



An  
Coimisiún  
Pleanála

## Inspector's Report ABP-321550-24

<b>Development</b>	Modification to site layout permitted under reg ref. 14/6792 and 23/4232 and all ancillary site works.
<b>Location</b>	Convent Garden, Winter's Hill, Town-Plots, Kinsale, Co. Cork.
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	246058
<b>Applicant</b>	Cumnor Construction Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Cumnor Construction Ltd.
<b>Observers</b>	(1) Ann & Brian Reade (2) Robin Good (3) Alan Clayton on behalf of concerned resident in Convent Gardens, Kinsale.

**Date of Site Inspection**

28<sup>th</sup> October 2025

**Inspector**

Siobhan Carroll

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## **1.0 Site Location and Description**

- 1.1. The site, which has a stated area of 0.208 hectares, is located within the settlement boundary of the Kinsale, Co. Cork. The site forms part of the Convent Gardens housing development which is situated to the southern side of Kinsale. It lies to the north of Winter's Hill and to the west of the Ramparts. The housing within the estate comprises a mix of large, detached dwellings, terraced dwellings and apartments and duplex units located within Avila to the northern eastern side of the development.
- 1.2. Convent Gardens housing estate is served by a vehicular access onto Winter's Hill. On inspection of the site, I observed the appeal site and the area to the east is under construction. The southern boundary of the site adjoins Winter's Hill. This location is currently being used as a temporary construction entrance.
- 1.3. No. 4 Spanish Walk a detached three-storey dwelling adjoins the appeal site to the west along with the end of the access road at Spanish Walk and an area which is to be developed as open space which would be located between Spanish Walk and Orchard Walk.

## **2.0 Proposed Development**

- 2.1. Permission is sought for modifications to the site layout permitted under Reg. Ref. 14/6792 and Reg. Ref. 23/4232 and all ancillary site works.
- 2.2. The proposed modifications to the permitted site layout include: (a) Changes to the permitted road layout; (b) The construction a new private entrance from Winter's Hill to provide private vehicle and pedestrian access to the 7 no. dwellings permitted under ref. no. 23/4232; (c) New entrance and exit gates; and (d) Alterations to the permitted public open space including the erection of 2 metre high fencing. The proposed development also includes modifications to the layout within the front curtilage of the permitted F1 house consisting of a revised driveway location and the construction of a carport and stone wall.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

3.1.1. Cork County Council decided to refuse permission by Order dated 13th of December 2024.

3.1.2. Permission was refused for the following reason:

1. Having regard to Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities the proposed modification involves poor urban design in respect of: (a) unsightly steel fencing segregating access to central public open space by residents of the estate, (b) loss and reduction of public open space enlarged during consideration of the parent Permission (14/6792), (c) risk of visitor / delivery driver confusion between existing main entrance and proposed private gated vehicle entrances and (d) unsuitable metal vehicle and pedestrian gateway entrances conflicting with parent permission (14/6792) to retain historic boundary wall within Architectural Conservation Area thus conflicting with Plan Objectives PL3-1 and PL-3-3 in the County Development Plan 2022 which seeks to achieve 'placemaking' via creation of attractive inclusive residential environments and integrated communities.

### **3.2. Planning Authority Reports**

3.2.1. Planning Reports

3.2.2. Planner Report 12/12/2024 – It was concluded that the proposal conflicts with the principles of placemaking in Development Plan such as promoting continuity and active frontages at street level, avoiding public spaces being cluttered, making places easy to move through (not 2 No. gated access points), and promoting diversity and choice (via variety of house typologies). It was considered that the proposal would be detrimental to residents in Convent Gardens especially those on Spanish Walk looking into proposed gates, reduced, and fenced off open space area.

- 3.2.3. Senior Executive Planner Report 13/12/2024 – The Senior Executive Planner agreed with the recommendation of the case planner to refuse permission.
- 3.2.4. Other Technical Reports
- 3.2.5. Area Engineer – The proposal was not recommended.
- 3.2.6. Estates Engineer – No objections subject to conditions.
- 3.2.7. Archaeologist – No objections subject to conditions.
- 3.2.8. Conservation Officer – Further information requested in relation to details of the materials and finishes to the proposed fencing, stone cladding and details of signage and lighting.
- 3.2.9. Public Lighting – No objections subject to conditions.

### **3.3. Prescribed Bodies**

- None

### **3.4. Third Party Observations**

- 3.4.1. The Planning Authority received 3 no. submissions/observations in relation to the planning application. The issues raised are similar to those set out in the observations to the first party appeal.

## **4.0 Planning History**

- 4.1.1. Reg. Ref. 23/4232 – Permission was granted for construction of 7 no. dwellings (change of house type from that permitted by Ref. No. 14/6792 and 18/6661) and all ancillary site development works. The proposed 4 storey dwellings include terraces at first and second floor level. Access to the proposed dwellings will be provided as permitted by Ref. No. 14/6792 and Ref. No. 04/53026 & PL 65 211819 at Convent Garden, Winter's Hill, Town-Plots, Kinsale Co Cork.
- 4.1.2. Reg. Ref. 17/7332 & ABP 301194-18 – Permission was granted by the Planning Authority for (i) The development of 18 apartments including modifications to the façade of building and the addition of balconies at first, mezzanine, second and third floor levels, minor extensions to the convent building and the provision of 1 additional

floor at first floor level on part of the building; (ii) Minor modifications to the façade and the addition of balconies at first, mezzanine and second floor levels to 7 permitted apartments under 14/6792; and (iii) All associated internal modifications. The appeal referred to a development contribution which was determined by the Board under the provisions of Section 48 of the Planning and Development Act, as amended.

- 4.1.3. Reg. Ref. 14/6792 – Permission was granted for amendments to permission 04/53026 (Conversion and reconstruction of the Convent/Industrial School Buildings as well as the construction of 86 dwellings on site). The amendments have evolved from the further refinement of the elevation of houses C2, C4, C6, C8, C10, C12, C14, C16, C18, C20, C22, C24, C26, C28, C30, C32, C34, C36 to match the remaining house in those terraces, extension of duration of permission granted under 07/53035.
- 4.1.4. Reg. Ref. 04/53026 & PL65.211819 – Parent permission for the site. The scheme comprises conservation, conversion, partial demolition of, and a five storey extension to, the former industrial school building and the conversion of the former convent, school and church to a total of 79 apartments and a new resident's gym facility; (a) The erection of 94 dwellings; (b) The provision of a new vehicular access to Winter's Hill; (c) The provision of pedestrian access at Blindgate, Ramparts Road and Winter's Hill; (d) The provision of 295 car parking spaces within the development; and (e) The demolition of ancillary structures, site clearance and associated site development works.

## **5.0 Policy Context**

### **5.1. Project Ireland 2040 - National Planning Framework – First Revision – April 2025**

- 5.1.1. The NPF includes a Chapter, No. 6 entitled 'People, Homes and Communities'. It sets out that place is intrinsic to achieving good quality of life.
- 5.1.2. National Policy Objective 7 seeks to "deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements and ensure compact and sequential patterns of growth."



- 5.1.3. National Policy Objective 43 seeks “to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.”
- 5.1.4. National Policy Objective 45 seeks to “increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration, increased building height and more compact forms of development.”

## **5.2. Section 28 Ministerial Guidelines**

- 5.2.1. The following is a list of section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.
- Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities (2024)
  - ‘Design Manual for Urban Roads and Streets’ (DMURS) (2019)
  - ‘The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’) (2009)
  - ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ (2023)
  - Urban Development and Building Heights – Guidelines for Planning Authorities (2018)

## **5.3. Cork County Development Plan 2022-2028**

- 5.3.1. Volume Five refers to West Cork and Section 1.5 refers to Kinsale. 5.3.2. Under the provisions of the Plan as indicated on the zoning Map of Kinsale the appeal site is zoned Existing Residential/Mixed Residential.
- 5.3.2. Chapter 3 – Settlements and Placemaking
- 5.3.3. Table 3.1: Principles of Placemaking
- Quality of the Public Realm/Open Space

Strategic Objectives – To promote public spaces and routes that are attractive, safe, uncluttered are sensitively integrated into the natural environment, facilitate sustainable access for the public to nature, and work effectively for all in society, including disabled and older people.

5.3.4. Section 3.4.7 - The Plan advocates that new development respects the established permeability character of the settlement. This includes undertaking an analysis of street layouts, laneways and ponds to inform the appropriate movement response on-site. Proposals that result in the loss of laneways or connectivity will normally not be permitted. The design of new residential areas shall provide for direct pedestrian and cyclist access to adjoining developments and apply the DMURS Standards as advocated in Chapter 12 Transport and Mobility.

5.3.5. County Development Plan Objective PL3-1: Building Design, Movement and Quality of the Public Realm

Support measures to improve building design quality, accessibility and movement including investment in quality public realm across the settlement network of the County linked to the following design criteria:

- a. To achieve/ reinforce a better sense of place and distinctiveness strengthening local character.
- b. Create a design that is sensitive to the history and heritage context of a town / village setting and provides for protection of heritage features and non structural heritage that are important and intrinsic part of the distinctiveness and character of the settlement such as historic boundaries (stone and earthen), pillars and gates, street furnishing, paving and kerbing, trees, hedgerows;
- c. Ground floor buildings within the town centre should aim to have a 4m floor to ceiling height, where possible, to facilitate active ground floor uses.
- d. The use of awnings should be utilized in a manner that respects and enhances the historic town centre environment and adds to the town centre experience.

- e. New buildings should provide for high quality, local material choice and the design shall draw on the local architectural language of place and reinterpret these in a contemporary manner.
- f. Promote enhanced and increased public realm opportunities including a shared use of spaces, for outdoor experiences, with a priority on pedestrian usage.
- g. Provide multi-functional spaces suitable for all age cohorts in the community and capable of accommodating cultural events.
- h. Develop and strengthen the use of the green and blue infrastructure in a town / village setting including the retention and enhancement of existing trees and landscape features, the use of SUDs and permeable paving to achieve climate adaptable places.
- i. Achieve inclusive public realm working from the centre of a town / village setting which minimizes clutter and maximises opportunities for active mobility.
- j. Achieve permeability and connectivity in town centre / village locations which contributes to the 10 Minute Town Concept and Sustainable Neighbourhood Infrastructure. The loss of existing laneways will normally not be permitted.
- k. Delivers legible routes and urban way finding in the larger towns.
- l. Ensure universal design standards are achievable.
- m. Ensure that the aged community and the needs of all ages are facilitated, e.g., through the provision of seating areas and public toilet facilities.
- n. Consider the impacts, positive and negative, of lighting within the public realm which performs an important safety function and can be an aid to the legibility and distinctiveness of a place. Lighting should be designed to minimise negative effects on wildlife. See also Chapter 15 Biodiversity and Environment including paragraph 15.11.3 and Objectives BE 15-13(d) and (e).
- o. Encourage and facilitate the creation and use of public realm and outdoor spaces for outdoor dining in line with Fáilte Ireland's new Outdoor Dining Enhancement Investment Scheme.

5.3.6. County Development Plan Objective PL-3-3: Delivering Quality and Inclusive Places

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.

5.3.7. Section 3.9.6 - New developments, be it, building refurbishments or new builds are expected to bring vitality and new life to a location. Re-use and re-occupation of existing under-utilised buildings provide for social and economic rejuvenation of an area where new people presence bring defensibility and vibrancy to an area where isolation and loneliness for existing residents can be reversed. A properly trained and experienced building / urban designer such as a Registered Architect will have the appropriate training and skill set to carefully assess the site characteristics, the

site context, surrounding buildings styles, building patterns, conservation and building height / density considerations, etc, in arriving at a design solution that's creative, people centred, safe, sustainable and will provide for adequate and comfortable floor spaces with access to good quality natural light, ventilation and private / semi-private out door space with integrated utilities that relates positively to all of its end users.

5.3.8. Chapter 12 – Transport and Mobility

5.3.9. County Development Plan Objective TM 12-1: Integration of Land Use and Transport - Support and facilitate the integration of land use with transportation infrastructure, through the development of diverse, sustainable, compact settlements, to achieve sustainable transport outcomes, with the pattern, location and design of new development in the County to support existing and planned well-functioning, integrated public transport, walking and cycling transport modes.

5.3.10. Chapter 14 – Green Infrastructure and Recreation

5.3.11. Section 14.5.11 refers to Public Open Space Provision – Quantitative/Qualitative Standards - The Guidelines emphasise qualitative standards to be considered in assessing the quality of provision (design, accessibility, variety, shared use, biodiversity, SUDs, allotments, etc). Normally all new housing developments need to provide some public open space. Generally, at least 12% to 18% of a site for development excluding areas unsuitable for house construction should be allocated to the provision of public open space. However, the need to achieve higher qualitative standards in terms of design and layout is particularly important as it is this which helps to achieve a high quality residential environment which fulfils the expectations of the users. In exceptional circumstances where there is a high standard of private open space and where public open space is designed to a very high-quality standard a reduced minimum value of 10% may be applied.

5.3.12. County Development Plan Objective GI 14-6: Public/Private Open Space Provision

a) Public Open Space within Residential Development shall be provided in accordance with the standards contained in Cork County Council's Interim Recreation & Amenity Policy (2019) and any successor policy, the "Guidelines on Sustainable Residential Development in Urban Areas" and "Making

Places: a design guide for residential estate development. Cork County Council Planning Guidance and Standards Series Number 2”.

b) Promote the provision of high quality, accessible and suitably proportioned areas of public open space and promote linking of new open spaces with existing spaces to form a green infrastructure network.

c) Apply the standards for private open space provision contained in the Guidelines on Sustainable Residential Development in Urban Areas and the Urban Design Manual (DoEHLG 2009) and Cork County Council’s Design Guidelines for Residential Estate Development. With regard to apartment developments, the guidelines on Sustainable Urban Housing: Design Standards for New Apartments will apply.

#### **5.4. Natural Heritage Designations**

- 5.4.1. Sovereign Islands SPA (Site Code 004124) is situated 5.5km to the south-east of the appeal site.
- 5.4.2. Old Head of Kinsale SPA (Site Code 004021) is situated circa 9.3km to the south of the appeal site.
- 5.4.3. Courtmacsherry Estuary SAC (Site Code 001230) is situated circa 11km to the west of the appeal site.
- 5.4.4. Courtmacsherry Bay SPA (Site Code 004219) is situated 11.2km to the south-east of the appeal site.

#### **5.5. EIA Screening**

- 5.5.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A first party appeal was submitted by McCutcheon Halley Chartered Planning Consultants on behalf of the applicant Cumnor Construction Ltd. The issues raised are as follows:

- Permission was refused by Cork County Council for modifications to the site layout permitted under Ref. No. 14/6792 and 23/4232 and all ancillary signage, car parking, landscaping and associated site development works at Convent Garden, Winter's Hill, in the townland of Town-Plots, Kinsale, Co. Cork.
- It is submitted that the proposed development constitutes a small change to the permitted housing estate. Construction at Convent Gardens commenced in the early 2000's. Work on the site ceased during the economic downturn. In 2014 an application for modifications to the permitted estate was submitted to Cork County Council which included the 7 no. houses for which a modification to the entrance is being proposed. There have been a number of modifications in the intervening years, each sought modest improvements to the scheme which were precipitated by the applicant to provide a design that meets the needs of the future residents.
- Cork County Council refused permission for the following reason;
  1. Having regard to Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities the proposed modification involves poor urban design in respect of: (a) unsightly steel fencing segregating access to central public open space by residents of the estate, (b) loss and reduction of public open space enlarged during consideration of the parent Permission (14/6792), (c) risk of visitor / delivery driver confusion between existing main entrance and proposed private gated vehicle entrances and (d) unsuitable metal vehicle and pedestrian gateway entrances conflicting with parent permission (14/6792) to retain historic boundary wall within Architectural Conservation Area thus conflicting with Plan Objectives

PL3-1 and PL-3-3 in the County Development Plan 2022 which seeks to achieve 'placemaking' via creation of attractive inclusive residential environments and integrated communities.

- The reason for refusal raised concerns over fencing separating access from public open space to residents. The proposed fencing is described as unsightly steel fencing and that it would segregate access to the central public open space by residents. This view stems from the report of the Case Planner. The Conservation Officer does not share the same strong sentiments towards the fencing.
- The Conservation Officer considered the design of the fencing within the context of the character of the setting within the Architectural Conservation Area.
- The Conservation Officer in their report dated 2/12/2024 considered that with the incorporation of one minor element to the fencing which would result in a reduction in height from the 2m height proposed and that the introduction of the fencing as well as other elements of the development, could enhance the overall character of the setting.
- It is highlighted that the Conservation Officer did not recommend a refusal of permission on the basis of the impact of the proposed development on the character of the area. They sought further information in relation to the material finishes associated with design features proposed. It was requested that the applicant include images to cross reference with the plans and elevations proposed to highlight the features of the fencing in the context of the proposed development.
- Details submitted with the appeal provide updated drawings and imagery as requested by the Conservation Officer. Drawing No: PL\_003 illustrates that the applicant is happy to reduce the height of the fencing from 2m to 1.8m. It is considered that the proposed reduction in height removes the concerns raised by the Conservation Officer.
- It is submitted that the materials and design of the fencing proposed are of an artistic type style which are visually appealing and will contribute positively to



the character of the area. The proposed boundary treatment has been selected to provide a clear boundary while also introducing a new feature to the open space which will contribute to the quality of the space which is consistent with the high quality finishes of the overall estate.

- Part 1(b) of the reason for refusal refers to the loss of existing public open space. It states that the proposed development will result in the “loss and reduction of public open space enlarged during consideration of the parent permission (14/6792).
- The proposed development seeks to maintain the quality of open spaces as previously permitted on site and the loss of 200sq m will still result in a high percentage of open space provision, which will be approximately 20% of the site area. This exceeds the requirements as outlined in Section 14.5.11 of Volume 1 of the Cork County Development Plan.
- The only concern raised by the Planning Authority regarding the reduction in open space provision emanates from the Case Planner. It was recognised in the Planners report dated 12/12/2024 that 20% of the open space will remain. This is above the minimum requirements set out in both the local and national planning policy. It is submitted that the reduction in open space will lead to an overall improvement in the quality of this place, through the introduction of the fencing which will help to define and secure this area for residents to enjoy.
- It is submitted that as part of a revised proposal with the appeal detailed on Drawing No. PL\_003 an additional pedestrian gate to be located on Orchard Walk would enable residents of this part of the site to have direct access to the open space area. It is submitted that the fencing is more akin to functional art and will provide a barrier while maintaining a visual connection, and that the reduction of a minimum amount of open space is appropriate in the context.
- It is considered that there is confusion over the existing entrance and proposed private entrance. Part 1 (c) of the reason for refusal states that the proposed development will create a ‘risk of visitor/delivery driver confusion between existing and main entrance and the proposed private gated vehicular entrances.’

- The Area Engineer raised concerns regarding the entrance proposal, it would appear that they misunderstood the proposal to provide one-way access from Winter's Hill to Orchard Walk for access to the 7 no. houses on Orchard Walk.
- No change is proposed to how the existing entrance operates. Only visitors/delivery drivers for the 7 no. houses on Orchard Walk will use the new proposed entrance to Orchard Walk from Winter's Hill. The address for the 7 no. units along Orchard Walk would be named no. 1-7 Orchard Walk, Winter's Hill, Kinsale under the proposed modifications. Therefore, the perceived potential for confusion for visitors/delivery drivers is unwarranted.
- To ensure pedestrian priority it is proposed that a separate pedestrian entrance be provided in conjunction with the vehicular entrance from Winter's Hill to Orchard Walk.
- Part 1(d) of the reason for refusal states that the gateway entrance proposal would constitute an 'unsuitable metal vehicle and pedestrian gateway entrances, conflicting with parent permission (14/6792) to retain historic boundary wall within the Architectural Conservation Area thus conflicting with Plan Objectives PL3-1 and PL3-3 in the County Development Plan 2022 which seeks to achieve 'placemaking' via creation of attractive inclusive residential environments and integrated communities.'
- The Conservation Officer requested that minor changes be made to elements of the design of the proposals which could result in the enhancing of the character of the setting. The applicant has provided two figures in the appeal illustrating the design of the proposed entrance gate. It is considered that the choice of materials to be used for these gates can be conditioned by the Commission.
- The report of the Conservation Officer which sought further information recommended that the applicant provide further material to show the cladding proposed to the carport of unit F1 would consist of smooth or roughcast render in order to distinguish new work from the historic stone walls in the immediate area. As detailed on Drawing No. PL\_003 the applicant is happy for a rendered finish to be applied as an external material to this carport.

- It is considered that commentary relating to the creation of gated communities is over exaggerated. Objective PL3-1 and PL 3-3 of the Development Plan are referenced in the assessment of the Case Planner and they state that the proposed development is contrary to the objectives.
- These objectives centre around placemaking including policy aspirations relating to the creation of distinct places which can strengthen local character and present an attractive well maintained appearance with a distinct sense of place and public realm.
- The proposed development only relates to a small number of units within the wider estate and that it complies with these objectives by providing a distinct and unique design proposal which will be well maintained and managed.
- It is highlighted that the historic wall referenced by the Case Planner had previously been in a very poor condition prior to its removal to facilitate construction access to Convent Garden.
- The applicant requests that the Commission overturn the decision of Cork County Council to refuse the proposed development for the reasons set out in the appeal.

## **6.2. Planning Authority Response**

- The Planning Authority defends its decision as follows:
- In relation to concerns over fencing which would separate access to open space it is considered that steel fencing regardless of its appearance or suitability would segregate and change access to the central open space within the established residential area.
- The proposal would result in the loss of open space to facilitate a private enclave. It would reduce the permitted area of open space that other residents are entitled to expect when they purchased their homes and it should be provided and maintained as such in perpetuity.
- Regarding the matter of confusion over vehicle entrance and private entrance as raised in the appeal, the Planning Authority have not misunderstood the

proposal. The proposed revised vehicular arrangements will cause confusion for residents and visitors.

- In relation to the design of the proposed gateway, it is located in existing historic wall which is considered to be of a superior design to the proposed replacement wall.
- The proposed revisions are not considered minor. The reason for refusal refers to the proposal not being compatible with the provisions of the Sustainable Residential Development and Compact Settlement Guidelines. It also conflicts with Objectives PL 3-1 and PL3-3 of the Cork County Development Plan 2022-2028.
- The Planning Authority decided that the proposed development was not suitable having regard to all the plans and particulars lodged, including submissions made from a significant number of residents who effectively seek an inclusive integrated community.
- If the Commission consider the principle of the development appropriate, the detailed design of fencing and roadside entrance boundary could be conditioned to be agreed with the Planning Authority.

### **6.3. Observations**

Observations to the appeal have been received from (1) Ann & Brian Reade (2) Robin Good and (3) Alan Clayton on behalf of concerned resident in Convent Gardens, Kinsale.

#### **(1) Ann & Brian Reade**

- The observers request that An Coimisiún Pleanála uphold the decision of Cork County Council to refuse permission for the proposed development.
- The observers have serious concerns in relation to the visual impact of the proposed two meter high fence which would effectively divide what was planned as a single development into two.
- The proposed segregation would disrupt the safe route and free flow of traffic through the originally planned Convent Garden estate.

- The proposed boundary fence would separate the units along Orchard Walk from the open space. The proposed fencing would appear unsightly and visually intrusive.
- The proposed development would result in the loss and reduction of public open space as permitted under the parent permission Reg. Ref. 14/6792. It is stated in the appeal that the minimum 20% public open space is exceeded in the current planning permission and that the loss of public open space involved in the current proposal will not reduce the public open space below 20%. It is highlighted that the amount of open space in the development has previously been disputed.
- They highlight a section of the report of the Planning Officer which states, "I accept removal of 200m<sup>2</sup> of public open space will still result in circa 20% of public open space overall. But the layout is clearly organised so that each residential area has access to useable open space area 'b' in this application was enlarged during consideration of the scheme under Planning Register No. 14/6792".
- The observers highlight a section of the report of the Planning Officer which states, "Convent Gardens construction is nearing completion: after a long protracted period. It has been challenging for a variety of reasons – but is a good example of 'compact development'. The houses are substantially built. But the overall site including the 'open space 'B' is currently a construction site with on-site office etc."
- A further section of the report is noted which states, "some of the first residents managed to put up without permitted public open space (Ref B) for about 10 years, if would be incumbent on the Planning Authority to ensure this public open space remains intact and no interfered with any further."
- The report of the Senior Executive Planner is noted which states, "The retention (of the temporary construction entrance) will separate this part of the estate from the rest of the houses and will encroach upon the permitted public open space designed to serve the whole development. It is considered that the site is too tight/restricted to accommodate this

additional change, the provision of open space was given careful consideration during the application process, and this resulted in an increase in provision (14/6729).

- The observers raise concerns in relation to road safety and traffic management within the Convent Garden estate, on Winter's Hill and the wider Compass Hill route. The proposed gated entrance would be located very close to a blind corner without a footpath and also a short distance from the existing entrance of the Convent Garden estate.
- The observers highlight that the report of the Area Engineer raised concern in relation to the proposed vehicular access arrangements, the conclusion of their report stated, "I don't understand how this can really work here and what effect it would have on Ramparts Lane. Overall, I cannot see any benefit for this proposal, the opposite effect if anything."
- The observers highlight that the report of the Senior Executive Planner which states, "The Area Engineer has concern about the impact on the public road network (vehicles reversing out onto public road). There would also be concerns about traffic issues with cars stationary on the public road as they wait for the gate to open etc. I also note the heritage concerns linked to the loss of the historic wall." And the following section which states, "The overall development is nearing completion, and this application is seeking to retain an informal construction access point to create a gated access and fenced off access road to serve a row of seven houses. In effect creating a separate gated community. Under the original permission these houses were to be accessed via the main estate access."
- The observers state that they support the overall comments of the Area Engineer and the Senior Executive Planner in relation to the shortcomings and flaws in the proposed revised layout. It is noted that the proposed layout is at variance with the principles as articulated in the Design Manual for Urban Roads and Streets and the Sustainable Residential Development and Compact Settlement Guidelines 2024 and therefore should be refused.

- The observers state that they support the overall view of Executive and Senior Executive Planners that, “The proposed development and physical impacts of the proposed development involves poor urban design.”
- The observers state that they support assessment in the Planning Officers report which states, “proposed metal vehicle and pedestrian gateway entrances conflict with the parent permission that committed to retain the historic wall.
- The proposal to replace the unofficial temporary construction access with a permanent access to a gated community is at variance with the Placemaking objectives of the County Development Plan 2022. The County Development Plan aims to achieve Placemaking objective via the creation of attractive inclusive residential environments and integrated communities. This application should be refused by An Coimisiún Pleanála because it will result in a gated community which separated from and would not integrate with the rest of the historical Convent Garden site. It will result in the disimprovement of the original inclusive residential environment and integrated community as contained in the original masterplan layout approved under Planning Register No. 14/6792.
- The proposed removal of the original Convent boundary wall will result in a lower quality of placemaking and would fail to respect the significant heritage and placemaking value of the wall enclosure.
- The proposed entrance is at variance with the principles articulated in the Sustainable Residential Development and Compact Settlement Guidelines 2024 and fails to restore the original Convent Gardens boundary wall which will disimprove the quality of placemaking achieved in the original approved layout.

(2) Robin Good

- Concern is expressed in relation to the fencing, separating access from the public open space to residents. The proposal to alter the existing public open space by erecting a 2m or 1.8m high fence directly contradicts several key objectives of the Cork County Development Plan 2022-2028.

- The appeal states that “the curved nature of this fencing is more akin to functional art and will provide a barrier while maintaining a visual connection. Furthermore, the uniqueness of this proposal feature will contribute positively towards finding a sense of place within the estate.”
- A visual connection with a fence of this height could not be provided between the separate areas of open space. It is questioned how the proposed fence would define and protect the open space. The proposed fence would act as a barrier which would segregate the dwellings in Orchard Walk from the rest of the properties in the Convent Garden estate.
- Section 3.9.6 of the Cork County Development Plan 2022-2028 stresses the importance of “creating high quality, visually appealing environments that contribute to the overall character and identity of a settlement.”
- It is submitted that the proposed steel fence would have an intrusive and unsightly appearance that it would have a negative visual impact on the overall development.
- The Design Manual for Urban Roads and Streets (DMURS) highlights the importance of maintaining aesthetic quality in public spaces by recommending that any fencing or boundaries should be “appropriate to the surrounding context and scale”.
- The proposed modifications to the public realm particularly the fencing off of part of what was originally designed as an open public space, undermines the principles of inclusivity, accessibility and connectivity that are central to the plans vision for sustainable, vibrant communities.
- Section 3.4.7 of the Development Plan underscores the need *to “enhance and protect the quality of the public realm and open spaces”* to ensure that these spaces remain *“inclusive accessible, and safe for all.”* By fencing off a space that was originally designed as public the proposed modifications would undermine these core objectives and would privatize part of a communal area that was meant to serve the broader residential community.



- Table 3.1 of the Development Plan stresses the need for developments to “foster community cohesion and shared use of spaces”. The proposed exclusionary design runs counter to the Plan’s advocacy for integrated, connected communities where public spaces are accessible to all.
- Section 3.9.6 of the Plan advocates for developments that “respect the established character of the settlement” and “promote enhancement connectivity”. The proposed steel fencing alongside the introduction of gates would disrupt the existing permeability and connectivity within the estate.
- It is stated in the appeal that the “Proposed modification is a small change to the permitted housing estate”. The proposal includes (1) provision of new pedestrian and vehicular access from Winter’s Hill (2) Revised internal traffic movements (3) Additional parking (4) Destruction of historic wall (5) Construction of an unsightly fence and metal gates (6) The enclosure of Orchard Walk by creating a gated community (7) The reduction of public open space (8) Provision of 2 visitor parking spaces behind the fence, in what was usable public open space to serve Orchard Walk.
- It is submitted that these amendments could not be considered a small change.
- The proposal would result in the loss of existing public open space along the erosion of public open space and the prioritisation of parking.
- It is submitted that the reduction of open space in favour of parking contradicts the plan’s goal to “maintain and enhance the quality of public open space.”
- The proposed fencing and privatization of what remains of the open space also is contrary to the “Sustainable Residential and Compact Settlement Guidelines for Planning Authorities” which stress the importance of creating development with “integrated and accessible public spaces.”

- It is submitted that the continual erosion of public space and the introduction of ad-hoc modifications undermines the original vision for a cohesive and balanced residential development.
- It is highlighted that section 3.4.7 of the Development Plan states, “public open space should be of a high quality, accessible, well connected and well designed to ensure that it contributes to the creation of attractive, sustainable and liveable environments.”
- One of the key tenets of the Development Plan as set out in Section 3.4.7 is to “create a strong sense of community by promoting integration, accessibility and connection between public spaces.” The introduction of a barrier between the green area and other parts of the development limits social interaction and free flow of movement within the community.
- The appeal refers to confusion over existing vehicle entrance and proposed private entrance. The proposed entrance will be from Winters Hill, it will be gated and it will provide access for the 7 number houses under construction at Orchard Walk. It is questioned whether residents would adhere to this because their proposed exit is out of the proposed new metal gates to the side of Convent Garden and right through the existing estate. It is suggested that people tend to take the shortest route.
- It is noted that the access to the private underground carpark for Avila which contains 33 units is to the side of no. 10 Spanish Walk. There would be a conflict between vehicles trying to turn in this area and traffic entering and exiting the car park.
- The proposed private entrance from Winters Hill raises significant traffic and safety concerns which are in direct conflict with the Development Plan as well as national road safety guidelines. The entrance is situated within 70m of a hazardous 90° street corner. This location which lacks essential pedestrian infrastructure and features a constrained roadway which makes the proposed entrance particularly unsuitable.

- It is highlighted that policy objective TM-01 specifically aims to “provide a safe, efficient and sustainable road network that promotes public safety and minimises the risk of accidents.”
- Section 4.3.1 of the Development Plan underscores the need for road layouts that “prioritize the safety of vulnerable road users, including pedestrians and cyclists. The proposed entrance located in such close proximity to a dangerous corner where visibility is already limited is contrary to this section of the plan.
- The Design Manual for Urban Roads and Streets (DMURS) provides detailed guidance on the design of streets and access points to ensure safety and it stresses the importance of considering alternative routes and access points where possible. The existence of the safer shared access further up the hill should have been considered as the preferable option particularly in light of the significant safety risk posed by the new development.
- The Traffic Management Guidelines and the Development Plan also highlight the importance of reducing “conflict points” on the road network which occur when vehicles and pedestrians interact in unsafe ways.
- Regarding the report of the Conservation Officer as discussed in the appeal, it is highlighted that the Conservation Officer’s report did not say that with minor changes to certain elements of development they have the potential to enhance the character of settings. The report recommended a deferral and further information request.
- It is noted that no agreement has been made with the Conservation Officer in respect of the amendment that the applicant has made to the proposal.
- It is considered that the proposed amendments resulting in a small strip of land behind the fence would lack any meaningful amenity value and would be contrary to Section 3.4.7 of the Plan and Table 3.1 of the Plan.
- It is submitted that the proposed privatization of public open space and the introduction of unsightly fencing around previously open area raised

significant concerns regarding the potential depreciation of property values in the area.

- It is submitted that the proposed alterations which include the introduction of a fence surrounding the public open space presents significant safety hazards particularly for children and also limits the ability of residents to enjoy their living spaces freely.
- Policy objective CS-O1 of the Development Plan states that development should “prioritize the safety of children and other vulnerable groups by ensuring that play areas and public spaces are free from hazards and obstacles.”
- It is highlighted that DMURS recommends that “public play areas should be safe, inclusive and integrated into the wider public realm allowing children to explore and interact freely with their environment” The proposed fencing would be contrary to this principle.
- Concern is expressed in relation to bin collection and traffic flow concerns. The introduction of gates in their proposed locations creates the potential for significant issues regarding bin collection that could affect traffic flow, parking and overall safety within the development.
- The proposed location of the gates in relation to Spanish Walk 1-10 and Spanish Walk 11-17 will result in the obstruction of parking spaces and will restrict turning movements.
- Section 6.2.3 of the Development plan states that developments are required to “ensure that the layout of streets and parking facilities allows for the safe and efficient movement of vehicles, including for waste collection.” If bins are placed on Winters Hill as an alternative they will obstruct traffic and pose a significant hazard.
- It is noted that the views of the observer as expressed in their submission to the Commission are also held by many other residents in the estate.
- In conclusion it is submitted that the proposed modifications to the development particularly those affecting shared public amenities and road infrastructure would have a significant and detrimental impact on the local

community. These alterations would reduce the quality of public spaces, increased traffic hazards and compromise the overall character of the surrounding streets specifically Spanish Walk, Winters Lane, Harvest Walk and Rope Walk.

- The proposed modifications to the permitted development at Spanish Walk are inconsistent with the Cork County Development Plan 2022-2028 and other national planning guidelines. The observer respectfully urges the Commission to uphold the decision of Cork County Council to refuse planning permission.

(3) Alan Clayton on behalf of concerned resident in Convent Gardens, Kinsale.

- The proposal would represent an undesirable change in the character of the residential estate. The proposal would segregate the Convent Garden estate. It would disrupt the open and interconnected residential environment.
- Gated communities are generally discouraged in Development Plans as they reduce community integration, connection and vibrant communities.
- The proposed new entrance from Winters Hill is unnecessary as the housing is served by the entrance into the Convent Garden estate.
- It is considered that the proposed vehicular entrance would have a negative visual impact from Winters Hill. It is submitted that the proposed metal, barrier-type gates, solid panels and high stone cladding to the F1 carport is out of character with the height of the existing Convent of Mercy stone boundary walls. It is highlighted that old stone boundary walls are a feature of the full length of Winters Hill and that it should be reinstated/preserved as much as possible.
- The existing scheme as permitted has two green spaces within the estate. The Harvest Walk/Rope Walk green area and the area at Winters Lane/Spanish Walk Green. The proposal would result in the installation of a high metal barrier and exit gate onto the Spanish Walk green area which would significantly reduce its size and alter the open nature of the Convent Garden estate.

- Convent Garden homeowners purchased their properties based on having access to a green area of a certain size to compensate for the lack of gardens.
- The proposed metal gates, fence and barriers would have a negative visual impact upon the area.
- It is considered that the altering of the roads layout with the removing of the movement of traffic around the central green area would present safety issues. It would result in traffic exiting from Orchard Walk houses to take a longer one-way route via Spanish Walk 11-17 car park. Cars owned by residents in numbers 13 and 14 currently have to swing to the right lane to park on the left side of the carpark. The proposed layout would result in cars facing oncoming cars or reversing towards cars coming from the gate community's new proposed exit. Concern is expressed in relation to the visibility available to cars parked at number 15 which would be located closest to the proposed new vehicular access. Concern is expressed in relation to the creation of a junction in the front of numbers 7 and 8 Spanish Walk and the proximity to the underground car park.
- The proposed gated entrance may obstruct the efficient access of emergency vehicles in the event of a fire/emergency.
- There has been no meaningful consultation with the residents who will be directly impacted by the changes proposed.

## 7.0 Assessment

Having examined the application details and all other documents 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/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered is as follows:

- Planning history and context
- Compliance with the Development Plan and policy context

## **7.1. Planning history and context**

- 7.1.1. Permission is sought for modifications to the permitted site layout to include: (a) Changes to the permitted road layout; (b) The construction a new private entrance from Winter's Hill to provide private vehicle and pedestrian access to the 7 no. dwellings permitted under ref. no. 23/4232; (c) New entrance and exit gates; and (d) Alterations to the permitted public open space including the erection of 2 metre high fencing. The proposed development also includes modifications to the layout within the front curtilage of the permitted F1 house consisting of a revised driveway location and the construction of a carport and stone wall.
- 7.1.2. The parent permission for the site is Reg. Ref. 04/53026 & PL65.211819 it comprised the development of 79 no. apartments and 94 no. dwellings with one permitted vehicular access from Winter's Hill to the south. Under Reg. Ref. 14/6792 permission was granted for amendments to permission 04/53026 (Conversion and reconstruction of the Convent/Industrial School Buildings as well as the construction of 86 dwellings on site).
- 7.1.3. Under Reg. Ref. 23/4232 permission was granted for construction of 7 no. dwellings (change of house type from that permitted by Ref. No. 14/6792 and 18/6661) and all ancillary site development works. Access to the proposed dwellings will be provided as permitted by Ref. No. 14/6792 and Ref. No. 04/53026 & PL 65 211819. The design and layout permitted under Reg. Ref. 23/4232 comprises the 7 no. detached dwellings fronting onto the estate road Orchard Walk and facing west towards the open space located between Spanish Walk and Orchard. The estate road Orchard Walk adjoins Winters Lane and Winters Lane
- 7.1.4. The appeal site corresponds roughly with the western section of the site of Reg. Ref. 23/4232. The 7 no. houses permitted under Reg. Ref. 23/4232 are located outside the area which is the subject of the appeal. The appeal site contains the carports of the 7 no. houses on Orchard Walk, the proposed access road and proposed strip of open space to the northern side of Orchard Walk which it is proposed to segregate from the open space and access road to north within Convent Gardens.

## **7.2. Compliance with the Development Plan and policy context**

- 7.2.1. The Planning Authority refused permission for one reason on the basis that the having regard to the provisions of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities that the proposed modifications to the layout would result in poor urban design.
- 7.2.2. The refusal reason outlines four separate matters of design which were considered to contribute to poor urban design they are (a) unsightly steel fencing segregating access to central public open space by residents of the estate, (b) loss and reduction of public open space enlarged during consideration of the parent Permission (14/6792), (c) risk of visitor / delivery driver confusion between existing main entrance and proposed private gated vehicle entrances and (d) unsuitable metal vehicle and pedestrian gateway entrances conflicting with parent permission (14/6792) to retain historic boundary wall within Architectural Conservation Area. The refusal reason also stated that the proposed development would be contrary to Plan Objectives PL3-1 and PL-3-3 in the County Development Plan 2022 which seeks to achieve 'placemaking' via creation of attractive inclusive residential environments and integrated communities.
- 7.2.3. Three observations to the first party appeal have been submitted to Commission. The observations support the decision of the Council to refuse permission and also cited issues of concern. The observers raised concern in relation to the principle of the segregation of permitted open space with a boundary fence, that a reduction in the area of open space would occur and concern was expressed in relation to the height and design of the proposed fence. In relation to the proposed new vehicular access arrangements with an entrance from Winter's Hill to serve the 7 no. dwellings at Orchard Walk, concern was expressed in relation to road safety and traffic management within the Convent Garden estate, on Winter's Hill and the wider Compass Hill route. The observations referred to the proposed gated entrance being located close to a blind corner without a footpath and also a short distance from the existing entrance of the Convent Garden estate. The observers also questioned whether residents would operate the access only arrangement from Winter's Hill. Regarding the development of the entrance at Winter's Hill concern was expressed in relation to the loss of the historic wall. In relation to the proposed vehicular exit



and gates concern was expressed regard its location relative to Spanish Walk 1-10 and Spanish Walk 11-17 and potential obstruction of parking spaces and restriction of turning movements.

- 7.2.4. The first party submit that the proposed modifications are minor in nature. The appeal response from the Planning Authority refuted this and stated that the proposed revisions are not considered minor. It is set out in the appeal that the commentary in the assessment of the Planning Authority regarding the creation of gated communities is over exaggerated. It is stated in the appeal that the objectives cited in the reason for refuse Objective PL3-1 and PL 3-3 of the Development Plan refer to placemaking including policy aspirations relating to the creation of distinct places which can strengthen local character and present an attractive well maintained appearance with a distinct sense of place and public realm. It is argued in the appeal that the proposed development only relates to a small number of units within the wider estate and that it complies with these objectives by providing a distinct and unique design proposal which will be well maintained and managed.
- 7.2.5. In relation to the loss of open space it is stated in the appeal that the proposed development seeks to maintain the quality of open spaces as previously permitted on site and the loss of 200sq m will still result in a high percentage of open space provision, which will be approximately 20% of the site area. The first party highlighted that the overall provision exceeds the requirements as outlined in Section 14.5.11 of Volume 1 of the Cork County Development Plan.
- 7.2.6. Regarding the proposed steel fencing the first party submit that the report of the Conservation Officer did not raise major concerns in relation to its design. They highlighted that the report recommended the seeking of further information in relation to the material finishes associated with design features proposed. In relation to the design of the fencing it is put forward in the appeal that the materials and design of the fencing proposed is of an artistic type style which are visually appealing and will contribute positively to the character of the area.
- 7.2.7. In relation to the proposed vehicular access from Winter's Hill the first party stated that the Planning Authority in assessing the proposal appeared to have some confusion in relation to the existing entrance and proposed private entrance. They noted that the Area Engineer raised concerns regarding the entrance proposal and

the first party came to the conclusion that the Area Engineer misunderstood the proposal to provide one-way access from Winter's Hill to Orchard Walk for access to the 7 no. houses on Orchard Walk. It was stated in the appeal that no change is proposed to how the existing estate entrance operates. Only visitors/delivery drivers for the 7 no. houses on Orchard Walk will use the new proposed entrance to Orchard Walk from Winter's Hill. The address for the 7 no. units along Orchard Walk would be named no. 1-7 Orchard Walk, Winter's Hill, Kinsale under the proposed modifications. Therefore, the first party submit that the perceived potential for confusion for visitors/delivery drivers is unwarranted.

7.2.8. Regarding the development of new vehicle and pedestrian gateway entrances onto Winter's Hill and the reference in the refusal reason refers to its location within the historic boundary wall within Architectural Conservation Area. It is highlighted in the appeal that the historic wall referenced by the Case Planner had previously been in a very poor condition prior to its removal to facilitate construction access to Convent Garden. It was also noted in the appeal that the report of the Conservation Officer which sought further information recommended that the applicant provide further material to show the cladding proposed to the carport of unit F1 would consist of smooth or roughcast render in order to distinguish new work from the historic stone walls in the immediate area. As detailed on Drawing No. PL\_003 the applicant stated that they are happy for a rendered finish to be applied as an external material to this carport.

7.2.9. In relation to the overall principle of the proposal which seeks to fence off the 7 no. houses on Orchard Lane from the rest of the Convent Garden estate, I would concur with the assessment of the Planning Authority that it would result in a physical separation between the two sections within the scheme and it would result in the partition of the permitted open space. The proposed fence which would partition the open space and access road would extend for circa 60m and it has a proposed height of 2m. I note that it is stated in the appeal that the height of the fence could be conditioned to 1.8m. The first party submitted that the proposed fence design of steel fabrication is of an artistic type style which is visually appealing and that it will contribute positively to the character of the area. Having regard to the proposed design, length, height and prominent location of the fence, I would concur with the assessment of the Planning Authority that it would appear unsightly, and I do not

agree with the first party that it would contribute positively to the character of the area.

- 7.2.10. Regarding the proposed loss of open space and the segregation of the permitted open space, I note the point made by the first party that it would result in the loss of 200sq m. They highlighted that the proposal seeks to maintain the quality of open spaces as previously permitted on site and that it still results in a high percentage of open space provision, which will be approximately 20% of the site area. The reason for refusal referred to both the segregation of access to the central open space and also the reduction of the public open space which was enlarged during consideration of the parent permission (14/6792). In relation to this I would note that proposed loss of open spaces would have a negative impact upon residential amenity for all properties within the Convent Garden estate. Regarding the proposed segregation of the open space the response from the planning authority stated that the proposal is not compatible with the provisions of the Sustainable Residential Development and Compact Settlement Guidelines and that it conflicts with Objectives PL 3-1 and PL3-3 of the Cork County Development Plan 2022-2028. Chapter 4 of the Sustainable Residential Development and Compact Settlement Guidelines refers to Quality Urban Development and Placemaking and section 4.4 refers to Key Indicators of Quality Design and Placemaking and part (iv) refers to Public Open Space. It advises in relation to public open space provided as part of new development proposals that they should form an integral part of the overall design. Chapter 5 of the Guidelines refers to Development Standards for Housing. Section 5.3.3 refers to public open spaces in residential schemes it advises that there need to focus on the overall quality, amenity value and biodiversity value of public open space. It is further advised that public open spaces should form an integral part of the design and layout of a development and provide a connected hierarchy of spaces with suitable landscape features including seating and provision for children's play.
- 7.2.11. The proposed segregation of the permitted public open space within Convent Garden would be not adhere to the guidance set out above because the overall quality would be reduced and this would negatively impact on the amenity value of the open space.
- 7.2.12. In relation to Development Plan Objectives PL3-1 it refers to Building Design, Movement and Quality of the Public Realm. Its aim is to support measures to

improve building design quality, accessibility and movement. Specifically, it seeks to develop and strengthen the use of green and blue infrastructure in a town/village to achieve an inclusive public realm and to achieve permeability and connectivity in town centre and village locations. I would consider that the proposed development of a fence segregating Orchard Walk from the Convent Garden estate including the partition of a permitted open space at Spanish Walk would be contrary to the overarching aims of Development Plan Objectives PL3-1 on that basis that it would restrict movement and negatively impact upon the quality of the public realm.

7.2.13. In relation to Development Plan Objectives PL3-3 it refers to Delivering Quality and Inclusive Places. Its aim is to seek to create high quality inclusive places.

Specifically, it seeks to deliver a quality of life which residents and visitors are entitled to expect, in terms of amenity, safety and convenience and places which are easy to access and navigate and the promotion of social integration. I would consider that the proposed development of a fence segregating Orchard Walk from the Convent Garden estate including the partition of a permitted open space at Spanish Walk would be contrary to the overarching aims of Development Plan Objectives PL3-3 on that basis that it would restrict movement and result in the creation of a non-inclusive layout in the Convent Garden estate, it would result in a layout which would not be easy to access and navigate and it would be contrary to the principle of social integration within developments and settlements.

7.2.14. Regarding the proposed new vehicular access from Winter's Hill to serve the 7 no. houses at Orchard Walk, the reason for refusal stated that it could result in a risk of visitor / delivery driver confusion between existing main entrance and proposed private gated vehicle entrances. The first party stated that there would not be confusion between the proposed private vehicular access and the main entrance serving Convent Garden and that the address for the 7 no. units along Orchard Walk would be named no. 1-7 Orchard Walk, Winter's Hill, Kinsale under the proposed modifications. The proposed new entrance would be located circa 50m to the east of the main entrance.

7.2.15. Table 3:1 of the Development Plan refers to Principles of Placemaking and it sets out that the use of the Design Manual for Urban Roads and Streets (DMURS) applies to all settlement levels. Section 3.3 of DMURS refers to permeability and legibility and it seeks the provision of permeable layouts and to limit the use cul-de-sac that provide

no through access. Accordingly, the proposed revised roads layout would be contrary to provisions of DMURS. Regarding the overall proposal I would note the report of the Area Engineer which questioned how the proposed modifications could work at this location and that no benefits would arise. I would concur with this opinion, and I would consider that the proposed revised layout is entirely unnecessary. The provision of a second vehicular access to the east of the main entrance could result in confusion for visitors and delivery drivers given the close proximity of the two entrances and also depending on what direction drivers were coming from as the proposed new entrance would be the first reached when travelling from the east. The provision of a new gated access onto Winter's Hill would result in vehicles being stationary on the public road as they wait for the gate to open. Furthermore, I would note the concerns raised in the observations to the appeal in relation to the proposed vehicular arrangements whereby vehicles leaving Orchard Walk would exit north via a new gate which would be located adjacent to the car parking spaces to the east of Spanish Walk. The roads layout as permitted provided for vehicular access to and from Orchard Walk via Winter's Lane directly to the west and this layout also removed the requirement for vehicles to travel north, then west towards Spanish Walk, then east back to Winter's Lane to then travel west towards the main vehicular entrance.

- 7.2.16. The refusal reason also referred to the proposed new vehicular and pedestrian entrance stating that it would constitute an 'unsuitable metal vehicle and pedestrian gateway entrances, conflicting with parent permission (14/6792) to retain historic boundary wall within the Architectural Conservation Area. In relation to this matter, I note that the first party highlighted that the historic wall referenced in the report of the Planning Officer had previously been in a very poor condition prior to its removal to facilitate construction access to Convent Garden.
- 7.2.17. The boundary along the southern boundary between the Convent Garden estate and Winter's Hill is formed by a capped stone wall. I would note that to facilitate the development of the estate sections of the historic boundary wall were removed however it would appear that stone removed from the original wall was used in sections of the rebuilt boundary wall. The location of the proposed new vehicular and pedestrian entrance is currently being used as a temporary construction entrance and therefore the existing boundary as this location has been removed to facilitate

this. The scheme as originally granted entailed the provision of a boundary wall along the entire road frontage at Winter's Hill to the east of the estate entrance. This is indicated on the street elevation at Winter's Hill as permitted under Reg. Ref. 14/6792. The report of the Planning Officer highlighted that the proposed metal vehicle and pedestrian gate entrances would conflict with the parent permission which committed to retain the historic wall. The report of the Senior Executive Planner also noted the heritage concerns linked to the loss of the historic wall. In relation to the design of the proposed vehicular entrance gate which are metallic, I would share the concerns of the Council's planners that the proposal would be unsuitable on the basis that the boundary treatment as previously permitted sought to retain the historic boundary wall within the Architectural Conservation Area. The proposed gated entrances would therefore be contrary to this and would result in the loss of the boundary stone wall along Winter's Hill which is a characteristic feature of the original convent site.

## **8.0 AA Screening**

- 8.1.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000, as amended.
- 8.1.2. The subject site is located approx. 5.5km, from Sovereign Islands SPA (Site Code 004124). Old Head of Kinsale SPA (Site Code 004021) is situated circa 9.3km to the south of the appeal site. Courtmacsherry Estuary SAC (Site Code 001230) is situated circa 11km to the west of the appeal site. Courtmacsherry Bay SPA (Site Code 004219) is situated 11.2km to the south-east of the appeal site.
- 8.1.3. The proposed development comprises modifications to the site layout permitted under Reg. Ref. 14/6792 and Reg. Ref. 23/4232 on a 0.208 hectare site, located on serviced lands within the town of Kinsale.
- 8.1.4. No nature conservation concerns were raised in the planning appeal in relation to species of qualifying interest within the Natura 2000 sites in relative proximity to the appeal site.
- 8.1.5. No streams/watercourses are identified on site.

8.1.6. 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:

- The nature of the development proposed which are located on serviced lands
- The distance to the nearest European sites, and the absence of any hydrological or other pathways
- Taking into account the screening report by the Planning Authority

8.1.7. I conclude 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.

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

## **9.0 Water Framework Directive**

9.1.1. The subject site is located at Winter's Hill, Town Plots, Kinsale, Co. Cork. It is situated circa 200m to the west of the town centre of Kinsale. The Knocknabohilly river (IE\_SW\_20K190980) is located to the north-west of the site. It is situated circa 1.2km from the site at the closest point. The Lower Bandon Estuary a transitional waterbody (IE\_SW\_080\_0100) lies to the east, south and west of the site. It is situated circa 300m from the site at the closest point. Kinsale Marsh, Commoge (IE\_SW\_080\_0200) is located 753m to the west. The ground waterbody Bandon (Code IE\_SW\_G\_086) underlies the site.

9.1.2. The proposed development comprises modifications to the site layout permitted under Reg. Ref. 14/6792 and 23/4232 and all ancillary site works development works, on a 0.208 hectare site, located on serviced lands within the town of Kinsale. The grounds of appeal have not raised the matter of the Water Framework Directive.

9.1.3. I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent

deterioration. 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 surface and/or groundwater waterbodies either qualitatively or quantitatively.

9.1.4. The reason for this conclusion is as follows:

- The nature and small scale of the development.
- The distance to the nearest surface water bodies.

### **Conclusion**

9.1.5. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

## **10.0 Recommendation**

10.1. I recommend that permission is refused for the following reasons and considerations.



## 11.0 Reasons and Considerations

1. The Commission considered that the proposed development would be contrary to the provisions of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) and the Design Manual for Urban Roads and Streets (2019) on the basis that the modifications proposed would result in a poor quality of urban design and roads layout within the overall permitted Convent Garden Estate. Specifically the proposed development would result in (a) unsightly steel fencing segregating access to central public open space by residents of the estate, this would result in fragmentation and would negatively impact on the quality and utility of the remaining open space and on the residential amenity within the overall site (b) loss and reduction of public open space enlarged during consideration of the parent Permission (14/6792), (c) risk of visitor / delivery driver confusion between existing main entrance and proposed private gated vehicle entrances and (d) unsuitable metal vehicle and pedestrian gateway entrances conflicting with parent permission (14/6792) to retain historic boundary wall within the Architectural Conservation Area. The proposed development would therefore be contrary to Development Plan Objective PL3-1: Building Design, Movement and Quality of the Public Realm and Development Plan Objective PL3-3: Delivering Quality and Inclusive Places of the Cork County Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.

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.

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Siobhan Carroll  
Planning Inspector

22<sup>nd</sup> December 2025

### Form 1 - EIA Pre-Screening

<b>Case Reference</b>	ABP 321550-24
<b>Proposed Development Summary</b>	Modification to site layout permitted under reg ref. 14/6792 and 23/4232 and all ancillary site works.
<b>Development Address</b>	Convent Garden, Winter's Hill, Town-Plots, Kinsale, Co. Cork.
<b>In all cases check box /or leave blank</b>	
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes,  - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="checked" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.  <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>	
<input type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	

<p>development under Article 8 of the Roads Regulations, 1994.</p> <p><b>No Screening required.</b></p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p><b>EIA is Mandatory. No Screening Required</b></p>	
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p><b>Preliminary examination required. (Form 2)</b></p> <p><b>OR</b></p> <p><b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b></p>	<p>Class 10(b)(i)(iv) - Infrastructure Projects. Thresholds: &gt; 500 homes &gt; 10 hectares</p>

<p><b>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</b></p>	
<p><b>Yes</b> <input type="checkbox"/></p>	<p><b>Screening Determination required (Complete Form 3)</b></p>
<p><b>No</b> <input checked="" type="checkbox"/></p>	<p><b>Pre-screening determination conclusion remains as above (Q1 to Q3)</b></p>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_

## Form 2 - EIA Preliminary Examination

<b>Case Reference</b>	ABP 321550-24
<b>Proposed Development Summary</b>	Modification to site layout permitted under reg ref. 14/6792 and 23/4232 and all ancillary site works.
<b>Development Address</b>	Convent Garden, Winter's Hill, Town-Plots, Kinsale, Co. Cork.
<b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b>	
<b>Characteristics of proposed development</b>  (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).	The development comprises modifications and a revised layout to a previously approved residential development. It 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. It presents no risks to human health.
<b>Location of development</b>  (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).	The development is removed from sensitive natural habitats, centres of population and designated sites and landscapes of identified significance in the County Development Plan. There are no protected species/habitats on site
<b>Types and characteristics of potential impacts</b>  (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 modest 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.
<b>Conclusion</b>	
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>

There is no real likelihood of significant effects on the environment.	EIA is not required.
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	<del>Schedule 7A Information required to enable a Screening Determination to be carried out.</del>
There is a real likelihood of significant effects on the environment.	<del>EIAR required.</del>

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

DP/ADP: \_\_\_\_\_ Date: \_\_\_\_\_

(only where Schedule 7A information or EIAR required)