Development Plan sets out policies and objectives relating to settlements and placemaking and Objective PL 3-3 of the plan that states *inter alia* the “Plan will implement and promote a series of aims outlined in the Guidelines on Sustainable Residential Development in Urban Areas and accompanying Urban Design Manual and the Design Standards for New Apartments”.
- 8.3.5. In relation to the proposed design, I refer to the Design Standards for New Apartment Guidelines (2022) which provide for the minimum design standards for floor areas, apartment mix, dual aspect ratios and floor to ceiling heights. I have reviewed the drawings submitted and I have no objections to the development in relation to their compliance with the guidelines. However, I have concerns about the external design and scale of the development and how it responds to the site context.
- 8.3.6. The applicant submitted a design statement prepared by Karl Shane Diskin Architecture & Urban Design. The statement asserts that the design of the development is laid out in two buildings. Block 1 in the centre of the site is arranged as a terrace of six houses facing east/west that conforms to the established grain and local building typology. Block 2 infills the site on Beach Road. The two buildings are setback from the subterranean tunnel and are 2-3 storeys high. Both buildings initially featured timber-clad pitched roof units on their top floors and set back from the parapet edge.
- 8.3.7. Chapter 16 of the Development Plan refers to Built & Cultural Heritage and I acknowledge Objective HE 16-21a, which seeks to ensure new developments fit appropriately into existing landscapes. As the site is bounded by Passage West Architectural Conservation Area (ACA), I also note the PA’s Conservation Architect report which states that “The ACA is characterised by terraces of classically proportioned Victorian housing terraces interspersed with larger homes. The linear

emphasis is enhanced by terrace walls and interconnecting narrow roads. The typical material pallet is comprised of smooth or lined and ruled rendered walls, classically proportioned rectangular window openings with a vertical emphasis, slate roofs, gabled roof forms, with gabled dormer windows fairly common”.

- 8.3.8. In terms of the external design of the development, Block 1 is articulated in a north south direction and is three storeys in height with a setback on the second floor. The front of the building block is characterised by full height glazing on the ground floor and second floor. The first floor is revised with portrait-orientated windows and with projecting oriel windows at the corners. Having regard to the classical single/two storey houses existing in the area particularly at Bayview and Marina View, I am of the view that Block 1 is not in keeping with the existing Victorian architectural style in the area. It is also proposed to provide a pedestrian stairway that circulates from the sides of Block 1 to its rear and connects with Bayview. I consider that the layout of this walkway adds to the bulkiness of the building and as such detracts from the character of the area.
- 8.3.9. In relation to Block 2 on Beach Road, the proposed building is two storeys high and is configured to face south and the rear of the building north facing. The units will be accessed off Beach Road and the private open spaces of two ground floor units will face the gable wall of the adjoining property at 3 Maulbaun Terrace, Beach Road. This is a significant departure from the pattern of development along Beach Road as I consider one of the unique characteristics of the area to be the relationship properties have with the public road. On visiting the site, I also observed that the existing properties on the west side of Beach Road exhibit similar fenestration in terms of arrangement, size and profile. The revised design submitted by the applicant for Block 2 presents a fenestration similar to the existing houses on the first floor and note that the proportion of the proposed ground floor window is larger and out of place.
- 8.3.10. Regarding the proposed changes to the external finishes of the blocks submitted as part of the appeal, I consider that the proposed render finish and slate roof profile will be in keeping with the existing properties in the area. Notwithstanding the proposed changes to the external finishes of the blocks, I am not satisfied that the proposed development respects the character, pattern and tradition of the existing area and I

consider that the development as proposed detracts from the character and built form of the area.

Landscape

- 8.3.11. The appeal site is in a high value landscape and Passage West is a steep linear settlement with views of Lough Mahon and the estuary towards Great Island. The area is designated an ACA with the site just outside of the ACA. There are also buildings included in the NIAH within close proximity of the site. I consider that the proposed development should adequately respond to the existing landscape and context of the area.
- 8.3.12. The topography of the site rises from Beach Road and I note that the applicant submitted an Architectural Heritage Impact Assessment (AHIA) prepared by Alison McQueen and Associates Ltd. The report splits the site into three levels, defined by the natural and manmade contours on the site. The lower tier is on Beach Road, the central plateau located just below Marina View and the upper tier that rises sharply and closely aligned with Bayview. At the street level of the site at Beach Road, the site has an immediate view into the upper elevation of Docks/Strand Street. The central plateau area is afforded the view of the rear roofscape of Docks/Strand Street and rear of properties on Beach Road. There is a narrow view of the harbour at Penny's Wharf. The upper tier of the site overlooks the roofscape of the town toward the former Victoria Dock Yard, with views over the properties on Beach Road, the Marina (former Penny Wharf), views of Cork Harbour and a backdrop of Marino Point and Great Island. In this regard, I consider that the proposed development will be visible from the marina and from the wider area across from River Lee.
- 8.3.13. There is also a subterranean disused railway tunnel within the site. This tunnel is protected under the provisions of the Cork County Development Plan. The AHIA report stated that the tunnel is approximately 80m in length. There are no upstanding buildings or structures visible within the site. A vague outline of the eastern side of the tunnel is reported to be traceable on closer inspection of the topography across the central plateau. The impact of the development proposed on the railway tunnel is discussed in Section 8.6 of this report.
- 8.3.14. The AHIA concluded that the proposed development will have a neutral impact on the railway tunnel and the streetscape. It is stated that the development proposed

will maintain a positive contribution to the surrounding ACA and have a positive visual impact upon the surrounding architectural environment. I do not accept this assertion for the reason below.

- 8.3.15. Having regard to the topography of the site discussed above, I consider that the development would be visible from Docks/Strand Street and the wider coastal area. Block 1 will appear to stand alone on the hillside with a stairway to the sides and rear. Block 1 will also read as bulky and this is emphasised by the 1.7m setback from the hillside to facilitate the stairway to its rear. I also note that, in trying to knit the development into the landscape, there will be a few exposed solid walls around the site. I consider that this will also add to the visual weight of the development. Regarding Block 2, the depth of the building extends a further c.12m from the rear wall of the existing property to the north on Beach Road (3 Maulbaun Terrace, Beach Road) and also appears to be bulky. Therefore, I am of the view that the proposed development is incongruous with the pattern of development in the area and will not have a neutral impact on the setting of the area. Having regard to the topography of the area, I consider that the proposed development will visually impact on the setting of this high value landscape area.
- 8.3.16. In conclusion, I consider that there is scope for some development on the site. However, I consider that the proposed development does not provide an appropriate form of development on the site and would not provide an acceptable contribution to place-making. Having regard to the context, topography and setting of the site, I consider that the development proposed will visually impact on the high value landscape of the area. Accordingly, the proposed development would conflict with objectives **PL 3-3** and **HE 16-21** of the Cork County Development Plan.
- 8.3.17. In terms of materially contravening the Development Plan, I do not consider that the development materially contravenes objectives **PL 3-3** and **HE 16-21** because the said objectives provide for general guidance on place-making and an approach to ensuring a high quality development. The objectives don't offer any specificity that could warrant the PA to use the term "materially contravene".

8.4. Density

- 8.4.1. The density of the proposed development is 47.82 units per ha, and I note Table 4.1 of the Development Plan, which identifies Passage West/Glenbrook/Monkstown as a

town with proposed high quality public transport corridor potential and indicates a high density of 50 units/ha+. I also note Section 3.3.6(c) of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities that states that “In the case of very small infill sites that are not of sufficient scale to define their own character and density, the need to respond to the scale and form of surrounding development, to protect the amenities of surrounding properties and to protect biodiversity may take precedence over the densities set out in this Chapter”. Section 3.4 of the guidelines provides two steps to refine density in an area by first considering the centrality and accessibility to services and public transport, and secondly considering the character, amenity and natural environment.

8.4.2. In terms of accessibility, the site is immediately outside the town centre area of Passage West. The existing bus services are about 5-10 minutes’ walk from the site. A Bus Connect service is planned for Passage west and I refer to the PO’s report stating that the existing bus service routes “will be replaced by the 12 route from Carrigaline PCC – Passage West – Kent Station would have a frequency of 30 min (Mon-Sun) with a 15 minute frequency at weekday peaks. With the 45 route from Douglas to Ringaskiddy having a frequency of 60 min (Mon-Sun). Based on the level of public transport the Passage West would be an ‘Intermediate Location’ verging on ‘Peripheral’ level of service provision despite it’s location”. Having regard to the existing and planned public transport for the area, I am of the view that there is scope for increased density on the site subject to the protection of amenity and established character. Therefore, in considering the density for the site, I will have regard to the receiving environment.

8.4.3. The character of the area is of built heritage and the second consideration for refining density in the compact settlement guidelines relates to the character, amenity and natural environment of the site. I note that the Development Plan also supports increased density subject to adherence to residential amenity standards and avoiding any undue impacts on the established character of an area. I also note Section 3.4.2 of the compact settlement guidelines that states that “.....it is also necessary to ensure that the quantum and scale of development at all locations can integrate successfully into the receiving environment. New development should respond to the receiving environment in a positive way and should not result in a significant negative impact on character (including historic character), amenity or the

natural environment". Having regard to the topography of the site, I consider that the design, scale and mass of the proposed blocks are out of character with the existing developments in the area. I refer the Board to my conclusion in Section 8.3.17 above. I am of the view that the proposed development has not adequately considered the receiving environment. Therefore, notwithstanding the Development Plan's aim to support increased densities, I consider that the density proposed is excessive.

8.5. Access and Traffic

- 8.5.1. The second PA reason for refusal is on the basis of inadequate off-road parking facilities. The narrow road width of Bayview does not have the capacity to accommodate construction traffic and the traffic movements generated by the development would interfere with the free flow of traffic on Bayview. The development has also failed to demonstrate adequate infrastructure for emergency vehicles and provided for insufficient car parking spaces.

Car Parking

- 8.5.2. The applicant proposes 6 parking spaces for the development and refers to Section 12.6 of the Development Plan that relates to liveable towns and the 10-minute town concept. It is the strategy of the Council to realise the 10-minute town concept and ensure there is an increased sustainable transport mode share that will result in improved air quality in towns as well as quieter and safer environment. I refer the Board to Table 12.6 Car parking requirements for new residential developments in the Plan that requires a maximum of 1.25 spaces per unit. Therefore, the maximum spaces for the development will be c.13. The omission of one unit as per the revised drawings at appeal stage has been considered. I also note point 2 of Table 12.6 stating "A reduced car parking provision may be acceptable where the planning authority are satisfied that good public transport links are already available or planned and/or a Transport Mobility Plan for the development demonstrates that a high percentage of modal shift in favour of the sustainable modes will be achieved through the development". The appellant asserts that the 6 spaces proposed are consistent with the Development Plan.
- 8.5.3. SPPR 3 (iii) of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) states that "In intermediate and peripheral

locations, defined in Chapter 3 (Table 3.8) the maximum rate of car parking provision for residential development, where such provision is justified to the satisfaction of the planning authority, shall be 2 no. spaces per dwelling. Therefore, the maximum level of car parking provision for the development would be 20 spaces.

- 8.5.4. Having regard to the location of the site being in a built-up area, its proximity to the town centre and the planned public transport service for the area, in normal circumstances a reduction in car parking spaces for the site would be reasonable. Having visited the site, I observed that there are parking challenges in the area resulting in cars being parked on footpaths and roads. This is more evident along the narrow roads of Bayview and Marina View. This could impact the flow of traffic in the area. I note that there are several observations received, raising concerns about the “car-lite” nature of the development and the parking challenges the area is experiencing. It is stated that the area is not ready for such development type. I also note the PO’s report reiterating the challenges facing parking in the area and states that “the application has not adequately provided an adequate justification for the number of car parking spaces proposed”. The applicant has not provided a mobility plan to justify the 6 spaces proposed to serve the development.
- 8.5.5. Upon site visit, I observed that the closest bus stop is 5-10 minutes’ walk from the site and as stated earlier, the bus service runs every 30mins. I also observed that there are limited public spaces to park or store cars in the area. During site inspection and from the drawings submitted, it appears that there are 2 on-street parking spaces existing to the front of the site on Beach Road. The applicant has not considered these spaces as part of the development and I can only assume that these 2 parking spaces are associated with neighbouring properties at Maulbaun Terrace. I note that the PA did not raise any issue in this regard.
- 8.5.6. Passage West is car dependant and I note from the Development Plan that 72.6% of commuters in Passage West use private cars to work and the Council is seeking to reduce this to 60% within the lifetime of the plan. The Development Plan also seeks to improve the sustainable mode of transport infrastructure in the area. The Council has identified improving the greenway network in the area and supporting the Bus Connect service for Passage West. The timeline for the delivery of these projects is still some time away. I also note that Passage West has a higher percentage ratio of older people and is one of the eight towns in Cork County that holds an Age Friendly

status. Therefore, while the provision of 6 spaces is a reduction in car parking spaces in line with the compact guidelines, I am of the opinion that the proposed quantum is not adequate. I am of the view that adequate car parking spaces are required in order not to increase the volume of cars that will be parked on footpaths and roads. Having regard to the parking issues in the area, I agree with the PA and observers that the provision of 6 car parking space to serve 10 residential units will further exacerbate the car parking challenges in the area. I am therefore of the view that the parking levels for the development should be moderately higher than the 6 spaces proposed and be justified in a Transport Mobility Plan.

- 8.5.7. In conclusion, having regard to the existing and planned public transport service for the area together with its parking challenges, I consider that more car spaces are needed to serve the proposed development at this time.

Construction Traffic

- 8.5.8. Regarding construction traffic for the development, the PA is of the opinion that construction traffic would require the utilisation of the existing road network through Bayview. The PA had concerns regarding the narrow road width of Bayview for construction traffic and refused permission on that basis. Observations received with the appeal also raise concerns about construction traffic in the area and the impact it will have on access to existing properties. The applicant in their appeal has stressed that heavy construction traffic was not going to be brought on site via Bayview and is more likely to be from Beach Road. From visiting the site, I noticed the narrow roads of Bayview and Marina View. Beach Road on the other hand has a width of c. 6m starting off narrow from Church Hill and then becoming wider as you travel through and then narrows again as it exits onto R610. There is a higher percentage of elderly people living in the area and having observed several cars being parked on the footpath along these roads, I agree that it would be very difficult for construction traffic to access the site from Bayview.
- 8.5.9. Having regard to the historical nature of the properties in the area being in an ACA and the steep nature of the site, I also agree with the concerns of the observers that heavy construction traffic along Bayview could have an impact on the stability of the houses within the vicinity. The applicant in their appeal has stated that in the event of

a grant, they are willing to monitor nearby protected structures throughout the construction phase to ensure that they are protected during construction.

- 8.5.10. The applicant's suggestion to use Beach Road for construction traffic is noted and upon site visit, I consider that there is some scope for Beach Road to carry construction traffic. I am of the view that, with a detailed management plan, construction traffic for the site can be accommodated on Beach Road. Based on the documentation submitted with the PA or with the appeal, there is no information on construction management for the development. I therefore consider that any development to be carried out on the site should be supported by a comprehensive Construction Environmental Management Plan.

Access for Emergency Vehicles

- 8.5.11. Regarding access for emergency vehicles, the application notes Table 5.1 (revised Table 24) of the Technical Guidance Document B – Fire Safety and states that the proposed blocks fall under the first category. The first category states that buildings of less than 7,000m³ internal volume with top storeys of up to 11m above ground level must provide vehicle access at a rate of 2.4m in length for every 90m² ground floor level. The applicant submits that the proposed blocks meet the criteria. Having reviewed the drawings, I agree that the buildings proposed meet the requirement based on the building frontage available on Bayview and Beach Road. I am satisfied that the development proposed would have access for emergency vehicles.

8.6. Impact on the Protected Railway Tunnel

- 8.6.1. The PA's third reason for refusal is on the basis that the applicant did not demonstrate that the development would not impact on the structural stability of the tunnel. Therefore, the PA determined that the development would materially contravene objectives **HE 16-14**, **HE 16-15** and **HE 16-20** of the Cork County Development Plan. These objectives are set out in full in Section 5.3 above and are outlined in brief as follows:

HE 16-14 – Ensure protection to all protected structures, the curtilage and attendant grounds. To also promote best conservation practice.

HE 16-15 – Protect structures included in the NIAH for the County.

HE 16-20 – To protect archaeological, architectural, historic and cultural landscapes in the County. To recognise their contribution and importance.

8.6.2. The applicant has submitted in their appeal that they own the tunnel while observations received have stated that Cork County Council owns it. The applicant has not submitted any legal evidence to support their claim and I note that the PA did not raise this issue during the application process. This is a matter to be resolved between the relevant parties, the applicant and the third party in this instance Cork County Council, having regard to the provisions of S.34(13) of the 2000 Planning and Development Act.

8.6.3. The first party appeal questions the PA's definition of curtilage and attendant grounds and argues that the only ground that should be considered curtilage or attendant grounds of the tunnel is the area immediately in front of the mouths of the tunnel. Of note are Sections 13.1.1 and 13.2.1 of the Architectural Heritage Protection Guidelines for Planning Authorities which state the following:

“By definition, a protected structure includes the land lying within the curtilage of the protected structure and other structures within that curtilage and their interiors. The notion of curtilage is not defined by legislation, but for the purposes of these guidelines it can be taken to be the parcel of land immediately associated with that structure and which is (or was) in use for the purposes of the structure. It should be noted that the meaning of ‘curtilage’ is influenced by other legal considerations besides protection of the architectural heritage and may be revised in accordance with emerging case law” and

“The attendant grounds of a structure are lands outside the curtilage of the structure but which are associated with the structure and are intrinsic to its function, setting and/or appreciation. In many cases, the attendant grounds will incorporate a designed landscape deliberately laid out to complement the design of the building or to assist in its function. For example, the attendant grounds to a mill building will include, where these survive, the mill-race, mill-pond, the tail-race, flumes, sluice-gates, and any related weirs and dams. Flax-mills may have had drying greens. The attendant grounds of a country house could include the entire demesne, or pleasure grounds, and any structures or features within it such as follies, plantations, earthworks, lakes and the like”.

- 8.6.4. The development proposed is on land directly above the tunnel. The applicant argues that the tunnel has no presence on or interaction with the site and therefore no association with the site. I disagree with this assertion and having regard to the guidelines, I consider the development to be within the curtilage of the railway tunnel. I also do not agree with the applicant's assertion that the PA stretched the definition of curtilage in this instance.
- 8.6.5. The AHIA report submitted states that the tunnel associated with the site was built by a process called 'cut and cover'. Which means a trench was cut or dug out, an arch was built at the location and the arch was subsequently covered over with the excavated material. A large shaft was constructed in the tunnel to allow for the exit of smoke and steam. Pedestrian niches (H 2m; Wth 1m) were incorporated into the tunnel walls along its length to allow a person who may find themselves trapped inside when a train was coming to step into the cavity. The report stated that the northern portal (entry/exit) was formed by an elliptical arch of red brick set on end and arranged 4 bricks high. The opening has been sealed with concrete block and the façade painted with a mural in commemoration of a steam locomotive that operated on Cork-Blackrock & Passage Railway (CBPR) from 1850-1932. The report relied on the condition report (Daly 2015, 1-6) carried out as part of a planning application for residential development (Maulbaun Terrace) in 2015 to conclude that the tunnel is in excellent condition. Having reviewed the report, I consider that the AHIA should have been informed by an updated condition report. Accordingly, I am of the view that an updated AHIA report is necessary.
- 8.6.6. Above ground, Block 1 is setback from the tunnel by approximately 2.1m and Block 2 by approximately 2.5m and I note that the preferred construction methodology is by piled foundations. I have reviewed the structural suitability report submitted and I am of the view that there is limited information on the baseline conditions of the site. No information is provided detailing the existing ground conditions and how the proposed construction methodology would be deployed on the site. I note that the PA has concerns in this regard and I refer the Board to the Area Engineer's report that states "the minimal Structural Stability Report which is based on supposition and not on the existing ground conditions" and that "no intrusive site investigation has been carried out and the proposal to pile either side of the existing protected structure is aspirational and not based on any extensive site investigation of the

ground surrounding the tunnel – internal examination and submission of AHIA are noted but do not address any engineering issues. No design calculations have been submitted in relation to proposed piling, methods, types etc nor calculations for any retaining structures”.

- 8.6.7. I note that the applicant in their design statement referenced other sites within the area that have carried out developments close to the protected railway tunnel. Notwithstanding this, there is no detailed information regarding the site conditions submitted to adequately assess any impact on the tunnel. Furthermore, the AHIA report relied upon the condition report carried out approximately 10 years ago.
- 8.6.8. Given the above concern about the lack of information on site conditions, I am not satisfied that the proposed development will not impact on the railway tunnel protected under the provisions of the Cork County Development Plan. And as such the development would conflict with objectives **HE 16-14**, **HE 16-15** and **HE 16-20** of the Cork County Development Plan.
- 8.6.9. Again, in terms of materially contravening the Development Plan, I do not consider that the development materially contravenes objectives **HE 16-14**, **HE 16-15** and **HE 16-20** because the objectives provide general statements and approaches to ensuring the protection of the built heritage in the County. The objectives don't offer any specificity that could warrant the PA to use the term “materially contravene”.

8.7. Impact on adjoining Residential Amenity

- 8.7.1. The PA fourth reason for refusal is based on the consideration that the proposed development would seriously injure the amenities of properties in the vicinity.
- 8.7.2. Section 3.5.15 of the Development Plan states that the planning authority will encourage the development of infill housing on suitable sites, subject to adherence to residential amenity standards and avoiding any undue impacts on the established character of an area.

Overlooking/Privacy

- 8.7.3. The applicant submits that the proposed development complies with the PA's amenity standards and states that the development achieves offset distances between opposing windows.

- 8.7.4. I note SPPR1 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) which states that “It is a specific planning policy requirement of these Guidelines that statutory development plans shall not include an objective in respect of minimum separation distances that exceed 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units or apartment units above ground floor level. When considering a planning application for residential development, a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units above ground floor level shall be maintained. Separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces”. I have reviewed the drawings and I have concerns that there will be overlooking of existing properties in the area
- 8.7.5. Having regard to the topography of the site, I am of the view that Block 1 will lead to overlooking issues that will impact on the existing houses along Beach Road. I note the third section of SPPR1 which states that “In all cases, the obligation will be on the project proposer to demonstrate to the satisfaction of the planning authority or An Bord Pleanála that residents will enjoy a high standard of amenity and that the proposed development will not have a significant negative impact on the amenity of occupiers of existing residential properties”. While the minimum separation distance provided from Block 1 to the existing properties on Beach Road is 18.5m, there is a steep level difference of c. 4.5m that places Block 1 at the higher level on the site and as such allows the block to directly overlook the houses on Beach Road. I refer the Board to Drawing No. 0027_Section AA of the documents submitted. In addition to the site gradient, Block 1 has more openings on the east elevation than solid wall and the perception of overlooking is exacerbated by the first floor oriel windows. The applicant in the appeal has proposed to omit these oriel windows to allay concerns of overlooking. Notwithstanding the applicant’s proposal to remove the projecting oriel windows, I am of the view that Block 1 will overlook the properties on Beach Road that will lead to privacy issues and will have a negative impact on the amenities of the existing properties in the area.

- 8.7.6. Block 2 is placed in between two properties and I also note that the private amenity space for the proposed 3-bedroom unit is located on the first floor. I consider that there is potential for overlooking from this amenity space. Given the east - west orientation of the block which I have discussed earlier in the report, the applicant proposes a c.1.5m timber wall to the north of the amenity space to address overlooking. Notwithstanding the proposed screening to the north, this proposed private amenity space for this first-floor unit will directly overlook the houses north and south of Block 2. I am of the opinion that this will also lead to privacy issues and as such impact negatively on the residential amenities of these properties.

Overshadowing

- 8.7.7. Block 1 has a maximum height of 11.5m at ridge level and located on a steep level difference of c.4.5m. Having regard to the elevated location and orientation of Block 1 in relation to the existing houses on Beach Road, I consider that there is potential for overshadowing of the existing rear gardens of these properties. As stated earlier, the depth of Block 2 extends a further c.12m at first floor level from the rear wall of the existing property to the north on Beach Road and the block has a maximum height of c.9m at ridge level to the rear. There is a separation distance of c.1.5m to the north and as such I consider that Block 2 will also potentially overshadow the rear garden of the property on 3 Maulbaun Terrace directly to the north. The applicant has not submitted any sunlight/daylight analysis for the development. I am of the view that such an analysis is required for the development.
- 8.7.8. Having regard to the above, I am of the opinion that the proposed development would seriously injure the residential amenities of properties in the vicinity and as such would be contrary to the proper planning and sustainable development of the area. I consider the proposed development to be excessive and would constitute an overdevelopment of the site.

8.8. Proposed Residential Amenity

- 8.8.1. Further to the fourth reason for refusal, the PA considered that having regard to the building design and inadequate levels of internal natural lighting, the quality of private amenity areas and the location and quality of public open space it has not been demonstrated that the proposed development would provide a high standard of amenity for future residents.

- 8.8.2. I am also of the opinion that the occupiers of the proposed development will not enjoy a high standard of residential amenity for the following reasons.

Privacy

- 8.8.3. The applicant is proposing what appears to be a semi-private/public stairway that wraps to the sides and rear of Block 1. The stairway will have a width of approximately 1.7m and a height of approximately 3m at the rear of Block 1. This building is configured to have the bathrooms to the rear immediately abutting the stairway. I am of the view that, given the semi-private/public nature of the stairway, the public usage of this circulation area would lead to privacy concerns for the occupiers of Block 1.

Quality private open space/Overlooking

- 8.8.4. I note the Green & Blue Infrastructure report prepared by Karl Diskin submitted as part of the application. The proposed public open space for the development is 1,030m² which is 41% of the total area of the site. Due to the sloping ground of the site, the public open spaces provided are mostly allocated to planting and biodiversity-oriented areas rather than open lawn. Private open spaces within the development are provided in the form of amenity spaces and are in surplus of the requirements set out in the Design Standards for New Apartment Guidelines (2022). I have no objections to the quantity of open space proposed.

While the proposed development provides for surplus private open spaces, the orientation of the two buildings allows Block 1 to directly overlook the private open spaces of units 2, 3 (revised to bin storage area) and 4 in Block 2 (counting the units from Beach Road). I refer the Board to submitted drawing no. 0027_Elevation_B2N. Again, Block 2 is configured in a manner that the private open space for the ground floor units 1 & 2 is provided to the north. These amenity spaces face the gable wall of the house to the north (3 Maulbaun Terrace, Beach Road) and as such I am of the view that the occupiers of these units will not enjoy a high quality amenity area. The proposed private open space of unit 3 again faces a high retaining wall and will also be directly overlooked by the proposed semi-private/public stairway. Again, this would impact on the quality of the space. I note that the applicant in the appeal has proposed to omit unit 3 and provide for a bin storage area to allay the concerns of the PA and observers. Finally, the quality of the private open space for the first floor

unit 4 is also of concern. From the drawings submitted there appears to be public access to this private space and given the proximity of Block 1 to unit 4, I am of the opinion that there would be a serious overlooking issue.

Sunlight/Daylight

- 8.8.5. While the design of the internal layout of the development is consistent with the design standards contained in the guidelines for new apartments, I have concerns that block 1 will not enjoy adequate levels of internal natural daylight. The appellant points out that the ground level units in block 1 are all double aspect with a floor to ceiling heights of 2.97m and windows/doors all having glazed sections. Having reviewed the drawings submitted, I note that the upper floors of block 1 are dual aspect and only the corner units on the ground floor are dual aspect. I refer the Board to Drawing No. 0027_Plan_B1_GF Plan. I also note that the kitchen areas in block 1 units are located at least c. 3m away from any window opening and the living room areas on the ground floor level are facing due east. The applicant has not submitted a sunlight/daylight analysis for the development, and I am of the opinion that such an analysis is necessary. In the absence of a daylight/sunlight analysis report, I am not satisfied that the proposed development and in particular Block 1 will be provided with acceptable levels of daylight/sunlight.
- 8.8.6. In conclusion, having regard to the relationship of the proposed blocks and the inadequate information on daylight/sunlight, I consider that the proposed development will not provide an acceptable level of residential amenity for the occupiers of the development. Therefore, I consider the proposal to be contrary to the proper planning and sustainable development of the area.

8.9. Material Contravention

- 8.9.1. I note that two of the Planning Authority's reasons for refusal state that the proposed development materially contravenes Objectives PL 3-3, HE 16-21, HE 16-14, HE 16-15 and HE 16-20 of the Development Plan. These policy objectives refer to a general approach to place-making, protection of structures included in the NIAH/RPS, protection of historic landscapes and encouraging the design of new proposals to respect the existing surrounding character. These objectives are not, in my view, sufficiently specific so as to justify the use of the term "materially contravene" in

terms of normal planning practice. The Board should not, therefore, consider itself constrained by Section 37(2) of the Planning and Development Act.

8.10. Other Matters

8.10.1. Pedestrian/cycle pathway

The applicant is proposing a walking and cycling pathway within the development and to connect to adjoining areas. It is proposed to provide a stepped connection from Beach Road beside block 2 to the side/rear of block 1 and onto Bayview.

A second connection is proposed that includes a cycle route from the development site towards Marina View. I have concerns regarding the feasibility of this pathway. While the connections may add value to the development proposed, Marina View is a narrow road with no footpaths. It is difficult to consider how the proposed connection can link with Marina View. I agree with the observers that there will be safety concerns along Marina View and I note that no road safety audit has been submitted by the applicant. There are also concerns about the uncertainty around the legal interest in the land immediately outside the development site to the north. I am of the view that a joined-up approach is required by the applicant, PA and other stakeholders to examine how a pathway can provide an option of travel for the new and existing residents in the area.

I consider that pedestrian/cycle connections within the area can encourage a modal shift from cars. I acknowledge that Marina Road is restricted in nature and I am of the opinion that the PA can lead on investigating the best route option for such infrastructure in the area.

9.0 AA Screening

- 9.1.1. I have considered the development in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject site is located within the built-up area of Passage West and approximately 1.4km from Cork Harbour Special Protection Area and 1.5km from Great Island Channel SAC.

The proposed development comprises of an infill development of 11 units on the site

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:

- Small scale and nature of the development
- Distance from nearest European site and lack of connections
- Taking into account screening report by the Planning Authority.

I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

10.0 Recommendation

10.1.1. I recommend that permission be refused for the proposed development.

11.0 Reasons and Considerations

1. Notwithstanding the infill nature of the site, the proposed development, by reason of its design, scale, layout, bulk and orientation, would be out of character with the existing residential properties in the vicinity and would set a precedent for further inappropriate development in the vicinity of the site. It is considered that the development as proposed would produce a substandard form of development on this site by reason of the relationship between the proposed blocks and with the adjoining residential properties, and by reason of the topography and the constraints of the site would result in overdevelopment of the site.

The site being located immediately adjacent to an Architectural Conservation Area, it is further considered that the proposed development would seriously detract from the architectural character and setting of Passage West ACA and of the streetscape generally.

Accordingly, the proposed development would conflict with objectives **PL 3-3** and **HE 16-21** in the Cork County Development Plan 2022-2028 and would therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to protected structure status of the railway tunnel (RPS 01470) and in the absence of a detailed site investigation study, the applicant has not demonstrated that the development could be constructed without affecting the structural integrity of the tunnel. It is considered that the proposed works would, by virtue of its nature and extent, have a detrimental and irreversible impact on the essential quality of the tunnel, thereby materially affecting its character. The proposed development would conflict with objectives **HE 16-14**, **HE 16-15** and **HE 16-20** of the Cork County Development Plan 2022-2028 and would therefore, be contrary to the proper planning and sustainable development of the area.
3. It is considered that the car parking provision for the proposed development, would be inadequate to cater for the parking demand generated. The proposed development would therefore endanger public safety by reason of a traffic hazard and obstruction of road users. Accordingly, the proposed development would be contrary to the proper planning and sustainable development of the area.

Oluwatosin Kehinde
Senior Planning Inspector

08th April 2025

Appendix 1 Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	319312-24		
Proposed Development Summary	The development of 11 residential units		
Development Address	Beach Road, Passage West 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		
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	X	Schedule 5 Part 2 Class 10 (b) (i) construction of more than 500 dwelling units	Proceed to Q3.
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	Schedule 5 Part 2 Class 10 (b) (i) construction of more than 500 dwelling units. The development is for 11 units	Preliminary examination required (Form 2)
5. Has Schedule 7A information been submitted?			
No	X	Screening determination remains as above (Q1 to Q4)	

Yes		Screening Determination required
-----	--	----------------------------------

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-319312-24
Proposed Development Summary	Construction of 11 residential units
Development Address	Beach Road, Passage West Cork
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development</p> <p>(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The proposed development is on a 0.23ha site. The development is articulated in 2 contemporary blocks with a maximum height of 3 storeys.</p> <p>The site is on a steep gradient and the development does not require demolition works, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change.</p>
Location of development	The development is situated in an urban setting surrounded by properties within Passage West ACA. The site is an infill site

(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	located in a built up area that is removed from sensitive natural habitats and designated sites of identified significance in the Cork County Development Plan	
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Having regard to the nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.	
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
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.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No

Inspector: Oluwatosin Kehinde

Date: 08th April 2025

