



An
Bord
Pleanála

Inspector's Report

ABP-320012-24

Development

Construction of a dwelling and all associated site works, serviced by entrance, access road and site services currently under construction as permitted under P.A. Ref. 18/6293 (ABP 304806-19).

Location

Summerhill/Cnoc an tSamhraidh,
Watergate Street, Knockbrogan,
Bandon, Co. Cork

Planning Authority

Cork County Council

Planning Authority Reg. Ref.

24/4616

Applicant(s)

E.F.D. Developments Ltd.

Type of Application

Permission

Planning Authority Decision

Refuse

Type of Appeal

First Party v. Grant

Appellant(s)

E.F.D. Developments Ltd.

Observer(s)

Neville Lester and Ashling Long

Date of Site Inspection

22 November 2024

Inspector

Cáit Ryan

1.0 Site Location and Description

1.1. The subject site is located in Bandon, approx. 25km south west of Cork city, on L-2041-0. Save for the industrial/commercial premises north of the site and some ribbon development further to the north east, the approach to the site from the north east is largely rural in character. The site is situated at Lovell's Hill, north east of the town centre. It is accessed via a small housing scheme currently under construction comprising 4no. semi-detached houses, and which are substantially constructed. The overall housing scheme site is roughly wedge-shaped, and is bounded –

- To the south west by its roadside frontage to Lovell's Hill, which comprises some mature trees
- To the south by the avenue to Summerhill House, a single dwelling house, and to the west by a shed and the dwelling house at Summerhill. This dwelling is bounded to the west by a linear residential development at Summerhill Heights/Summerhill Close.
- To the north by industrial buildings at Hourihane Engineering Ltd.

1.2. The lands to the north are substantially higher than the housing scheme site. Ground levels at the subject site are higher than at the houses currently under construction, and higher than at the neighbouring dwelling house at Summerhill House to west.

2.0 Proposed Development

2.1. Permission is sought for 1no. detached house and all associated works, to be serviced by site entrance, access road and site services currently under construction as permitted by Cork County Council Ref. 18/6293 (ABP Ref. 304806-19).

2.2. A Planning Statement has been lodged with the application.

3.0 Planning Authority Decision

3.1. Decision

The planning authority refused permission for 1no. reason as follows:

Having regard to the location and topography of the site along with the design and scale of the proposed dwelling unit, it is considered that the proposed development would constitute overdevelopment of the site, would result in the removal of the permitted usable public open space identified under Planning Reg. No. 18/6293 (ABP Ref. 304806-19) and would seriously injure the residential amenities of adjoining properties to the east and west of the site. The proposed development would, materially contravene objective ZU 18-11 of the Cork County Development Plan 2022 and be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Basis for planning authority's decision:

Executive Planner's report (30 May 2024) outlines key issues:

- Lands to the east are inaccessible due to topography constraints, and rear gardens of 4 units under construction are severely restricted by cliff face
- Useable public open space provision within the development is critical as the nearest public park is a 20 minute walk
- Provision of additional house is overdevelopment and will impact on residential amenity of existing residents to west and future residents to east. Concern that trees on third party lands may be impacted.
- Applicant has agreement with Housing Officer to provide Part V off site.

Recommendation to refuse permission reflects report.

Senior Executive Planner's report (31 May 2024) endorses Executive Planner's recommendation to refuse permission for 1 no. reason.

3.2.2. Other Technical Reports

Area Engineer (28 May 2024): Recommends Further Information (FI) on

- Soakaways designed to BRE 365 design extended for 1/100 years storm

event plus 20% climate change.

- Review if a shotcrete retaining wall is suitable at this location
- Provide 2no. car parking spaces and submit vehicle autotrack movement.

Estates (13 May 2024): No objection subject to conditions.

Public Lighting (8 May 2024): No objection subject to conditions.

3.3. Prescribed Bodies

None.

3.4. Observations to the Planning Authority

Three no. observations were received by the planning authority, whereby issues raised are similar to those in the observation on the appeal. Other issue raised is concern that farm buildings and workshop to rear may later give rise to problems.

4.0 Planning History

P.A. Ref.18/6293 and ABP-304806-19: Permission was granted in 2019 for 4 no. houses on a larger site at this location. The application lodged originally sought permission for 6no. houses. Conditions of note are as follows:

Condition 3: Submit for written agreement comprehensive landscaping scheme including boundary treatment and the protection of all existing trees and hedgerows, save those for which removal is agreed in writing.

Condition 4: Agree details of retaining structures. Design Engineer to provide letter of certification, or alternatively, this certification shall be provided by suitably qualified structural design engineer.

Condition 5: Vehicular access to the site and footpath provision along the eastern boundary shall be constructed in accordance with planning authority's requirements.

Condition 9: Drainage arrangements, including disposal and attenuation of surface water, shall comply with planning authority's requirements for such works and services

P.A. 06/11043: Permission granted for 4no. houses in 2007 on a slightly larger site,

encompassing some lands to the south. An extension of duration of planning permission was granted in 2012; **P.A. Ref. 12/4645** refers. This permission was not implemented.

5.0 Policy Context

5.1. Cork County Development Plan 2022-2028

Vol. 1: Main Policy Material

The site is zoned **Objective ZU 18-9: Existing Residential/Mixed Residential and Other Uses** which outlines the scale of new residential and mixed residential developments within this zoning within the settlement network should normally respect the pattern and grain of existing urban development in the surrounding area. Overall increased densities are encouraged within the settlement network and in particular, within high quality public transport corridors, sites adjoining Town Centres Zonings and in Special Policy Areas identified in the Development Plan unless otherwise specified, subject to compliance with appropriate design/amenity standards and protecting the residential amenity of the area.

Appropriate Uses on this land use zoning include residential development.

Section 18.3.6 states that within predominantly existing residential/mixed residential and other uses areas, development proposals normally involve infill development, redevelopment or refurbishment or changes of use. It is important to recognise that this is part of the cycle of development or redevelopment in settlements that contributes to the character of settlements. In many ways, this is more sustainable than continually encouraging growth to concentrate only towards undeveloped areas.

Section 18.3.26 states Objective ZU 18-11 will apply to lands identified as Residential Further Additional Provision (Long Term Strategic and Sustainable Development Sites).

Objective ZU 18-11: Residential Areas (*including Residential Additional Provision, / Residential Further Additional Provision (Long Term Strategic and Sustainable Development Sites) and Residential Reserve*) Promote development mainly for housing, associated open space, community uses and, only where an acceptable standard of amenity can be maintained, a limited range of other uses that

support the overall residential function of the area. Normally discourage the expansion or intensification of existing uses that are incompatible with residential amenity.

Section 1.7 states that Greater Cork Ring Strategic Planning Area lies outside Metropolitan Cork, and includes Bandon as a 'Ring' town. Bandon is identified in the Core Strategy as a Large Town (>5,000 population).

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General Objectives for Bandon include (at Section 1.4.78):

- BD-GO-01: Plan for development to achieve its 8,773 population target
- BD-GO-02: Includes support development of a North Bandon Connectivity and Access Corridor

Specific objectives which apply include (at Section 1.4.80):

- 5no. objectives relating to Residential/Residential Additional Provision and 1no. relating to a Residential Reserve site. The subject site is not located within any of these sites.
- Special Policy Area BD-X-03 Knockbrogan Expansion Area applies to a 19.89ha landbank north of the subject site. It includes that development should be accompanied by a Traffic Assessment illustrating how the site will connect to the proposed North Bandon Connectivity and Access Corridor.
- On the opposite (eastern) side of L-2041-0, Specific Development Objective BD-GC-07 applies to a 26ha landbank, described as Open Space and lands to remain predominantly open to protect the setting of the town.

5.2. Section 28 Guidelines

5.2.1. Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)

These Section 28 Guidelines set out policy and guidance in relation to planning and development of urban and rural settlements. It outlines (at Section 3.3.3) the strategy for Key Towns (identified in RSEs) and Large Towns (identified at county level) is to support consolidation within and close to the existing built-up footprint.

Key priorities for growth of these settlements are summarised as to (a) plan for an integrated and connected settlement, (b) strengthen town centres, (c) protect and enhance historic fabric, character, amenity, biodiversity and environmental quality, (d) realise opportunities for reuse of existing buildings and incremental backland, brownfield and infill development, and (e) deliver sequential and sustainable urban extension at locations that are closest to the urban core.

Density ranges for Key Towns and Large Towns (5,000+ population) are as follows:

- **Centre and Urban Neighbourhood:** The centre comprises the town centre and surrounding streets. Urban neighbourhoods consist of early phases of residential development around the centre that have evolved over time to include a greater range of land uses. It is a policy and objective that residential densities in range 40-100 dph (net) shall generally be applied in the centres and urban neighbourhoods.
- **Suburban/Urban Extension:** Suburban areas are low density car-orientated residential areas constructed at edge of the town. Urban extension refers to greenfield lands at the edge of existing built-up footprint area that are zoned for residential or mixed-use (including residential) development. It is a policy and objective that residential densities in range 30-50 dph (net) shall generally be applied at suburban and urban extension locations of these settlements. Densities of up to 80 dph (net) shall be open for consideration at 'accessible' suburban / urban extension locations (as defined in Table 3.8).

Policy and Objective 3.1 It is a policy and objective that recommended residential density ranges set out in Section 3.3 are applied in development plans and in consideration of planning applications, and are refined further at local level using criteria set out in Section 3.4 where appropriate.

Section 5.3.3 states all residential developments are required to make provision for a reasonable quantum of public open space, to focus on overall quality, amenity and biodiversity values, including seating and provision for children's play.

Policy and Objective 5.1 - Public Open Space outlines that development plans include an objective(s) relating to public open space provision in new residential developments, of not less than minimum of 10% of net site area and not more than

minimum 15% save in exceptional circumstances. Different minimum requirements (within 10-15% range) may be set and should be justified taking into account existing public open space provision in the area and broader nature conservation and environmental considerations.

5.2.2. Regulation of Commercial Institutional Investment in Housing – Guidelines for Planning Authorities, 2021

The purpose of these Section 28 Guidelines is to set out planning conditions to which planning authorities and An Bord Pleanála must have regard, in granting planning permission for new residential development including houses and/or duplex units. They are intended to ensure that own-door housing units and duplex units in lower density housing developments are not bulk-purchased for market rental purposes by commercial institutional investors in a manner that causes the displacement of individual purchasers and/or social and affordable housing including cost rental housing.

It sets out that planning authorities and An Bord Pleanála shall, on granting planning permission for new residential development that is not specified as 'build-to-rent', have regard to the need to apply specified planning conditions in respect of all housing developments that include 5 or more houses and/or duplex units.

5.3. **Natural Heritage Designations**

The site is not located within or adjacent to a European site. The nearest European sites are:

- Courtmacsherry Estuary SAC (Site Code 001230) is approx. 9.4km to south
- Courtmacsherry Bay SPA (Site Code 004219) is approx. 10km to south

Bandon Valley Above Inishannon pNHA (Site Code 001740) is approx. 1.8km to north east.

Bandon Valley West of Bandon pNHA (Site 001034) is approx. 2.1km to west.

5.4. **EIA Screening**

See Form 1 and Form 2. Having regard to the nature, size and location of the

proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of this first party appeal may be summarised as follows:

- An updated site layout is provided

Principle of development:

- Site is zoned Existing Residential/Mixed Residential and Other Uses'. Development Plan (section 18.3.4) generally supports proposals for increased densities subject to compliance with appropriate design/amenity standards, protecting residential amenity and normal sustainable planning considerations
- Development Plan identifies Bandon as a Main in Regional Spatial and Economic Strategy for the Southern Region. Bandon has target population of 8,773 for 2028 with 694 units required to 2028.
- 'Medium A' (30-50uph) density is generally applicable in Bandon and 'Medium B' (20-35uph) may be applicable at limited number of sensitive locations.
- The P.A. Ref. 18/6293 (ABP-304806-19) development related to 4 houses on a 0.35ha site, a density of c. 11.4uph. The additional 1no. house would result in 14.2uph. These densities are both below 'Medium B' density.
- Compact growth and higher densities are encouraged. Development will not result in excessive density.
- The subject site would benefit from available infrastructure currently under construction on the overall site.
- Proposed 4-bedroom unit increases the overall housing mix on site.

Design and setting and protection of residential amenities:

- Height and location of proposed dwelling will not injure amenities of subject site and surrounding properties. It will not result in overlooking, be overbearing or visually intrusive.
- Separation distances to properties to east and west are met.
- Existing mature tree line on south west boundary is to be retained. A new timber post and wire fence will be erected along the perimeter of the south and west boundary, as shown on Drawing No. 4.

Private and public open space provision:

- Cites documents regarding open space and recreational standards, including Sustainable Residential Development and Compact Settlements Guidelines (2024).
- Notes site's steep topography, but minimum quantitative standards as per Guidelines are met. Private open space provided in Units 1-4 (3-bed) is 60sqm-85sqm (40sqm required) and for proposed dwelling (4-bed) is 115sqm (50sqm required).
- Public open space to east of site is 450sqm, 11.4% of overall site.
- Guidelines' Policy and Objective 5.1 requires development plans include public open space provision requirement of not less than 10% of net site area and not more than minimum 15% save in exceptional circumstances.
- Applicant intends to develop the public area to the east to a high standard

Engineering details:

- Autotrack analysis provided of vehicular movements at the site, showing satisfactory car turning space and 2no. car parking spaces
- Stormwater is proposed to be disposed via connection to storm water drainage network currently under construction, to be drained into communal soakaway system, granted under Condition 9 of ABP Ref. 304806-19. Soakaway test has been carried out in accordance with BRE Digest 365. New soakaway system has been designed to include run-off generated from site no. 5 (Drawing no. 11 refers)

6.2. Planning Authority Response

The planning authority responded that it has no further comment to make.

The planning authority confirmed in separate correspondence dated 23 July 2024 -

- Water Services and Housing indicated 'no comments', and
- A Part V report was not issued.

6.3. Observations

An observation was received from Neville Lester and Ashling Long, whose property Summerhill House is located to west and south of the subject site. Issues raised may be summarised as follows:

- Overdevelopment: Site is not on the denser Watergate Street, which finishes further south and road becomes Lovell's Hill.
- P.A. Ref. 06/11043 contained 4 houses on bigger site than current development
- Concerns with initial application regarding lack of public and private open space. Due to significant lowering of the site a large section of public open space is inaccessible. Eastern public space area has been filled with excavated rock and walled off. This barrier wall is not included in landscape and boundary diagrams. This public space is next to a road with no secure boundary and immediately beneath a loud and very busy engineering works.
- The small southern open space area has a large trench going through it to alleviate flooding on the site and public road.
- Very small size of gardens have minimal daylight due to high retaining walls.
- The thin beech boundary hedging whilst mature and established is not a solid and secure boundary. No privacy as the proposed house and remaining public open space directly overlook observers' house, garden and driveway.
- The applicants are aware that the mature boundary hedge at 34.65m is not their property and is in observers' garden.
- Developer stated they owned the land (on P.A. Ref. 18/6293) to get

application approved. This unsecured boundary is a matter of formal complaint to Cork County Planning.

- Flood risk: The site has inadequate surface water management and has repeatedly caused flooding of observers' site and the main road.
- Internal road has limited access or turning space for emergency vehicles.
- Observer's mature trees are omitted in this application. These may cause safety issues during adverse weather conditions, would reduce light significantly and cause dampness on the proposed development.

7.0 Assessment

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

- Land Use Zoning and Density
- Open Space
- Other Issue – Expiration of Planning Permission
- Miscellaneous Issues
- Material Contravention

7.2. Land Use Zoning and Density

Compliance with Cork County Development Plan 2022-2028

7.2.1. The site is located on lands zoned **Objective ZU 18-9: Existing Residential/Mixed Residential and Other Uses** which outlines the scale of new residential and mixed residential developments should normally respect the pattern and grain of existing urban development in the surrounding area. Given that 'residential' is an Appropriate Use on this land use zoning, I consider that the provision of 1no. dwelling on the subject site would be acceptable in principle in terms of land use.

- 7.2.2. With regard to density, the Development Plan does not ascribe a density range to the ZU 18-9 land use zoning in either Chapter 18 (Land Use Zoning) or Chapter 4 (Housing). The overall 4-unit housing site through which the subject site is accessed comprises approx. 0.35ha. This results in density of 11.4uph. The provision of an additional dwelling house on the overall site would increase the density 14.2uph.
- 7.2.3. Given that overall increased densities are encouraged within the settlement network, subject to compliance with appropriate design/amenity standards and protecting residential amenity of the area, I consider that the increased density to 14.2uph on the overall housing site would be acceptable in principle.
- 7.2.4. With regard to impacts on the residential amenities of the area, I note the site's context and its relationship to the adjoining dwelling at Summerhill House. The FFL of the proposed dwelling would be 29.4m, the existing Summerhill House dwelling is at 30.58m, and the FFL of Houses 3 and 4 to the east is shown as 28.5m; Drawing No. 4 refers. Drawing No. 10 is titled Site Sections, and Existing Section C-C indicates a limited slope across the subject site. However, Existing Site Layout (Drawing No. 3) shows site contours of 29.00 near the southern site boundary increasing to 33.00 towards the north. On site inspection I noted that ground levels on the subject site, particularly along much of its northern and western boundaries, are higher than House 4 and the adjoining site at Summerhill House.
- 7.2.5. I consider that the provision of the proposed house at FFL 29.4m would be acceptable and would not adversely impact on the adjoining property to the west in terms of overshadowing or visual overbearance. I note concerns raised by the observers regarding overlooking of the Summerhill House property and concerns raised that detailing of site boundaries on drawings is inaccurate, including that the hedge shown within the subject site is instead within the observers' property.
- 7.2.6. This is, however, a civil matter to be resolved between the parties, having regard to the provisions of Section 34(13) of the Planning and Development Act 2000, as amended, hereafter referred to as 'the Act'.
- 7.2.7. On site inspection I noted that there is a beech hedge along this boundary. No solid boundary was apparent at this location.
- 7.2.8. I consider that the matter of suitable boundary treatment can be adequately addressed by condition. In this regard I note that Condition 3 of ABP-304806-19

requires the submission of and written agreement on comprehensive landscaping proposals including boundary treatments. In the event that the Board was minded to grant permission for the proposed development, I consider it appropriate that a similar condition be attached.

- 7.2.9. I note that the grounds of appeal state the privacy of the neighbouring property will be further protected by the erection of a new timber and wire fence boundary along the perimeter of the south and west boundaries, as shown on Drawing No. 4 included with the appeal. I consider that this proposal may be considered a suggestion only.
- 7.2.10. However, notwithstanding that this is a suggestion only, I do not consider the proposed boundary treatment to be adequately detailed. For example, no details of the height of the fence are indicated on Drawing No. 4, and I would have concerns that a post and wire fence would not be adequately solid at the western boundary. In the event that the Board was minded to grant permission, I do not recommend that the provision of boundary treatment as proposed in the applicant's appeal submission should be permitted in this instance.
- 7.2.11. For clarity, with regard to the planning authority's reason for refusal, it states *inter alia* that the proposed development would materially contravene Development Plan Objective 18-11. However, as outlined at Section 5.0 of this report, the subject site is not located on lands to which Objective 18-11 apply, i.e., not being lands identified as Residential Further Additional Provision (Long Term Strategic and Sustainable Development Sites). Accordingly, I consider that Objective 18-11 is not applicable to the subject appeal and that the proposed development would not, if permitted, materially contravene the Development Plan. However, for completeness, the matter of material contravention is discussed in further detail elsewhere in this report.

Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024

- 7.2.12. The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024 (hereafter referred to as the 'Settlements Guidelines') outlines that urban extension refers to greenfield lands at edge of the existing built-up footprint area that are zoned for residential or mixed-use (including residential) development. It is a policy and objective that residential densities in range 30-50 dph

(net) shall generally be applied at urban extension locations of Large Towns, and densities of up to 80 dph (net) shall be open for consideration at 'accessible' suburban/urban extension locations (as defined in Table 3.8).

- 7.2.13. Having regard to the site's location near the Bandon development boundary, I consider that the proposed development would come within the meaning of 'urban extension', albeit one which is no longer a 'greenfield' site. Given that the proposed development would increase in the residential density on the overall housing site to 14.2uph, and although it would be significantly below the lower 30uph density range, I consider that the increased density on this overall housing scheme would not be in conflict with the Settlement Guidelines, and would be acceptable.
- 7.2.14. For conciseness, a number of normal planning considerations are assessed in this report in the following section, with reference to Section 3.4.2 (a) to (e) of the Settlement Guidelines, save for (d) Impacts on residential amenities which is discussed in the previous section.

(a) Impact on local character and (b) Historic Environments

- 7.2.15. The proposed dwelling would be located at the western end of a cul-de-sac in a small housing scheme. At present, the overall housing site is partially screened from view by mature trees along its roadside boundary and along the southern boundary with the Summerhill House property, and also due to mature trees on this adjoining property, as viewed on approach from the south west. 4no. properties in the vicinity have a NIAH Regional rating (as viewed on www.buildingsofireland.ie). These are Summerhill (Ref. 20844052) to west, Ardnacarrig (Ref. 20844053) located on eastern site of Lovell's Hill, and on Watergate Street, Ardnacarrig (lodge) (Ref. 20844054) and Eversleigh (Ref. 20844055). Other more modern development in the vicinity include Summerhill Heights/Summerhill Close. Having regard to the location of the proposed dwelling house, its relationship to Summerhill House and distance to the three other NIAH-listed properties, I do not consider that the proposed development would adversely impact on existing local character nor on historic environments.

(c) Environmental Impact Assessment and Habitats Directive

- 7.2.16. With regard to EIA, see Form 1 and Form 2 (Appendix 1). Form 2 concludes that there is no real likelihood of significant effects on the environment.

- 7.3. With regard to Habitats Directive, Section 8.0 of this report sets out Appropriate Assessment Screening, whereby I conclude that the proposed development would not be likely to have a significant effect individually, or in combination with other plans and projects, on a European site and appropriate assessment is therefore not required.
- 7.3.1. Accordingly, it is considered that the proposed development would avoid degradation of ecosystems, and would not be in conflict with Section 3.4.2 (c).

(d) Impacts on residential amenities

- 7.3.2. Impacts on residential amenities on the adjoining Summerhill House is discussed above with reference to compliance with Cork County Development Plan 2022-2028.

(e) Water supply and wastewater networks

- 7.3.3. The Planning Statement lodged with the application states that it is proposed to connect to foul and potable water supply, currently under construction and as permitted by P.A. Ref. 18/6293 (APB-304806-19) and an agreement with Irish Water (IW) is currently in place. In this regard I note that there is no report from IW on file. However, having regard to the nature and scale of the proposed development, I consider that the matter of connectivity to IW services could be adequately addressed by way of condition in this instance.
- 7.3.4. With regard to surface water, it states that surface water run-off from the site will connect to a new on-site soakaway, designed in accordance with BRE Digest 365. The application originally lodged shows an attenuation tank in the small southern open space area, outside the red line boundary. The Area Engineer's report noted that the storm water network for the 4no. other houses flows to an attenuation tank, and recommends FI for a soakaway designed to BRE 365 design extended for 1/100 years storm event plus 20% for climate change.
- 7.3.5. The applicant's grounds of appeal state that stormwater will drain into a communal soakaway system, that a soakaway test has been carried out in accordance with BRE Digest 365 and the new soakaway system has been designed to include run-off generated from the site no. 5. Drawing No. 11 lodged with the appeal shows the soakaway in the southern open space area. No attenuation tank is shown. I note that no details of the soakaway tests nor of the soakaway design have been provided.

- 7.3.6. I note that the drawing titled Site Layout – Revised re Clarification on P.A. Ref. 18/62993 (ABP-304806-19), date-stamped 14 May 2019, shows an attenuation tank in the southern open space area. Condition 9 of ABP-304806-19 requires disposal and attenuation of surface water to comply with planning authority's requirements for such works and services.
- 7.3.7. I consider that the applicant's proposal for storm water disposal lodged with the appeal may be considered a suggestion only. Given that the applicant's appeal submission proposes to amend the stormwater proposals, whereby the previously shown attenuation tank located outside the red line boundary of the subject appeal site is omitted, I consider that this amendment should not be permitted. I recommend, in the event that the Board was minded to grant permission, a condition similar to Condition 9 of ABP-304806-19, and also, in the event that a soakaway system is proposed within the new house site, that detailed proposals for same to be submitted.
- 7.3.8. In conclusion with regard to the criteria (a) to (e) set out at Section 3.4.2 of the Settlement Guidelines, I consider that the proposed development would be in compliance with these criteria or could adequately address same by way of condition, and that the proposed development is considered acceptable in this regard.

Car Parking

- 7.3.9. The grounds of appeal include that the submitted autotrack analysis shows a satisfactory car turning space within the driveway and 2no. parking areas; Drawing No. 12 refers. I note that this is achieved by omitting some of the grassed area to east of the dwelling house, as originally proposed in the lodged application. As such, the detail on the autotrack analysis and revised site plan may be considered a suggestion only at appeal stage.
- 7.3.10. I consider that the modified site layout which accommodates car turning within the site, and also provides 2no. car parking spaces is acceptable, and that the reduction in private amenity space over that originally proposed would not unduly impact on the residential amenities of the future occupiers of the dwelling house. In the event that the Board is minded to grant permission, I recommend that the revised site plan submitted with the appeal be permitted.

7.3.11. For completeness, I note SPPR 3 – Car Parking of the Settlement Guidelines states

- (ii) In accessible locations, car parking provision should be substantially reduced. The maximum rate shall be 1.5 no. spaces per dwelling.
- (iii) In intermediate and peripheral locations, maximum rate shall be 2 no. spaces per dwelling.

It continues to state that applicants should be required to provide a rationale and justification for the number of car parking spaces proposed and to satisfy the planning authority that the parking levels are necessary and appropriate.

7.3.12. No information has been lodged with the application or appeal outlining whether the subject site comes within the ‘accessible’, ‘intermediate’ or ‘peripheral’ categories as set out in Table 3.8 of the Settlement Guidelines. Based on the information viewed on www.buseireann.ie, bus routes to/from Cork city which service Bandon are noted to be Cork - Glengarriff (Route 236), Cork – Goleen (Route 237) and Cork – Butlerstown (Route 239).

7.3.13. The bus stops on Glasslynn Road are in the range of approx. 840m for Cork-bound travel, and approx. 980m for west-bound travel. On this basis I consider that the subject site comes within the 500m-1000m distances of a bus stop which provides connectivity to Cork city and other towns. However, based on the information on file and the information viewed on the Bus Éireann website, I consider that it has not been demonstrated that the proposed development would meet the criteria of ‘intermediate’ location, which is described as:

- Lands within 500-1,000m (10-12 minute walk) of existing or planned high frequency (i.e. 10 minute peak hour frequency) urban bus services; and
- Lands within 500m (6 minute walk) of a reasonably frequent (minimum 15 minute peak hour frequency) urban bus service.

For completeness, ‘peripheral’ lands include all those that do not meet the proximity or accessibility criteria detailed in the other categories in Table 3.8.

7.3.14. While there is a frequency of services in the 3 routes (236, 237 and 239) which service Bandon, this is not at 10-15 minute peak hour frequency.

7.3.15. I note that the Development Plan states (Vol. 5; Section 1.4.62) that Bus Éireann

operates regular services through the town connecting Cork City with Clonakilty and Skibbereen but there is only one bus stop on the Glaslinn Road, and Bandon Transport and Public Realm Enhancement Plan (TPREP) includes proposals to improve access to bus stops and provide safety enhancement measures at existing stops. It also states (at Vol. 1, Section 12.8.11) that while few, if any, of the County's towns have a population that could sustain an internal bus service, the Council will support those seeking to operate such services.

- 7.3.16. In this regard I note that no information has been provided on file to indicate that the subject site would be within existing or planned high frequency urban bus services. I consider it reasonable therefore that the 2no. car parking spaces to serve the proposed dwelling house may be provided in the particular circumstances of this case, and that the proposed development would not be in conflict with SPPR 3 in this regard.

7.4. Open Space

Public Open Space

- 7.4.1. The proposed development would result in a significant reduction of public open space at the western end of the overall site from that originally permitted by ABP-304806-19. The grounds of appeal state that the available open space to the east of the site is 450sqm, which is 11.4% of the site.
- 7.4.2. The Development Plan states that generally at least 12% to 18% of a site excluding areas unsuitable for house construction should be allocated as public open space, in exceptional circumstances 10% may be applied, and where residential developments are close to town centre facilities or public parks, a relaxation of standards may be considered. The Executive Planner's report states that the nearest public park is a 20 minute walk, although the location of same is not indicated. I note also that there is a more limited area of public open space to the south, at which an attenuation tank is proposed as per the drawings lodged with the application. I consider that some of this open space area may be added to the overall quantum of public open space, resulting in a limited increase in the stated 11.4% of public open space. I consider that any shortfall to 12% would be very limited and I consider that public open space provision to be acceptable in this regard.

- 7.4.3. The Settlement Guidelines requirements for public open space is minimum 10%. I consider that the quantum of open space which would slightly exceed 10% of overall site area would comply with the Settlement Guidelines and would be acceptable.
- 7.4.4. The grounds of appeal state the applicant intends to develop the open space area to the east of the site to a high standard, including natural play areas. Drawing No. 4 (proposed site layout) lodged with the appeal includes a meandering footway and some planting areas. No proposed plant species are indicated. I consider that the detailing of this proposed open space lodged with the appeal, while limited in terms of detailing shown, may be considered a suggestion only.
- 7.4.5. There are substantial differences in level at the eastern public open space area, whereby ground levels are substantially higher at the eastern end. This open space area is outside the site's red line boundary. Furthermore, the matter of a comprehensive landscaping scheme for the overall site is required to be addressed by Condition 3 of ABP-304806-19. Accordingly, in the event that the Board was minded to grant permission, I do not consider it appropriate in this instance for the development to be carried out in accordance with the landscaping proposals lodged with the appeal submission.

Private Open Space

- 7.4.6. The site layout lodged with the application indicates 200sqm private green area to serve the proposed dwelling house. The revised drawing submitted with the grounds of appeal outlines that the proposed development would be served by 115sqm of private open space to the eastern and western sides of the dwelling house. The rear building line is in the range of 2.4m – 3.2m from the rear of the site. Given that the Settlement Guidelines require minimum 50sqm private open space for a 4-bedroom house, this quantum of open space is acceptable.
- 7.4.7. Accordingly, I consider that the proposed development would be acceptable in terms of both public open space to serve the overall housing scheme, and in terms of private open space to serve the proposed dwelling house.

7.5. Other Issue – Expiration of Planning Permission

- 7.5.1. The development permitted by ABP-304806-19 was granted on 17 October 2019. Taking account of Sections 251 and 251(A) of the Act, I estimate this permission

would expire on 25 January 2025.

- 7.5.2. No information has been provided on file to indicate that an application for extension of duration of permission under section 42 of the Act has been applied for or granted.
- 7.5.3. I draw the Board's attention to approach of the High Court in *Friends of the Irish Environment v ABP* [2019] IEHC 80, where the High Court stated that an application for extending the duration of a permission can only be made pursuant to the provisions of Section 42.
- 7.5.4. I note that the planning application was applied for on 11 April 2024, less than a year from the expiration date of the parent permission.
- 7.5.5. While the Estate's report states the ABP-304806-19 permission will not expire until 16 October 2024, the matter of expiration of this planning permission has not been raised in the appeal or in submissions received.
- 7.5.6. The proposed development seeks to construct a dwelling on part of the ABP-304806-19 (P.A. Ref. 18/6293) site, and to access the location of the proposed dwelling via the site entrance, access road and site services currently under construction. On site inspection I noted that construction of the 4no. dwelling houses appears to be substantially complete, and some other site works are substantially advanced. I noted also that various site/landscaping works remain to be completed, including the provision of the internal access road and a footpath along the eastern boundary (required by Condition 5).
- 7.5.7. Based on the information on file and as viewed on ABP-304806-19, I note that this permission has not expired at time of writing, but would, in the absence of any grant for an extension of duration of planning permission, expire in the near future.
- 7.5.8. However, while the description of the development outlines that the provision of the additional house is clearly linked to the parent permission, the proposed development does not seek to 'amend' the permitted scheme, although I note that the additional house would have the effect of reducing the quantum of open space on the overall site.
- 7.5.9. In the particular circumstances of this case, and in the interest of clarity, having regard to the nature and scale of the proposed development and the substantial completion of the 4no. permitted dwelling houses on site, I do not consider that a

grant of permission for the proposed development can be construed as extending the life of the planning permission ABP-304806-19 (P.A. Ref. 18/6293), and I do not consider that the Board is precluded from granting permission in this respect.

7.6. Miscellaneous Issues

Part V

- 7.6.1. The Part V proposal lodged with the application indicates that this is a development to which Part V of the Act applies. The applicant proposes the option of providing a unit off-site to the satisfaction of the County Council, and to be agreed prior to commencement of development.
- 7.6.2. There are no internal reports on file relating to Housing/Part V, as confirmed by the planning authority. Having regard to the information on file with regard to Part V, in the event the event the Board was minded to grant permission, I recommend that a condition is attached which requires compliance with Part V of the Act.

Regulation of Commercial Institutional Investment in Housing

- 7.6.3. These Section 28 Guidelines date to May 2021, and are therefore subsequent to the Board decision on the parent permission ABP-304806-19 on 17 October 2019 to grant 4no. houses.
- 7.6.4. The Guidelines require either one of two conditions to be attached by planning authorities and An Bord Pleanála in respect of all housing developments that include 5 or more houses and/or duplex units.
- 7.6.5. I note that planning permission is sought in the subject case for 1no. dwelling only. Notwithstanding that the number of houses in the overall scheme would, if permitted, increase to five, and having regard in particular to the grant of permission on the parent permission pre-dating the introduction of these Guidelines in May 2021, I do not consider it appropriate to apply the standard Condition RCIIH 2 (for all houses and/duplex unit-type development) of the Guidelines which restricts residential units permitted to first occupation by individual purchasers, i.e., those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing, to either the proposed house or to the previously permitted 4no. houses, which have substantially constructed.

7.7. Material Contravention of Development Plan

- 7.7.1. The planning authority's reason for refusal states that the proposed development would contravene materially policy Objective ZU 18-11 of the Cork County Development Plan 2022-2028. This objective is outlined below:

Objective ZU 18-11: Residential Areas (including Residential Additional Provision, / Residential Further Additional Provision (Long Term Strategic and Sustainable Development Sites) and Residential Reserve) Promote development mainly for housing, associated open space, community uses and, only where an acceptable standard of amenity can be maintained, a limited range of other uses that support the overall residential function of the area. Normally discourage the expansion or intensification of existing uses that are incompatible with residential amenity.

- 7.7.2. Section 18.3.26 states Objective ZU 18-11 will apply to lands identified as Residential Further Additional Provision (Long Term Strategic and Sustainable Development Sites).
- 7.7.3. The Development Plan sets out (at Vol. 5 West Cork; Section 1.4.80) specific objectives for Bandon. It includes 5no. objectives relating to Residential/Residential Additional Provision and 1no. relating to a Residential Reserve site. The subject site is not located within any of these sites. Accordingly, based on the information on file and the provisions of the current Development Plan, I consider that Objective ZU 18-11 would not apply to the subject site, and the proposed development would not therefore materially contravene this Development Plan objective.
- 7.7.4. In my opinion the Board should not, therefore, consider itself constrained by Section 37(2) of the Act.
- 7.7.5. Notwithstanding the matters outlined above if however the Board considers that a material contravention arises in this instance, and wishes to consider this under Section 37(2) of the Act, I highlight also to the Board the matter of conflicting objectives in the development plan under Section 37(2)(b)(ii), which states

(b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that—

(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned

- 7.7.6. In this regard I note the site is zoned Objective ZU 18-9: Existing Residential/Mixed Residential and Other Uses, which is outlined in full at Section 5.0. In brief, it states that the scale of new residential developments should normally respect the pattern and grain of existing urban development in the surrounding area, and overall increased densities are encouraged, subject to compliance with appropriate design/amenity standards and protecting the residential amenity of the area.
- 7.7.7. As outlined previously in this report, I consider that the proposed development would be acceptable in terms of impacts of existing residential amenities at Summerhill House to the west, and that the provision of increased densities (by 1 no. house) at this location would be acceptable and in compliance with Objective ZU 18-9.
- 7.7.8. Accordingly, if the Board consider that the matter of material contravention arises with reference to Objective ZU18-11 stated in the planning authority's refusal reason, I would highlight that Objective ZU18-9, which applies to the subject site, may be considered a conflicting objective in this regard.

8.0 AA Screening

- 8.1. I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act 2000, as amended.
- 8.2. The subject site is located on zoned, serviced lands within the Bandon development boundary, approx. 650m northeast of the town centre. The nearest European sites to the subject site are:
- Courtmacsherry Estuary SAC (Site Code 001230) is approx. 9.4km to south
 - Courtmacsherry Bay SPA (Site Code 004219) is approx. 10km to south
- 8.3. The proposed development comprises 1no. detached house, to be serviced by site entrance, access road and site services currently under construction as permitted by ABP-304806-19 (P.A. Ref. 18/6293). 4no. houses permitted on the overall housing site are substantially complete.
- 8.4. Having considered the nature, scale and location of the project, I am satisfied that it

can be eliminated from further assessment because it could not have any appreciable effect on a European site. The reason for this conclusion is as follows:

- The small scale and nature of the proposed development
- The location of the development in a serviced urban area, distance from European sites and absence of ecological pathways to any European site.

8.5. I consider that the proposed development would not be likely to have a significant effect individually, or in combination with other plans and projects, on a European site and appropriate assessment is therefore not required.

9.0 Recommendation

I recommend permission be granted for the proposed development.

10.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development, located on lands zoned ZU 18-9: Existing Residential/Mixed Residential and Other Uses in the Cork County Development Plan 2022-2028 and to the pattern of development in the area, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the character of the area or the amenities of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by An Bord Pleanála on the 26 day of June 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be
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	<p>agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The development shall comply with all of the conditions attached to the permission granted under planning reference number ABP-304806-19 (P.A. Ref. 18/6293), except as amended in order to comply with the attached conditions.</p>
3.	<p>The proposed landscaping works shown at the eastern end of overall housing scheme, outside the red line boundary of the subject site, on Drawing No. 4 lodged to An Bord Pleanála on 26 June 2024, are not authorised pursuant to this grant of permission.</p> <p>Reason: In the interest of clarity as to the extent of development hereby permitted.</p>
4.	<p>(a) The site shall be landscaped in accordance with a comprehensive scheme of landscaping including boundary treatment and the protection of all existing trees and hedgerows, save those for which removal is agreed in writing with the planning authority, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p>

	<p>(b) Boundary treatment to be provided along the western and southern site boundaries of the site to comply with (a) above shall be shown on plan and elevation.</p> <p>Reason: In the interest of residential amenities and in the interest of clarity.</p>
5.	<p>Details of the retaining structures shall be agreed in writing with the planning authority. A letter of certification shall be provided by the Design Engineer responsible for the retaining structures, confirming that the structures have been constructed as per the design. Alternatively, this certification shall be provided by a suitably qualified structural design engineer to the written agreement of the planning authority.</p> <p>Reason: In the interests of orderly development and residential amenity.</p>
6.	<p>(a) The attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.</p> <p>(b) In the event that a soakaway system is proposed within the curtilage of the proposed house site, detailed proposals to be submitted in respect of same shall include soakaway designed to BRE Digest 365 extended for 1/100 year storm event plus 20% climate change.</p> <p>Reason: In the interest of public health.</p>
7.	<p>Prior to the commencement of development the developer shall enter into a Connection Agreement (s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.</p>

	Reason: In the interest of public health and to ensure adequate water/wastewater facilities.
8.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority [in relation to the transfer of a percentage of the land, to be agreed with the planning authority, in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended], unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall be referred by the planning authority or any other prospective party to the agreement, to An Bord Pleanála for determination.</p> <p>Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.</p>
9.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be</p>

	<p>agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
10.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion of the development.</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Cáit Ryan
Senior Planning Inspector

03 January 2025

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-320012-24		
Proposed Development Summary	Construction 1no. dwelling and all associated site works, to be serviced by site entrance, access road and site services currently under construction as permitted by P.A. Ref. 18/6293 (ABP-304806)		
Development Address	Summerhill/Cnoc an tSamhraidh, Watergate Street, Knockbrogan, Bandon, Co. Cork		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No		N/A	No EIAR or Preliminary Examination required
Yes		Class 10(b)(i) of Part 2 of Schedule 5. Threshold is 500 dwelling units.	Proceed to Q.4

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

Inspector: _____ Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-320012-24	
Proposed Development Summary	Construction 1no. dwelling and all associated site works, to be serviced by site entrance, access road and site services currently under construction as permitted by P.A. Ref. 18/6293 (ABP-304806)	
Development Address	Summerhill/Cnoc an tSamhraidh, Watergate Street, Knockbrogan, Bandon, Co. Cork	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment? Will the development result in the production of any significant waste, emissions or pollutants?	The proposed development is for 1no. new dwelling house within a 4-unit housing scheme currently under construction. The nature of the proposed development is not exceptional in the context of the existing environment. The proposed development would result in some soil excavation. However, this and other works are not considered to result in the production of significant waste, emissions or pollutants.	No No
Size of the Development Is the size of the proposed development exceptional in the context of the existing environment? Are there significant cumulative	The proposed development comprises 1no. house, to be located at the end of a cul-de-sac within a small housing scheme. The size and scale of the proposed dwelling is not exceptional in the context of the existing environment. There are no significant cumulative considerations having regard to other existing and/or permitted projects.	No No

considerations having regard to other existing and/or permitted projects?		
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The subject site is not located on, in or adjoining, nor does it have the potential to significantly impact on an ecologically sensitive site or location. The site is not located within or adjacent to a European site, the nearest of which are:</p> <ul style="list-style-type: none"> • Courtmacsherry Estuary SAC (Site Code 001230) is approx. 9.4km to south • Courtmacsherry Bay SPA (Site Code 004219) is approx. 10km to south <p>Bandon Valley Above Inishannon pNHA (Site Code 001740) is approx. 1.8km to north east. Bandon Valley West of Bandon pNHA (Site 001034) is approx. 2.1km to west.</p> <p>Having regard to the nature and scale of the proposed development, the subject development does not have the potential to significantly affect other significant environmental sensitivities in the area.</p>	<p>No</p> <p>No</p>
<p align="center">Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>	<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>Schedule 7A Information required to enable a Screening Determination to be carried out.</p>	<p>There is a real likelihood of significant effects on the environment.</p> <p>EIAR required.</p>

Inspector: _____

Date: _____