



An  
Bord  
Pleanála

## Inspector's Report

### ABP-321774-25

<b>Development</b>	Construction of 19 houses and all associated site works. Natura Impact Statement submitted with application.
<b>Location</b>	Glanduff, Kilbrittain, Co. Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	244139
<b>Applicant(s)</b>	Peppard Investments Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission with Conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Celia Weston and Others Castleview and Meadowview Residents Association Finbarr & Therese Crowley Vincent Hickey John & Annette Hickey Kilbrittain Community Centre Ltd
<b>Observer(s)</b>	Simon and Pamela Skinner

**Date of Site Inspection**

13<sup>th</sup> March 2025

**Inspector**

Ronan O'Connor

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## 1.0 Site Location and Description

- 1.1.1. The application site is located within the settlement boundary of Kilbrittain village. The site area is stated as 1.1ha. The site is a greenfield site. To the south of the site there is a sports ground and an informal walkway. To the south-west there are other community facilities (tennis-court and community hall) along with a recently constructed new all-weather pitch and floodlighting. To the west of the site are existing housing estates, Meadowview and Castlevue. The proposed vehicular access is via the existing access road serving Meadowview housing estate. The northeastern and eastern boundary is a wooded area. The ground levels fall from south to north.

## 2.0 Proposed Development

- 2.1. Construction of 19 houses and all associated site works. Natura Impact Statement submitted with application.
- 2.2. The development as proposed is summarised below:

### Key Figures

Site Area	1.1 Ha
No. of residential units	19
Mix	7 no. 4-bed detached dwellings 8 no. 3-bed semi-detached dwellings 4 no. 2-bed terraced dwellings
Density	17 dph
Public Open Space	18%
Height	2 storeys
Part V	2 no. units
Vehicular Access (Operational Stage)	Via Meadowview Drive

Car Parking	44 Spaces (2 no. spaces per residential unit <sup>1</sup> ; 6 no. visitor spaces)
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### 3.0 Planning Authority Decision

#### 3.1. Decision

3.1.1. Grant Permission with Conditions [Decision date 20/12/2024].

#### 3.2. Planning Authority Reports

##### 3.2.1. Planning Reports

The Planner's Report [dated 21/03/24] is summarised below.

##### Principle

- Notes the site is not zoned and DB-01 applies to the entire settlement of Kilbrittain.
- Reference is made to Vol. 5 of the Development Plan.
- Proposal must adhere to objectives of the CDP.
- Total allocation for growth during the lifetime of the CDP in Kilbrittain is 20 no. dwellings.
- Notes that no. new dwellings have been approved since the making of the CDP.
- Refers to Section 4.9.2 of Vol 1 of the CDP – size of any one scheme should not normally be over 50% of the overall scale of Development within Plan period.
- Having regard to 4.9.2, there is scope to exceed the 50% target.

##### Layout

- Overall design is considered acceptable in terms of private amenity space, passive surveillance and generally adhere to house typologies in the area.

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<sup>1</sup> The total car parking provision was increased by 4 no. spaces following submission of Further Information to the PA on 9<sup>th</sup> September 2024.

- However, noted that D1 2 bed units lack the required 2 no. car parking spaces.
- Relationship between rows of dwellings not acceptable, noting heights, level differences and separation distances.
- Relationship between Units 1,8, 9 and 16 and existing walkway and community playing pitches is a concern.
- Will impact on usability of playing pitches and ability to upgrade the walkway in the future which is an objective of the Cork County Development Plan under DB-04.
- Provision of a ball net will provide poor amenity space for a number of units.
- Units 1,8, 9 and 16 should be omitted from the development to provide a suitable buffer.
- Net should be erected within the community pitch/applicant should engage with the Community Council on this issue.
- Units 19 should be omitted (due to removal of trees necessary)/greater separation distance between Unit 17, walkway and community field to the south.
- Quantum of development proposed is considered excessive/scale of the development shall be reduced which will have a number of benefits; reduce the level of traffic/prevent the development impact on community facilities/support objective DB-04 of the CDP.

#### Roads

- References contents of the Roads Report (see report for details of same).
- Visual Impact and Landscaping.
- Reduction in the number of units should help integrate the development into the surrounding landscape.

#### Standards

- Houses meet the standards as set out in the Quality Housing for Sustainable Communities Guidelines.

#### Private open space

- CDP requires a minimum of 60 m2 private open space/all private open spaces exceed this requirement.
- Area of public open space is 18%. This is considered acceptable.

#### Part V

- Refers to the report of the Housing Officer (see same for details).
- Car Parking – 38 no. spaces required. 40 spaces provided. 6 no of these are provided on the access road. Units 3, 6, 11 and 14 only have one space provided/revised proposals needed providing 2 spaces per unit.
- Further information required in relation to storm water proposals.

3.2.2. Further Information recommended in relation to the issues detailed in Section 3.2.4 below.

3.2.3. The subsequent Senior Executive Planner's report [Dated 21/03/24] also recommends Further Information is sought.

3.2.4. Further Information was requested on 21/03/24 in relation to the following issues:

#### **Point 1 – Roads**

- Roads/footpaths/connectivity/construction management plan.

#### **Point 2 – Layout and Design/Design and Visual amenity/scale:**

- Revised proposals which include omission of units 1,8, 9,16 and 19.
- 2 car parking spaces per unit.
- Liaison with the community council regarding provision of a ball net.

#### **Point 3 – Appropriate Assessment**

- Revised Natura Impact Assessment which includes a larger (5m) buffer zones from surface water features/invasive species measures.

#### **Point 4 - Tree protection/Landscaping/Boundary Treatments**

- Tree survey report.
- Invasive Species Management Plan.
- Preliminary Roost Assessment (Bats).



- Landscaping.
- Hedgerow Planting.

#### **Point 5 - Legal Interest**

- Access from the site to the turning circle in Meadowview.
- Rights of way.

#### **Point 6 - Surface Water**

- Silt trap.
- Concrete attenuation tank.
- Details of swale including risk assessment.
- Stormwater Management Plan.
- Interception storage volume.

3.2.5. Significant Further Information was received on 09/09/2024 and included the following information/documentation:

- Cover Letter
- Revised Plans, Sections and Elevations
- Revised Housing Quality Assessment
- Revised Engineering Drawings
- Drainage Impact Assessment
- Outline Construction Management Plan
- Landscaping Material
- Proposed Junction and Swept Path Analysis
- Stage 1/2 Road Safety Audit
- Bat Survey
- Outdoor Lighting Report
- Lighting Plan
- Invasive Species Management Plan

- Revised Natura Impact Statement
- Tree Survey and Protection Plan
- Contract of Sale and Land Registry Maps

3.2.6. The Planner's Report (dated 17/12/24) in relation to the FI is summarised below:

**Point 1 – Roads**

- Refers to the contents of the Engineer's Report (see same) and notes that same has recommended permission subject to 9 no. conditions.

**Point 2 – Layout and Design/Design and Visual amenity/scale:**

- Revised layout acceptable/ball net is no longer required.

**Point 3 – Appropriate Assessment**

- Notes Council Ecologist has reviewed the revised NIS/satisfied with same.

**Point 4 - Tree protection/Landscaping/Boundary Treatments**

- Notes that it is proposed to plant 106 native trees on the site/net gain of 86 no. trees/native hedge to be planted to protect the roots of existing woodlands. Council Ecologists recommends permission subjective to 9 no. conditions.

**Point 5 - Legal Interest**

- Applicants have stated they own the lands/details of Folio/stated that Cork County Council own the lands in Meadowview Estate/note submissions of Kilbrittain Community Council in relation to ownership/Refers to the provisions of Section 34(13) of the PDA 2000 (as amended).

**Point 6 - Surface Water**

- Area Engineer/Estates engineer are satisfied with the stormwater management plan.

3.2.7. The Area Planner Recommends that permission is granted subject to 48 no. conditions.

3.2.8. The report of the Senior Executive Planner Dated 19/12/24 also recommends a grant of permission.

3.2.9. Other Technical Reports

Archaeologist:

Notes previous testing/updated Archaeological Assessment Report/No objection and no further archaeological intervention is required. [dated 12/03/2024]

Area Engineer:

Concerns re loss of existing parking spaces/provision of a shared surface/access and egress from R603 to and from Meadowview/surface water – FI recommended [19/03/2024]

Provision of 2 no. raised crossings on the R603 has improved the safety of the junction/special contribution recommended of 40k towards the future provision of a footpath. [14/10/2024]

Ecologist:

FI requested in relation to a Revised Natura Impact Assessment which includes a larger (5m) buffer zones from surface water features/invasive species measures; Tree survey report; Invasive Species Management Plan; Preliminary Roost Assessment (Bats); Landscaping and Hedgerow Planting [21/03/2024].

Satisfied with Revised NIS; Other aspects acceptable; pre-construction bat surveys are required (as surveys conducted in 2022); No objections subject to conditions [23/10/2024].

Environmental Officer:

No objection subject to conditions [15/03/2024]

Estates Engineer:

No objections in principle/notes that main issues relate to roads/FI recommended [08/03/2024]

No objections subject to conditions [16/10/2024]

Housing Officer:

No objection [05/03/2024]

Part V Officer:

Application can be validated. [31/01/2024]

Public Lighting Engineer:

No objection subject to conditions [reports dated 28/02/2024 and 18/09/2024].

#### 3.2.10. Conditions

3.2.11. The grant of permission was subject to 49 no. conditions. Those of note include:

- Condition No. 6: No further development on the overall landholding shall take place until the footpath connectivity between Meadowview and the R603 is complete.
- Condition No. 48 – Special Contribution of €40,000 towards future provision of a footpath on the L-6105.

### 3.3. Prescribed Bodies

Inland Fisheries: Requests that Irish Water/Cork County Council signifies that there is sufficient wastewater capacity [19/02/2024]

Uisce Eireann: No objection. Notes that a Confirmation of Feasibility has been issued to the developer/notes requirement for a connection agreement [01/03/2024]

### 3.4. Third Party Observations

3.4.1. 14 no. submissions were received in relation to the application as submitted. These are summarised in detail in Section 8 of the Area Planner's Report [dated 21/03/24].

Issues raised include:

- Impacts on community facilities.
- Legal ownership.
- Impact of construction traffic/traffic hazards.
- Impact on Garda Station.
- Impact on existing green space.
- Wastewater proposals/infrastructure/capacity.
- Scale of development/Impact on social infrastructure.
- Impact on Natura 2000 sites.
- Flooding/Surface water management.

- Contrary to policies.
- Impact on light levels to existing houses/Overlooking.
- Impact on biodiversity.
- Impacts on Kilbrittain Castle.
- Invasive species.

3.4.2. 4 no. submissions were received following the submission of Significant Further Information. These are summarised in detail in the Area Planner's Report [dated 17/12/24]. The issues raised are as follows:

- Impact on community walkway.
- Planning History
- Invasive species
- Inadequate NIS
- Need for ball net
- Construction traffic
- Land ownership
- Wastewater capacity
- Car parking
- Visual impact
- Storm pipe infrastructure
- Scale of development
- Impact on green infrastructure.

## 4.0 Planning History

PA Ref. 22/4177 Peppard Investment Ltd. Permission for the Construction of 25 no. dwelling units and associated site works. Refused for 4 number reasons as follows:

1. The proposed development would endanger public safety by reason of traffic hazard because the sight distances are severely restricted at the junction of the

existing estate road L-6105 and the regional road R-603-85 and the road network serving the site is inadequate to cater for the additional traffic movements likely to be generated by the proposed development. The proposal would therefore be contrary to the proper planning and sustainable development of the area.

2. Having regard to the lack of alternative proposals for construction traffic to access the site along with the removal of carparking within Meadow View estate and the lack of suitable alternative car parking proposals for existing residents during the construction period, the proposed development would result in parking on the adjoining public road, would endanger public safety by reason of traffic hazard and obstruction of road users and would seriously injure the residential amenities of residents of Meadow View estate. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. The proposed development, by reason of its site strategy, scale, layout and urban form would be out of character with the existing pattern of development in this area, would exceed the normal recommended scale of development for individual schemes as specified in the Bandon/ Kinsale Municipal District Local Area Plan, 2017 and would not reinforce the existing character of the village. The proposed would, therefore, materially contravene Objective GO-01 (b) of the Bandon Kinsale Municipal District Local Area Plan, 2017 which seeks to ensure that the number of houses in any individual scheme should have regard to the scale and character of the existing village and will not normally exceed the provision of the number of units set out in the Bandon/ Kinsale Municipal District Local Area Plan, 2017. Accordingly, the proposed development would be contrary to the proper planning and sustainable development of the area.

4. The proposed development, by reason of its excessive scale, poor quality layout and urban form, poor relationship with adjoining pedestrian routes, community facilities and woodland area and the creation of incidental and unusable areas of public open space, would constitute an inappropriate development which would seriously injure the residential amenities of future occupants of the proposed housing development. The proposed development would, thus, seriously injure the amenities of the area and accordingly, would be contrary to the proper planning and sustainable development of the area.

## 5.0 Policy Context

### 5.1. Development Plan

Cork County Development Plan 2022-2028

#### Volume 5 West Cork

Kilbrittain identified as a 'Village' in the hierarchy of settlements. The population of same is identified as 216 no. persons in Table 5.1.1 (based on 2016 census).

Section 1.13 Villages

Section 1.19 Kilbrittain

The vision for Kilbrittain is to encourage development within the village, to maintain the compact village core where local services and amenities are available.

The Site is not zoned. The site lies within the Development Boundary of Kilbrittain.

The following objectives are relevant:

- DB-01 Within the development boundary encourage the development of up to 20 additional dwelling units during the Plan period.
- DB-02 New development can only proceed where it is shown it complies with the operation and licensing of the Waste Water Treatment Plant.
- DB-03 All new development south of the Main Street will need to provide adequate measures for the disposal of surface water on site in order to mitigate against flooding impacts on lands and properties in the vicinity.
- DB-04 Support the upgrading and maintenance of walkways south of the village.
- DB-05 New development should be sensitively designed and planned to provide for the protection of green infrastructure assets of the village and will only be permitted where it is shown that it is compatible with the requirements of nature conservation directives and with environmental, biodiversity and landscape protection policies as set out in Volume One Main Policy Material and Volume Two Heritage and Amenity.
- DB-06 Flood Risk All proposals for development within the areas identified as being at risk of flooding will need to comply, as appropriate, and with the provisions of the Ministerial Guidelines – 'The Planning

System and Flood Risk Management’. See Volume One Chapter 11 Water Management

#### Specific Development Objectives

GA-02 Maintain existing GAA pitch, soccer pitch, tennis court and community centre.

#### Volume 1

HOU 4-7: Housing Density on Residentially Zoned Land – Medium C Sites – Min Net Density 5; Max Net Density 19

- Limited number of sites at the edges of the smaller towns (<5,000 population) as an alternative to one off housing in the countryside.
- The layout needs to include a strong urban edge, where appropriate.
- A lower standard of public open space provision will be considered where larger private gardens are provided.
- Broad housing mix normally required including detached/ serviced sites.
- This category cannot exceed 20% of new housing requirements.

#### 5.1.1. Density Approach to Villages – Section 4.9.2

*Some changes are proposed to the current approach to development within the village network of the County. The “Overall Scale of Development” will continue to apply, reflecting the future core strategy growth target for the village over the Plan period. The “Normal Recommended Scale of any individual scheme” will be removed. In order to ensure some diversity in design and to encourage the delivery of units it is recommended that the size of any individual residential scheme should not normally be over 50% of the Overall Scale of Development within the Plan period*

#### Section 4.9.4

*The village network across the county varies considerably in terms of the population, services and the urban form of each settlement. The Plan provides a new approach to density within the lower order settlements based on the need to deliver sequential and tiered development and to offer choice in the supply of housing across the settlement network.*

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".

Section 14.5.11 sets out that at least 12% to 18% of a site should be provided as public open space.

#### ZU 18-3 Development Boundaries

For any settlement, it is a general objective to locate new development within the development boundary, identified in this Plan that defines the extent to which the settlement may grow during the lifetime of the Plan.

Table 12.6: Car Parking Requirements for New Developments Residential Dwelling Houses: 2 per unit.

CS 2-7 Villages Encourage and facilitate development at a scale, layout and design that reflects the character of each village, where water services and waste water infrastructure is available and support the retention and improvement of key social and community facilities within villages, including the improved provision of inter urban public transport

## 5.2. National Policy

### National Planning Framework First Revision (April 2025)

The National Planning Framework (NPF) is the Government's high-level strategic plan for shaping the future growth and development of our country out to the year 2040. This Framework is revised and updated to take account of changes that have occurred since the publication of the National Planning Framework in 2018 and to build on the framework that is in place.

Section 6.6 sets out that there is a projected total requirement to accommodate approximately 50,000 additional households per annum to 2040. In relation to location of housing, the Revised NPF sets out that that housing will still be located in our smaller towns, villages and rural areas, including the countryside, but at an

appropriate scale that does not detract from the capacity of our larger towns and cities to deliver homes more sustainably.

Relevant National Policy Objectives include the following:

- National Policy Objective 7 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.
- National Policy Objective 9 Deliver at least 30% of all new homes that are targeted in settlements other than the five Cities and their suburbs, within their existing built-up footprints and ensure compact and sequential patterns of growth.
- National Policy Objective 42 To target the delivery of housing to accommodate approximately 50,000 additional homes per annum to 2040.
- National Policy Objective 43 Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

#### National Biodiversity Action Plan 2023-2030

The NBAP includes five strategic objectives aimed at addressing existing challenges and new and emerging issues associated with biodiversity loss. Section 59B(1) of the Wildlife (Amendment) Act 2000 (as amended) requires the Board, as a public body, to have regard to the objectives and targets of the NBAP in the performance of its functions, to the extent that they may affect or relate to the functions of the Board. The impact of development on biodiversity, including species and habitats, can be assessed at a European, National and Local level and is taken into account in our decision-making having regard to the Habitats and Birds Directives, Environmental Impact Assessment Directive, Water Framework Directive and Marine Strategy Framework Directive, and other relevant legislation, strategy and policy where applicable.

#### Climate Action Plan, 2025 [CAP25]

It is noted within CAP25 that Key targets to further reduce transport emissions include a 20% reduction in total vehicle kilometres travelled relative to business-as-usual, a 50% reduction in fuel usage, and significant increases to sustainable transport trips and modal share.

In relation to buildings, it is noted that operational emissions in the built environment sector have decreased by 21% since 2018, and achievement of the first sectoral emissions ceilings is within reach. In 2025 it is proposed to transpose the Energy Performance of Buildings Directive, publish a roadmap to phase out fossil fuel boilers, and increase the numbers of building energy rating (BER) assessors, One-Stop-Shops, and Sustainable Energy Communities.

It is stated within the Plan that, CAP25 is to be read in conjunction with CAP24, and as such I have set out a summary of same below.

Climate Action Plan, 2024. [CAP24]

Implements carbon budgets and sectoral emissions ceilings and sets a roadmap for taking decisive action to halve our emissions by 2030 and reach net zero no later than 2050. By 2030, the plan calls for a 40% reduction in emissions from residential buildings and a 50% reduction in transport emissions. The reduction in transport emissions includes a 20% reduction in total vehicle kilometres, a reduction in fuel usage, significant increases in sustainable transport trips, and improved modal share.

### 5.3. **Section 28 Guidelines**

Having considered the nature of the appeal, the receiving environment, and the documentation on file, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Sustainable Residential Development and Compact Settlements - Guidelines for Planning Authorities (Jan 2024).
- Design Manual for Urban Roads and Streets (DMURS) (2019)
- Development Management – Guidelines for Planning Authorities (June 2007)

### 5.4. **Regional Policy**

Regional Spatial & Economic Strategy for the Southern Region 2020-2032 (RSES)

5.4.1. This is a strategic regional development framework which establishes a broad framework for the way in which society, environment, economy, and the use of land should evolve.

5.4.2. Section 3.6 of same refers to Towns and Villages. Relevant Objectives include:  
RPO 26 Towns and Villages – seeks to *inter alia* support strengthening the viability of towns and rural settlements, ensure the delivery of infrastructure within same and ensure development plans tailor response to same with reference to the scale, nature and location of the settlement.

## 5.5. Natural Heritage Designations

5.5.1. The nearest designated sites are as follows:

- Courtmacsherry Estuary SAC (001230) – 0.8km to the east.
- Courtmacsherry Estuary pNHA (001230) - 0.8km to the east.
- Courtmacsherry Bay SAC (004219) – 1.2km to the south-east.

## 5.6. EIA Screening

5.6.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices 1 and 2 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

6.1.1. 6 no. appeals have been received from the following parties.

1. Castlevue and Meadowview Residents Association
2. Ceila Weston & Others

3. Finbarr and Therese Crowley
4. Vincent Hickey
5. John and Annette Hickey
6. Kilbrittain Community Council Centre Ltd

6.1.2. I have summarised the grounds of appeal as raised in the submissions below.

Principle of Development/Scale of Development

- Nearly double recommended scale of development.
- Would contradict every relevant objective for Kilbrittain including
  - DB-01 – refers to up to 20 additional dwelling units/not normally more than 50% in any one development – materially contravenes this objective.
- Further 9 houses to be built in the second phase.

Traffic and Transport Issues

- Loss of cul-de-sac.
- Impact of construction traffic.
- Only first phase of intended development.
- Safety issues.
- Impact of noise, dust, dirt and vibration at construction stage.
- Impact on parking/accessible parking.
- Road is not wide enough/danger of collision.
- Impact of operational traffic.
- Road infrastructure works will create traffic hazard on the Main Street.
- Loss of parking on Main Street/Loss of parking for existing houses.
- Lack of pedestrian connectivity to main street/applicant did not respond adequately to the FI request.
- Provision of two pedestrian crossings on the R603 does not overcome these concerns.

- Special contribution for footpath at an unspecified date/unspecified arrangement does not overcome issue.
- Will prevent parking outside house.
- Impact on accessible parking space/direct discrimination.
- No footpath.
- Health and safety risks of extra traffic.

#### Density, Design and Residential Standards

- Proposal is out of character with existing pattern of development.
- Housing style is urban not rural/will be conspicuous due the elevation.

#### Impacts on Surrounding Residential Amenity

- Impact on residential amenity
- Noise impacts and impacts on air pollution from operational traffic.

#### Impacts on Existing Community Assets

- Impact on existing green space.
- Impact on existing amenities.
- Materially contravene GA-02 of the LAP (in relation to existing sports facilities).
- DB -05 – will damage and destroy existing green infrastructure.
- Need for netting remains.
- Netting required to ensure no claims against the facilities.
- Needs to be erected on lands owned by the developer/needs to be responsible for same.
- Impact on community grounds and facilities – development is too close to the main playing pitch.

#### Waste Water/Surface Water/Flood Risk

- Capacity of the Kilbrittain WWTP – LAP identifies the WWTP as having ‘no capacity’/is exceeding its permitted Emission Limit Values.

- Existing 150mm clay pipe is insufficient to provide a waste connection.
- DB-02 – WWTP – States WWTP has no capacity.
- DB-03 – disposal of surface water – development will increase run off- impact on adjoining properties – impact of climate change/underlying bedrock (rising water table).

#### Previous Refusal

- Previous refusal 22/4177 – nearly identical to same – Reasons for refusal have not been addressed.

#### Biodiversity/Appropriate Assessment

- Stream beside the WWTP goes into the sea to SAC 0.5km downstream.

#### Land ownership/Right of Access/Rights of Way

- Access road would cut directly across a right of way- legally established 50 years ago.
- Impact on right of way, contrary to s10(2)(o) of the PDA 2000, as amended, - gives access to community sports facilities and woodland walks.
- No legal consent to implement proposed alternative construction route.
- Lack of room to manoeuvre without impact on right of way.
- DB -04 blocks right of way.
- Impact on right of way.
- No communication has taken place with the applicant and Community Council.
- Proposed footpath is shown on private land.
- L6105 is the entrance to the community centre/owned by the Community Centre.
- Legal implication regarding rights of ways (Solicitor's letter attached).
- Units 1,8,9 ,16 and 19 remain.
- Inadequate access to the site – rights of way
- Solicitor's Letter – refers to rights of way – attached map.

#### Other Issues

- Impact on physical and mental health.
- Insufficient local school places.
- Devaluation of property values.
- Structural Damage as a result of construction traffic.
- External walls are rubble and grit/vulnerable to damage.
- Impact on historic village homes/impact on heritage.

6.1.3. I would note that the appeal submission from Kilbrittain Community Council Centre Ltd includes a report Waterman Kelly Consulting Engineers which considers impacts on rights of way, considers impacts on community grounds and facilities and refers to the previous refusal on the site (PA 224127 refers). Also included with this appeal submission is a Solicitor's Letter from Myra Dinneen Solicitors (dated 22/01/2025).

## 6.2. **Applicant Response**

6.2.1. A response to the appeals was received from the applicant was received on 10/03/2024. This is summarised below.

### Principle of Development/Scale of Development

- In line with the NPF housing targets.
- Future development – proposal is for 19 units only/any future application will be subject to a separate consultation process.
- DB-01 – Application does not seek permission for more than 19 units, which is within the housing targets identified for Kilbrittain/50% issue is not an objective of the Development Plan merely a general recommendation of policy.

### Traffic and Transport Issues

- Outline CEMP provides details of efforts made to reduce potential impacts on residents and the community grounds/Condition 6 also refers to same/access is via a temporary route.
- Parking – existing parking is ad-hoc/applicant proposes 6 no. spaces including an accessible car parking space.



- Uncontrolled crossing will connect the Meadowview to these spaces.
- Works to R603 – works will benefit the entire village – Spaces to the south of the Garda Station would not be removed.
- Widening of the existing footpath to the south will improve safety/will result in the loss of a number of on-street parking spaces – will improve sightlines.
- Pedestrian Connectivity – Applicant is to provide a network of paths and streets through the site/pedestrian priority/crossings link footpaths/new footpath to the northern side of L5105/shared surface at junction of L5105/R603.
- Applicant consider the imposition of a special contribution condition to provide a footpath at a future date a reasonable compromise.

#### Density, Design and Residential Standards

- Design – High quality scheme – regard to the existing character.
- Proposal was revised at FI stage

#### Impacts on Existing Community Assets

- Separation distance means ball netting is no longer required – closest unit is 26m from the community pitch/landscaped buffer provided/pitch is orientated east-west.
- GA-02 – will not have any undue impact on the adjoining amenities/right of way is maintained from the R603.

#### Waste Water/Surface Water/Flood Risk

- WWTP – COF was received from Uisce Eireann – Wastewater and Water Connection can be facilitated subject to upgrade – to facilitate up to 25 no. houses.
- Uisce Eireann website indicates that the Kilbrittain plant has available capacity (as of Dec 2024).
- Foul waste will join the existing 225mm existing sewer/into the combined sewer at Main Street – Engineering letter attached.

#### Land ownership/Right of Access/Rights of Way

- Rights of Way – Additional pedestrian crossing is provided where the right of way meets the proposed access road – Solicitor's letter attached.

### 6.3. **Planning Authority Response**

- 6.3.1. A response from the PA was received on 21/02/25. This states that all relevant issues have been covered in the technical reports already forwarded to the Board.

### 6.4. **Observations**

- 6.4.1. 1 no. observation has been received from Simon & Pamela Skinner [received on 21/05/25]
- NIS ignores hydrological connections to 2 no, Natura 2000 sites located at Courtmacsherry Bay and Estuary (1km downstream along the Kilbrittain River).
  - Proposed estate is in immediate proximity to streams/link to both Natura 2000 sites/will transmit pollutants/alien species.
  - Watercourse run directly alongside and slightly below the level of the site's eastern boundary/they are not 50m away/the waters enter the Kilbrittain River 30 m below.
  - Land is not flat but is a hilly field.
  - Will lead to an increase in surface water run off/damage to wastewater pipe further polluting the river.
  - Impact on the mudflat habitat/disturbance to bird species/impact on SPA wetland/important site for overwintering birds.
  - None of the mitigation measures identified in the NIS will be effective in preventing habitat damage and disturbance of bird populations.
  - Out of date Irish Water connection letter (March 2019)/LAP states there is insufficient capacity in WWTP.
  - Conclusions of the NIS in relation to cumulative impacts must be regarded as inaccurate.

- Question ecological sustainability of designated Kilbrittain Woods as a construction-site buffer.
- Impacts on species within woodlands.
- Impact of second phase of development.

## 7.0 **Assessment**

7.1. Having regard to the issues raised in the appeal submission, and having regard to the submissions of the observers on the appeal, I am of the view that the main issues that arise for assessment in relation to the appeal can be addressed under the following headings:

- Principle of Development
- Material Contravention
- Traffic and Transport Issues
- Design/Character
- Impacts on Residential Amenity
- Impact on Community Facilities
- Wastewater/Surface Water/Flood Risk
- Trees/Adjacent Woodlands/Impacts on Bats
- Impacts on Rights of Way/Access Issues
- Previous Refusal (PA Ref 22/4177)
- Other Issues

## 7.2. **Principle of Development**

7.2.1. The site lies within the Development Boundary of Kilbrittain (Vol 5 of the Cork County Development Plan 2022-2028 [the CDP] refers). The site is not zoned. Objective DB-01 applies, and this states that '*Within the development boundary encourage the development of up to 20 additional dwelling units during the Plan period*'. As such, the principle of a residential scheme, that is less than 20 units, as proposed here, is acceptable in principle, having regard to this particular objective.

- 7.2.2. I would also note that Objective ZU 18-3 Development Boundaries (Vol 1 of the CDP refers) is also of relevance, and this seeks to locate new development within development boundaries, identified in this Plan and these define the extent to which the settlement may grow during the lifetime of the Plan.
- 7.2.3. Section 4.9.2 'Density Approaches to Villages' of the CDP (Vol 1) also applies, however, and this section of the Plan states that *'in order to ensure some diversity in design and to encourage the delivery of units it is recommended that the size of any individual residential scheme should not normally be over 50% of the Overall Scale of Development within the Plan period'*. As such this particular provision of the Development Plan would appear to impose a limit on the number of units that can be delivered in any one scheme, within any defined settlement, including the village of Kilbrittain. Given the overall scale of development within the Plan period is 20 no. units, it would appear that any one scheme in Kilbrittain can only bring forward 10 no. units. In this case, 19 no. units are proposed. There are no circumstances identified within the CDP where this would not be the case, notwithstanding the term 'normally' is used.
- 7.2.4. The Planning Authority are of the view that *'consideration could be given to a greater number of dwellings than the 10 no proposed by Section 4.9.2, where all other issues are resolved'* (Page 41 of EP's report refers) and are also of the view that the overall scale is appropriate and can be integrated into the existing village (page 59 of the report of the Senior Executive Planner (dated 21/03/24 refers).
- 7.2.5. The appellants are of the view that the scale of development represents a material contravention of the Development Plan, namely Section 4.9.2 of same. Conversely, the applicant is of the view that this section is not an objective of the plan, rather it is a policy recommendation.
- 7.2.6. I am of the view that a single development of 19 no. units, that is almost double the recommended number of units to be delivered by a single scheme within the Plan period, would represent a material contravention of Section 4.9.2 of the Development Plan, notwithstanding that the provision is not contained within a specific objective, and notwithstanding the overall number of units does not exceed the expected housing provision for Kilbrittain for the plan period (which is 20 no. units). There is no explicit provision in the CDP that sets out circumstances where the development of

greater than 50% of the number of units would be recommended, rather the term 'normally' is used. However, I am of the view that the material contravention is justified in this instance, for the reasons as set out below.

### **7.3. Material Contravention**

- 7.3.1. I would note that s37(2)(a) of the Planning and Development Act, 2000 (as amended)[PDA 2000, as amended] states that;

*Subject to paragraph (b), the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates.*

- 7.3.2. As such, the PDA 2000 (as amended) allows for the Board to grant permission, even it is considered that the development would materially contravene the relevant Development Plan. I would note the Planning Authority granted permission in this instance, therefore the provisions of section 37(2)(b) of the PDA, as amended, do not apply in this instance. Notwithstanding, in materially contravening the Development Plan, sufficient justification is necessary, and I have set out my considerations of same below.
- 7.3.3. In relation to national policy, I would note that the Revised NPF (April 2025) sets out that there is a projected total requirement to accommodate approximately 50,000 additional households per annum to 2040. In relation to location of housing, the Revised NPF sets out that that housing will still be located in our smaller towns, villages and rural areas, including the countryside, but at an appropriate scale that does not detract from the capacity of our larger towns and cities to deliver homes more sustainably. I am of the view, therefore, that the development of housing, within this village context, at a scale that is appropriate (see discussion of same below), is in line with the provisions of the NPF.
- 7.3.4. In relation to Section 28 Guidelines, the provisions of the Sustainable Residential Development and Compact Settlements - Guidelines for Planning Authorities (Jan 2024) [The Compact Settlement Guidelines] are of most relevance here. Kilbrittain falls into the category of 'Rural Towns and Villages (>1,500 population). In relation to rural towns and villages, such as Kilbrittain, it is noted that the development of housing in these villages provide an alternative to rural one-off housing. Other key

priorities for compact growth of these settlements include the development of housing that can be integrated into the existing built-up footprint and can be serviced by necessary infrastructure. I am satisfied that the scale and nature of the development as proposed here can be successfully integrated into the existing village, and will be sufficiently served by road and pedestrian infrastructure (see Section 7.4), as well as by sufficient water supply and wastewater infrastructure (see Section 7.8 below).

7.3.5. The proposed density is 17 dph. In relation to density, Table 3.7 of the above Guidelines sets out 'Areas and Density Ranges for Rural Towns and Villages', such as Kilbrittain (with a population less than 1,500). It is stated that such rural towns and villages are small in scale with limited infrastructure and services provision, and that development in rural towns and villages is tailored to the scale, form and character of the settlement and the capacity of services and infrastructure (including public transport and water services infrastructure). The density of development at such locations should respond in a positive way to the established context. I have considered water services infrastructure in Section 7.8 of this report. In relation to public transport, the applicant's Planning Statement (January 2024) sets out that the village is served by the 252 bus route which connects Kilbrittain with Clonakilty (5 times daily Monday to Saturday) and by the 254 bus route which connects the village with Bandon and Kinsale (3 times daily Monday to Friday). As such, existing and future residents of the village have alternative transport options, rather than wholesale reliance on the private car. Notwithstanding, the site is some 250m from the village centre which has various amenities, including retail and community uses. Overall, I am of the view that scale and nature of the development as proposed is reflective of the existing density and the built form typology of Kilbrittain (see also discussion in Section 7.5) and is therefore in line with the provisions of the Compact Settlement Guidelines for villages such as Kilbrittain.

7.3.6. In relation to regional policy, RPO 26 Towns and Villages of the Regional Spatial & Economic Strategy for the Southern Region 2020-2032 (RSES) is of relevance here, and this objective seeks to *inter alia* support strengthening the viability of towns and rural settlements, ensure the delivery of infrastructure within same and ensure development plans tailor response to same with reference to the scale, nature and location of the settlement. I would note that the development of additional housing

within Kilbrittain, of an appropriate scale such as that proposed here, would serve to support the vitality and viability of existing services within the village. I note also that this objective puts the onus on the relevant Planning Authority to ensure that the Development Plan sets out an appropriate growth strategy for villages such as Kilbrittain.

- 7.3.7. In relation to the provisions of the Cork County Development Plan 2022-2038, I would note that the scale of development proposed here is similar to that envisaged for the village for the duration of the Plan, as per Objective DB-01 of Vol 5 of the CDP which sets a target of 20 no. units for the village of Kilbrittain, and as such the growth of the village resulting from the development, is not over and above that expected, and planned for. The scale of the development, at 19 no. units, represents a 22% growth in the number of dwellings in the village<sup>2</sup> and, to my mind, is an appropriate balance between ensuring efficient use of land, and ensuring the sustainable development of the village, and is in line with the overall growth envisaged within the Development Plan (which envisages a growth of 20 units during the lifetime of the plan). This is also the view as expressed in the report of the Senior Executive Planner (dated 21/03/24), which notes that there has been very limited growth (if any) in recent years, and also notes that the village is served by various amenities including retail and community uses, a school, church, sports facilities and Garda Station, with a local link public transport service serving the village.
- 7.3.8. I would also note that the density proposed here is also in line with that set out in the Cork County Development Plan (Volume 1 - HOU 4-7: Housing Density on Residentially Zoned Land) which refers to a limited number of sites at the edges of the smaller towns (<5,000 population), and which sets out a range of 5 to 20 dph, to provide an alternative to one off housing in the countryside.
- 7.3.9. As such, I am of the view that the development of a housing development of the scale proposed here, is supported by the provisions of the National Policy, as set out in the NPF and as set out in the Compact Settlement Guidelines, and is in line with Regional Policy as set out in the RSES, and is in line with the general thrust of the Development Plan in relation to the delivery of housing within a village context,

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<sup>2</sup> According to the report of the Senior Executive Planner (dated 21/03/24), there were 84 no. dwellings in the village in 2020.

notwithstanding that I have identified a material contravention of a specific provision of the Plan. As such, I am of the view that the Board would have sufficient justification for a material contravention of the Development Plan (namely Section 4.9.2 of Volume 1 of the Cork County Development Plan 2022-2028), should the Board be minded to grant permission in this instance.

#### **7.4. Traffic and Transport Issues**

- 7.4.1. All of the appellants have cited concerns in relation to traffic and transport issues, namely the impact of construction and operational traffic, the lack of pedestrian connectivity, loss of parking spaces, and road safety issues.

##### **Construction Traffic**

- 7.4.2. In relation to the impacts of construction traffic, I note that the applicants have submitted an Outline Construction Management Plan at application stage (dated Oct 2023) and a revised version of same at FI stage (dated July, 2024). With reference to the July 2024 document, I note that construction access will be via the junction of the R603 Main Street and the L-6105, with a temporary access route proposed that runs to the south of the units at Meadowfields (see Section 7.10 for discussion of rights of access to same). Peak traffic movements are expected to be 10-15 truck movements per day into the site during the first 2-3 months of construction, which decreases to 2-3 thereafter.
- 7.4.3. In terms of the potential impacts on same on amenity, I would note that this proposed construction access route is elevated relative to the rear elevations of the houses on Meadowview. However, the route is setback at least 16m from the rear elevation of these houses, which will mitigate the impact of noise from same to an acceptable degree, in my view. However, I accept that there may be some impacts from noise during the working hours of the site. In relation to same, I would note also that construction stage impacts are temporary in nature and somewhat inevitable if the site in question is to be developed. The hours of construction can also be controlled by way of condition, should the Board be minded to grant permission. I would also note that the proposed route avoids the area to the front of the houses on Meadowview, which would have potentially greater impact on the amenity of existing residents, in my view. In terms of the duration of the works, I note that the appellant has stated that the duration of the works will be c18 months. In relation to same, I



would be of the view that the most disruptive phases would occur early on in this period, with excavation etc occurring during the initial phases of development which would require larger vehicle types. Later phases of the development would be less disruptive in my view.

- 7.4.4. Other issues such as road safety at construction stage, the volume of traffic entering and exiting the site, haul routes and operational hours can be controlled by way of a detailed Construction Management Plan, which can be requested by way of condition, should the Board be minded to grant permission.

#### Operational Stage Impacts

- 7.4.5. In relation to operational stage impacts, I would accept that there will be changes to the existing nature of the road as a result of the removal of the cul-de-sac that currently exists, with through traffic now passing through Meadowview. However, the traffic that is generated will be subject to traffic calming measures, such as the raised table proposed at the junction of the R603 and the L6105 (see further discussion of same below), and the raised uncontrolled pedestrian crossings, which will serve to reduce traffic speeds. I would be of the view that the extension of the existing access road, to enable the delivery of residential units is an appropriate form of development, and would not raise any significant impacts on residential amenity, nor would it raise significant road safety risks, so as to warrant a refusal of permission.
- 7.4.6. In relation to the impacts of the proposed development on the operation of the surrounding road network, in terms of potential congestion, I note the contents of the Transport Assessment (December 2023) which set out that AM Peak Hours two-way trips are expected to be 14 vehicles/hour, and during the PM Peak Hour trips are expected to be 12 vehicles/hour. The report assesses the impacts of the proposed development at 1 no. junction in the vicinity as follows:
- R6303 Main Street/L-6105 Junction
- 7.4.7. In relation to the R6303 Main Street/L-6105 Junction it is stated that, with and without the proposed development in place, this junction will operate with considerable spare capacity in all assessed years (2025, 2035 and 2040). As such, I am satisfied that the development as proposed will not have a material impact on the operation of the surrounding road network.

## Car Parking

- 7.4.8. The Transport Assessment sets out details of the total car parking provision on the site, and within same it is stated that a total of 40 no. car parking spaces is provided (34 for the residential units, and 6 no. visitor parking spaces. However, following further information, the proposal was revised to provide 2 spaces per unit. This is in line with the Maximum Car Parking Standards as set out in Table 12.6 of the CDP, and within same it is stated that, for dwelling houses, 2 spaces per unit are required.
- 7.4.9. In relation to visitor parking, there is no specific requirement for visitor parking set out in Table 12.6 of the CDP. However, the proposal development sees the removal of existing informal on-street car parking as a result of the proposed road infrastructure works i.e. the raised table at the R6303 Main Street/L-6105 Junction and the works to the Main Street. This would appear to include an area to the front of dwellings on the south side of Main Street, and to the side of one no. of same, where informal parking currently occurs. Such informal parking would not appear to be possible should the footpath widening, and the 2 no. pedestrian crossings, be implemented on Main Street, and informal parking, if this is taking place, on the L-6105 would be also curtailed by the construction of the raised table. I would not that this existing parking is an informal arrangement, and there is no loss of designated parking spaces. As such, while I accept there may be some inconvenience to existing residents, as a result of the removal of this informal arrangement, I am satisfied that the proposed 6 no. visitor spaces will provide an alternative provision. I note that an appellant has stated that they are 'blue badge' holder and therefore would appear to have accessibility issues. In relation to same, there is no existing designated blue badge/disabled parking space at present, on Main Street, or near the junction. However, the applicant has proposed a designated accessible/ disabled parking space, albeit at some remove from the junction of Main Street (c100m). Notwithstanding, I would also note that the current informal arrangement on Main Street, east and west of the proposed infrastructure works would appear to be unaffected, which would also provide continued informal parking arrangements for those dwellings on Main Street, including for the appellant who is a holder of a 'blue badge'.

## Pedestrian Connectivity/Road Safety

7.4.10. A number of the appellants have stated that the proposed development does not provide sufficient pedestrian connectivity, citing the lack of a footpath as one approaches the junction of the L-6105 and Main Street. In relation to same, the applicant has stated that it was not possible to provide same, as the required land is not in the applicant's ownership, and no agreement has been reached in relation to the provision of same. The applicant is instead proposing a 'raised table' near the junction, as an alternative solution. I refer to Design Manual for Urban Roads and Streets (DMURS) which notes that such raised tables should be used primarily to reinforce a lower speed environment, and should generally be limited to local streets. They are also of assistance to pedestrian movements at crossings, as it allows a crossing to be made at grade. Generally speaking, I would be of the view that they would not be an alternative to a pedestrian footpath. However, there are particular circumstances in this instance that would allow for the provision of same. Of note is that a footpath is not within the gift of the applicant to provide, and is dependant on third party agreement. I would also note that there is no footpath existing on this local road, which serves 21 no. existing dwellings (7 no. dwellings in Meadowview, and 14 no. dwellings in Castlevue, as per Section 2.3 of the applicant's Transport Assessment). The provision of the raised table would serve to improve pedestrian safety for existing residents in my view, as the provision of same would serve to slow vehicular traffic on this section of road. I would also highlight that volumes of traffic on this road are not expected to be significant, noting the number of peak hour movements cited above, and noting also the relatively small number of existing dwellings which are served by this local road. I would not also that the section of road where there will be no footpath is limited in extent (c17m).

7.4.11. I note that the PA have imposed a special contribution, payable under s48(2)(c) of the Planning and Development Act, 2000 (as amended) of €40,000 which is payable towards the provision of a footpath at a future unspecified date. I concur with the views of the appellants that there some lack of certainty in relation to the delivery of same. Notwithstanding, it may be possible for such works to be carried out at a future date and I would be of the view that the applicant should be required to make a provision towards same, noting that the provision of the footpath at this location is a specific cost that would benefit the development, and as such the imposition of same would comply with the requirements of s48(2)(c) of the PDA, 2000 (as

amended) I would note that the PDA allows for the refund of such contributions if the works in question do not commence within 5 years, or completed within 7 years, from the date of payment of the contribution (s48(12)(b) of the PDA, 2000 (as amended) refers). As such there is a specific time-period specific as set out in legislation in which the works, if they are occur, would need to be commenced and completed.

- 7.4.12. Overall, I am of the view, that while ideally a footpath should be provided, it is not within the gift of the applicant to provide same, and I am satisfied that the proposed alternative arrangement is satisfactory, would not result in a traffic hazard, and would also serve to improve pedestrian safety for existing residents. Should a footpath be provided at a later date, the imposition of a s48(2)(c) special contribution will ensure that the applicant contributes towards the provision of same, which is appropriate.

#### Phasing

- 7.4.13. A number of appellants have cited that the applicant intends to develop a total of 28 no. hours in 2 no. phases, with this phase constituting 19 no. houses. In relation to same, I would note that the appeal relates to 19 no. houses only, and any potential future development on the wider landholding, is not a matter for consideration in this appeal.

#### PA Condition No. 5 – Future development

- 7.4.14. I would note that the PA have imposed a condition that restricts any future development of the applicant's landholding prior to the delivery of a footpath on this section of road. I am not of the view that this is warranted or justified, given the uncertainty in relation to the future delivery of a footpath. footpath, and the imposition of this condition would serve to effectively sterilise these future lands from development. As set out above, I am satisfied that the raised table improves pedestrian safety over and above the existing situation and will also facilitate the development as proposed. Any development that comes forward on the wider landholding would be subject to additional consultation and assessment, as appropriate. I am also of the view that the condition is not in line with the provisions of Section 7.3 of Development Management Guidelines (June, 2007), as it is not necessary or reasonable, in my view, and it is not relevant to the development to be

permitted (should the Board be minded to permit), as it relates to an unspecified future development on the applicant's wider landholding.

- 7.4.15. In relation to other aspects relating to road safety, I would note that appellants have raised road safety concerns in relation to the narrowing of the Main Street, resulting from the widening of the public footpath. In relation to same, the proposed road width on the Main Street is at least 6m in width (each lane is 3m in width) at the point of the uncontrolled pedestrian crossings, which is in line with that of a 'Link Street' within a village centre context, as defined with the Design Manual for Urban Roads and Streets (DMURS, Section 4.4.1 of same refers). I would note that no concerns have been raised in relation to same within the internal roads or engineering reports on file. Furthermore, the provision of a wider footpath and the uncontrolled crossings will have a positive benefit on the safety of pedestrians with the village centre.

#### **7.5. Design/Character**

- 7.5.1. A number of appellants have stated that the proposed development is out of character with existing development.
- 7.5.2. In relation to same, I would note that the applicants have included a Design Statement with the application (Dated December 2023). Therein, it is illustrated that a number of house types are provided, with a render and stone finish, which draws reference to the scale and type of housing within the existing village. I would accept that the proposed housing typologies are appropriate, with materials that complement the existing housing stock in the village (as illustrated in Section 8 of the Design Statement).
- 7.5.3. I would note that the visibility of the site has been raised as an issue, due to its elevated nature. I accept that the site may be visible from certain vantage points, due to this elevation, although I am not of the view that this visibility, in and of itself, is a negative aspect of the development, and I am the view that the development will read as an extension to the existing village, with a scale and form that is appropriate to its context, as discussed above.

#### **Public Open Space**

- 7.5.4. Policy and Objective 5.1 'Public Open Space' of the Compact Settlement Guidelines (2024) notes Development Plans should include a requirement for open space within

the Development Plan, and that this requirement shall be not less than a minimum of 10% of net site area and not more than a minimum of 15% of net site area, save in exceptional circumstances.

- 7.5.5. I would note that Section 14.5.11 of the Development Plan requires between 12 and 18% open space to be provided. In this instance, the applicant has provided 18% of the site area as public open space, in 2 no. distinct areas, to the north (P.O.S 1) , and to the west and south of the site (P.O.S. 2). This open space benefits from passive overlooking from a number of the units proposed. I am satisfied that the quality and quantity of same is sufficient, and the PA are also of this view.
- 7.5.6. As such, I am of the view that the design and layout of the overall development is appropriate and has due regard to the village centre context within which the site lies.

#### **7.6. Impacts on Residential Amenity**

- 7.6.1. Appellants have raised issues in relation to the potential impacts on amenity, including that from noise, dust and vibration impacts. I have considered potential noise impacts from construction traffic in Section 7.4 above. In relation to potential noise, dust and vibration impacts resulting from other construction related activities, I accept that there may be some impacts from same. However measures to limit and control same can be set out within a Construction and Environmental Management Plan. In this regard, impacts arising from noise, dust and vibration can be reduced to an acceptable level, noting also that such impacts are temporary in nature.
- 7.6.2. Appellants have also raised concerns in relation to the impacts on the existing green space to the front of Meadowview. I would note that the majority of this space would remain, with an uncontrolled pedestrian crossing providing safe access to same. There is no evidence on file that this area will not remain as a viable amenity to the existing residents.

#### **7.7. Impact on Community Facilities**

- 7.7.1. A number of appellants have stated that the development as proposed will result in negative impacts on the existing community facilities, in particular impacts that could arise as a result of stray balls landing from same within the proposed development, and any subsequent insurance claims that could arise as a result.

- 7.7.2. In relation to same, the applicant has stated that a sufficient setback has been provided, as well as buffer planting. In addition, the east-west pitch orientation is referred to, which will limit the potential of stray balls from the playing pitch. I would note that the ball net originally proposed as per the application submission was removed from the proposals at FI stage.
- 7.7.3. I would note that the closest proposed unit to the sports field is 20.61m (Unit A3). While the risk of stray balls cannot be completely discounted, I am satisfied that the setback distance of a least 20m will serve to reduce the risk of such stray balls landing within the confines a unit, within this proposed development. The proposed landscaped buffer would also provide some further protection. I would note that there is existing netting surrounding the sports field, which already provide some protection. I would also accept that the east-west orientation of the pitch would also reduce the risk of stray balls.
- 7.7.4. There are no other obvious impacts the development would have on this existing facility, nor on any other facilities in the area.
- 7.7.5. I would conclude then, that the development as proposed, would not have an unacceptable impact on surrounding community amenities, having regard to the considerations above.

#### **7.8. Wastewater/Surface Water/Flood Risk**

- 7.8.1. Appellants have raised concerns in relation to the lack of capacity at the Kilbrittain wastewater treatment plant. In addition, it is stated that the proposed development will give rise to increased surface water run-off, increase the risk of flooding to surrounding developments.

##### **Wastewater**

- 7.8.2. Objective DB-02 (Vol 5 West Cork) states that, within Kilbrittain, 'New development can only proceed where it is shown it complies with the operation and licensing of the Waste Water Treatment Plant'.
- 7.8.3. Wastewater management will consist of a new 225mm PVC connection to the existing public sewer.

7.8.4. Appellants have referred to Volume 5 of the Development Plan which shows that there is no wastewater treatment capacity to serve development within Kilbriain. I would note that Table 5.1.2 'Bandon-Kinsale Municipal District – Proposed Scale of Development' refers to Kilbriain, noting that the 'Waste Water Status' of same (as of February 2021) is one of having 'no capacity'. I would note that this would appear to differ from the view of Uisce Eireann in their submission on the current application (dated 01/03/2024) which does not raise any capacity concerns in relation to waste water treatment, nor did they previously raised any capacity concerns when issuing a Confirmation of Feasibility to the developer (dated January 2025, which is included the applicant's response to the appeals). I would note that the applicant, in the response to the third party appeals, has referred to the website of Uisce Eireann, where there is an indication of available capacity (as of December 2024).

7.8.5. I would conclude, therefore, that it is likely that there is available capacity within the Kilbriain WWTP to accommodate this development of 19 no. units. The constraints highlighted above, date back to February 2021, whereas the most recent correspondence from Uisce Eireann, related to this specific development, do not raise capacity concerns, nor does the submission indicate that significant network upgrades are needed to facilitate the development. As cited by the applicant, the 'wastewater treatment capacity register' on the Uisce Eireann website indicates that the capacity of the Kilbriain WWTP is at 'green' status which would appear to indicate capacity is available. However, the Board should be aware that, as per the disclaimer on the Uisce Eireann website. *the 'capacity register is provided for guidance only and cannot be taken as confirmation that capacity is available for a particular development'*. As such, the indication of capacity therein cannot be taken as confirmation of capacity, in and of itself. However, given the correspondence on file from Uisce Eireann, it is likely that sufficient capacity is available. I would also note that the development is also required to ensure a connection agreement is made with Uisce Eireann, which will provide further reassurance to the Board that there will be sufficient capacity to accommodate the development as proposed.

#### Surface Water/Flood Risk

7.8.6. A revised Drainage Impact Assessment and SUDS Statement (July 2024) was submitted to the Planning Authority at Further Information Stage. This sets out that stormwater from the proposed development joins the existing network on



Meadowview Road. This will then join a new stormwater line on the main road which will then join to the Kilbriann River. This is illustrated on Drg 0305 Rev B, as submitted at FI stage. The proposal also incorporates various SuDS measures, as set out in the statement and illustrated on drg.03050 Rev B, as submitted at FI stage. These include a stormwater swale to the north of the proposed units, which will reduce stormwater flow from the site, as well as tree pits which will also reduce stormwater flow. Attenuation is also proposed, as well as a hydrobrake, which will restrict the outflow off the site to the equivalent of the existing agricultural runoff. It is set out that the stormwater system has been designed with a 20% increase in capacity, to account for climate change. Silt traps are proposed upstream of the attenuation tank, with a petrol interceptor located downstream of the attenuation tank and hydrobrake, which will ensure water quality is maintained.

7.8.7. In relation to flood risk, it is stated that the site is not liable to flooding, with reference to OPW Flood Maps, with no record of flood events occurring within a kilometre of the site.

7.8.8. As such, given the above considerations, I am satisfied that the proposed development will not result in an increase flood risk off site, nor is the development itself at risk of flooding. I would note that an appellant has raised the issue of climate change and a high underlying water table. In relation to the former issue, the capacity of the stormwater system has account for climate change. In relation to the latter issue, I would note that the proposed development does not propose infiltration to ground as a means of surface water disposal. Notwithstanding, mapping on floodinfo.ie does not indicate that the site is at risk of groundwater flooding. As such, I am satisfied that the risk related to same is minimal.

## **7.9. Trees/Adjacent Woodlands/Bats**

7.9.1. An appellant has raised concerns in relation to wastewater and impact on water quality, noting that the stream beside the WWTP goes into the sea to SAC 0.5km downstream. An observer on the appeal has raised concerns about impacts on species within the adjacent woodlands, including bats, as well as raising concerns about impacts on water quality, and subsequent impacts on downstream Natura 2000 sites. I have considered impacts on Natura 2000 sites specifically, in Appendix 3 and 4 of this report.

## Adjacent Woodlands/Trees

- 7.9.2. I would note that an Tree Survey (July 2024) was submitted as part of the Further Information submission to the Planning Authority. It is stated that, on the site, a total of 30 no. trees were surveyed. No category A trees are on site, with 1 no. category B tree (T167). 27 no. category 'C' trees were surveyed. It is proposed to remove a total of 20 no. trees to facilitate a new entrance and access road. These include the 1 no. category B tree (sycamore) and remaining trees are low value category 'C' trees. A section of hedgerow is also to be removed along the access path running in a north-south direction, and it is set out within the report that same are of low value and quality. It is set out that there are no trees impact along the northern boundaries and the woodland is not impacted by the proposed development. Tree protection works are proposed in relation to any trees proposed for retention and within the woodland, close to the site. It is set out that the landscaping scheme will also help to mitigate for the loss the trees on the site.
- 7.9.3. In relation to same, I am satisfied that the trees proposed for removal are generally of low quality, category C trees, save for 1 category 'B' tree. However, the removal of same is necessary to facilitate the development as proposed. I am satisfied that the proposed landscaping will serve to mitigate any impacts, noting in particular the comments of the Area Planner [report dated 17/12/24] which notes that it is proposed to plant 106 native trees on the site, which will result in a net gain of 86 no. trees.

## Bats

- 7.9.4. In relation to bats, I would note that that the impact on same has not been raised as a specific issue within any of the grounds of appeal, but has been cited as a concern by an observer on the appeal. In relation to same, I note that a Bat Survey was at FI stage (dated 17<sup>th</sup> September 2022, updated 21<sup>st</sup> July 2024). The survey was updated to include the results of a bat roost inspection survey of trees to be felled to facilitate the proposed entrance to the development. I would note that report sets out that a detailed inspection of trees was undertaken during the course of the site walkover on 22<sup>nd</sup> September 2022, and a specific roost inspection survey of trees to be felled at the site entrance was undertaken on 24<sup>th</sup> July 2024. Bat activity surveys were carried out in September 2022.

- 7.9.5. The Bat survey notes that the commuting and foraging habitats over the site are of moderate to high suitability for bats. No potential roosting features were recorded at the proposed site and its immediate environs. It is stated that the levels of bat activity and species diversity at the site was low. In relation to the foraging and commuting bat species recorded at the site, the bat populations are considered to be of 'Local Ecological Value'. In terms of assessment of impacts, at construction stage, it is noted that the existing boundaries and woodland to the east of the site are to be retained, and there will be no direct loss of foraging and commuting habitat as a result of the proposed development. It is noted that there is potential for indirect impacts as a result of works undertaken within the root protection areas of mature trees at the site boundary, with potential impacts considered to be minor adverse at a local scale. At construction stage, the potential for short term significant adverse impacts at a local scale, as a result of lighting, is also highlighted in the report. At operational stage, it is set out that increased lighting may reduce the availability of feeding sites for bats and would be a long-term significant adverse impact at a local scale.
- 7.9.6. Mitigation measures are set out in Section 6 of the Bat Survey and include tree protection measures and limiting the hours of operation during hours of darkness (at construction stage), and implementation of a lighting scheme that is in line with the BCT Lighting Guidelines (BCT, 2018)<sup>3</sup> and such measures are detailed in Section 6.2.1 of the Bat Survey. In addition to same, enhancement measures in the form of planting will be implemented, in line the recommendations of Landscape and Urban Design for Bats and Biodiversity (BCT, 2012). With the implementation of the above measures, it is concluded within the Bat Report that there will not be any significant residual effects on the conservation status of bat species from the proposed development.
- 7.9.7. In relation to the above, I am satisfied that, with the proposed mitigation measures in place, and subject to appropriate conditions, there will not be any significant impact on bats as a result of the proposed development. Should the Board be minded to grant, I would recommend a condition be imposed in line with that imposed by the

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<sup>3</sup> Bat Conservation Trust - Bats and artificial lighting in the UK Bats and the Built Environment series Guidance Note 08/18

Planning Authority, which seeks a pre-felling bat survey of trees to be felled by a bat specialist.

#### **7.10. Impacts on Rights of Way/Access Issues**

##### **Rights of Way**

- 7.10.1. Appellant submissions have indicated that the proposed development will impact on rights of way, in particular the right of way that runs from the east of the current community centre through to the Main Street (as indicated on map attached to the submission from Kilbrittain Community Council Centre Ltd). I would note that the appeal submission from Kilbrittain Community Council Centre Ltd includes a report Waterman Kelly Consulting Engineers which considers impacts on the rights of way referred to above. Also included with this appeal submission is a Solicitor's Letter from Myra Dinneen Solicitors (dated 22/01/2025), which outlines the potential impacts of the proposed development on the rights of way referred to above. It is stated that the access road would cut directly across a right of way legally established 50 years ago, and this would be contrary to s10(2)(o) of the PDA 2000, as amended, as it gives access to community sports facilities and woodland walks.
- 7.10.2. In response to the appeals, the applicant has stated that the proposed development has facilitated the existing rights of way, in particular via the provision of an uncontrolled pedestrian crossing over the proposed access road along Meadowview. The applicant's response to the appeal also includes a solicitor's letter which states that once a roadway becomes taken in charge, it becomes available for use without the consent of the original landowner.
- 7.10.3. In relation to same, I would note that the development as proposed does not appear to restrict the rights of way, as indicated on map attached to the submission from Kilbrittain Community Council Centre Ltd. With the proposed development in place, the right of way that runs to the east of the community centre is not impeded and is facilitated by the provision of an uncontrolled pedestrian crossing. The right of way that runs to the west of the community centre, and continues down the L-6105 would appear to be unaffected also.
- 7.10.4. In relation to s10(2)(o) of the PDA 2000, as amended, as referred to above, this provision of the Act relates to the contents of Development Plans, and I am not of the view that it is of particular relevance in this instance.

## Construction Access

- 7.10.5. Appellants have stated that the applicant does not have consent to implement the proposed construction access route, and that, furthermore, the community centre is the owner of the this road. In relation to same, I would note that that Article 22 of the Planning and Development Regulations 2001 as amended sets out requirements for the content of planning applications generally. Article 22(2)(g) states that where the applicant for permission is not the legal owner of the land or structure concerned, the application shall be accompanied by the written consent of the owner to make the application.
- 7.10.6. I refer to Section 2.10 of the planning application form on file, which states that the applicant is the part owner of the site, and that letters of consent have been obtained for those portions of the site that are in the ownership of Cork County Council. Those areas that are stated as being within the ownership of Cork County Council are illustrated on Drg 2001 P01& Drg 2002 P01. Letters of consent from Cork County Council in relation to these areas of land are on file (referred to Site A and Site B in the applicant's cover letter of 30<sup>th</sup> January 2024, on the file. The applicant does not refer to any areas of the site within any other ownership and the are no further letters of consent on file.
- 7.10.7. I would note that the above documentation does not refer to land proposed for the construction access, which runs to the south of the existing houses on Meadowview.
- 7.10.8. Conversely, however, I would also note that the title documentation submitted on file, attached to the submission from Kilbrittain Community Council Centre Ltd, does not appear to definitively include the area proposed for construction access. Furthermore, it is not known if this proposed construction route is via lands that have been taken in charge by the council. Notwithstanding, I note that the Board is not an arbiter of title, and I refer to Section 34(13) of the Planning and Development Act which provides that if the applicant lacks title or owner's consent to do works permitted by a planning permission, the permission does not give rise to an entitlement to carry out the development.
- 7.11. **Previous Refusal (PA Ref 22/4177)**
- 7.11.1. The appellants have stated that the applicants have not overcome the previous reasons for refusal, as per PA Ref 22/4177, which sought the construction of 25 no.

dwelling units and associated site works. This was refused for 4 number reasons, as detailed in Section 4 above.

- 7.11.2. In relation to same, I would note that this refusal was not appealed to the Board, and as such the Board have never made a determination in relation to same. The reasons for refusal also relates to a different application and not that under consideration here. I would note that every case is also determined on its merits. Notwithstanding, I have considered the previous reasons for refusal below.

Previous Reason for Refusal (No 1). – Traffic Hazard

- 7.11.3. I would note that a number of appellants have stated that the development has not resolved the previous reasons for refusal on the site (PA Ref 22/4177 refers; See Section 4 for details of same). I would note that Reason for refusal no. 1 related to restricted sight lines at the junction of the L-6105 and R603. I am satisfied that the currently proposed arrangements in place at the junction have allowed for adequate sightlines at this junction, noting that the informal parking at the junction will be removed, allowing for additional visibility at the junction. Noting the conclusions of the Transport Assessment, I am also satisfied that the development will not have a material impact on the operation of the surrounding road network.

Reason for Refusal No. 2 – Construction Access

- 7.11.4. I would note that the proposed temporary construction access route is in response to Reason for Refusal No. 2 of PA Ref 22/4177 (as detailed in Section 4 above) and previous proposals had taken the construction route via the existing Meadowview Road. I am satisfied that that the applicant has adequately dealt with this reason for refusal, as are the Planning Authority. I have discussed construction access in detail in Sections 7.4 and 7.10 of this report.

Previous Reason for Refusal No. 3 - Scale, Layout, Material Contravention

- 7.11.5. I would note that the previous reason for refusal (No 3; See Section 4 for details of same) referred to the scale of development, layout and urban form, and refers to a material contravention of the Bandon/ Kinsale Municipal District Local Area Plan, 2011, as the previous development exceeded the recommended scale of development for individual schemes. I have considered the scale of the development above in Sections 7.3 and 7.5 above, and layout and urban form in Section 7.5

above. I would note that the Bandon/ Kinsale Municipal District Local Area Plan, 2017 has now been superseded by Cork County Development Plan 2022-2028 and as such I have considered the proposal in light of same in the relevant sections of this report.

Previous Reason for Refusal No. 4

7.11.6. I would note that the previous reason for refusal (No. 4, as detailed in Section 4 of this report) referred to scale, layout, relationship with existing pedestrian routes, community facilities, and woodland, and poor quality open space. In relation to same, I have considered the scale of the development in Sections 7.3 and 7.5 above. In relation to the layout, I have considered same above. In relation to connectivity, and existing pedestrian routes, I have considered same in Section 7.4 above. In relation to impacts on community facilities I have considered same in Section 7.7 of this report. In relation to impacts on the woodland, I have considered same in Section 7.9 above. In relation to public open space, I have considered same in Section 7.5 above.

#### **7.12. Other Issues**

7.12.1. Structural Damage – I would note than an appellant has stated that construction traffic will result in structural damage to their property. I would note that there is little evidence to support same, and that the existing access road is currently utilised by larger vehicles such as refuse trucks. Notwithstanding, I am of the view that any such matters are legal matter between the appellant and the applicant, should issues arise in relation to same.

7.13. Property Values (Loss of parking) – I would note than an appellant has stated that properties will be devalued as a result of the loss of on-street parking. I have considered this loss of on-street parking in section 7.4 above. This is an informal parking arrangement, and as such there is no loss of designated parking spaces. Notwithstanding, there is no evidence that the loss of same would have a negative impact on property values in the area.

## 8.0 AA Screening

8.1.1. I would direct the Board to Appendix 3 (Stage 1 AA Screening) which contains an AA Screening Assessment. Therein I have concluded the following:

- In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that it is not possible to exclude that the proposed development alone will give rise to significant effects on Courtmacsherry Estuary SAC (004219) and Courtmacsherry Bay SPA (004219) in view of the sites' conservation objectives. Appropriate Assessment is required.

8.1.2. I would also direct the Board to Appendix 4 (Stage 2 Appropriate Assessment) which contains an Appropriate Assessment.

### 8.2. Appropriate Assessment Conclusion: Integrity Test

8.2.1. In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on Courtmacsherry Estuary SAC [001230] and the Courtmacsherry Bay SPA [004219] in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of S177U was required.

8.2.2. Following an examination, analysis and evaluation of the NIS and all associated material submitted and taking into account observations of third parties, I consider that adverse effects on site integrity of the Courtmacsherry Estuary SAC [001230] and Courtmacsherry Bay SPA [004219] can be excluded in view of the conservation objectives of these sites and that no reasonable scientific doubt remains as to the absence of such effects.

8.2.3. My conclusion is based on the following:

- Detailed assessment of construction and operational impacts.
- The relevant conservation objectives for Courtmacsherry Estuary SAC [001230] and Courtmacsherry Bay SPA [004219].
- Effectiveness of mitigation measures proposed including standard practice construction mitigation measures and operational surface water measures.
- Application of planning conditions to ensure these measures.



- The proposed development will not affect the attainment of conservation objectives for Courtmacsherry Estuary SAC [001230] and Courtmacsherry Bay SPA [004219].

## **9.0 Recommendation**

I recommend that permission is granted, subject to the reasons and considerations below.

## **10.0 Reasons and Considerations**

Having regard to the location of the site with the settlement boundary of Kilbrittain, having regard to the nature and scale of the proposed development, and having regard to the provisions of the Cork County Development Plan 2022-2028, it is considered that, subject to compliance with conditions below, the proposed development would provide a high-quality residential development that would integrate with the existing village; would not give rise to a traffic hazard, would not seriously injure the character of the area or the amenities of property in the vicinity, would not adversely impact on existing community amenities, and would provide an adequate standard of residential amenity to future occupiers.

In identifying a material contravention of the Cork County Development Plan 2022-2028 (namely Section 4.9.2 of Volume 1 of the Development Plan), the Board had regard to the provisions of Section 37(2)(a) of the Planning and Development Act, 2000 (as amended). The Board was of the view that the development of housing at the scale proposed here, is supported by the provisions of national policy, as set out in the Revised National Planning Framework (April, 2025), and as set out in the Sustainable Residential Development and Compact Settlements - Guidelines for Planning Authorities (Jan 2024), and is in line with Regional Policy as set out in the Regional Spatial & Economic Strategy for the Southern Region 2020-2032. The Board was of the view that the proposed development of 19 no. units within the settlement boundary of Kilbrittain, was also in line with the general thrust of the Cork County Development Plan 2022-2028, in relation to the delivery of housing within a village context, and is in line with the overall quantum of development allowed for within the village of Kilbrittain, as expressed in Objective DB-01 of Volume 5 of the

Plan, notwithstanding that the Board have identified a material contravention of a specific provision of the Plan. As such, the Board were of the view there is sufficient justification for a material contravention of the Development Plan (namely Section 4.9.2 of Volume 1 of the Cork County Development Plan 2022-2028) in this instance.

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 the planning authority on the 9<sup>th</sup> day of September 2024 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. All works shall be implemented in accordance with mitigation measures specified in the Revised Natura Impact Statement received by the Planning Authority on the 9<sup>th</sup> day of September 2024 and as updated by conditions of planning herein.

**Reason:** To ensure there will be no adverse effects on the integrity of any Natura 2000 site.

3. Prior to the commencement of development details of boundary treatments shall be submitted to, for agreement in writing with, the Planning Authority.

**Reason:** In the interests of residential amenity.

4. The carrying out of the development shall be phased and, before any part of the development commences, or, at the discretion of the Planning Authority,

within such further period or periods of time as it may nominate in writing, a development programme, including inter alia a detailed comprehensive site layout, showing all proposed phases, shall be submitted to and agreed in writing with the Planning Authority. The phasing programme shall include proposals for construction traffic/access for each phase.

**Reason:** To ensure the satisfactory completion of the development.

5. The following requirements shall be complied with.
  - (a) The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, and kerbs shall comply with the detailed construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads and Streets (DMURS).
  - (b) The site layout for the proposed development shall be amended in the following respects:-the cul de sac road serving properties 1-4 is at an 8.3% grade, which exceeds maximum gradient of 5% (1 in 20) recommended in both the DMURS & 'Recommendations for Site Development Works for Housing Areas' documents. The applicant should reduce the floor level of house no. 4 by 600mm and adjust the floor levels of House 1,2 & 3 accordingly to comply with the recommendation - and, before any development commences, or, at the discretion of the Planning Authority, within such further period or periods of time as it may nominate in writing, revised drawings, at a scale of 1:500 making provision for the above requirements shall be submitted to and agreed with the Planning Authority.
  - (c) The developer shall submit as required by the Planning Authority, accurate record drawings to scale 1/500 of roads, footpaths, foul and storm sewers including depths and locations of manholes, and locations of house services; watermains including locations of valves, hydrants and other fittings; public lighting and open space areas.
  - (d) The developer shall be responsible for the maintenance of all roads, footpaths, open spaces and other services until taken in charge by the Council at its discretion.

(e) The recommendations of the Stage I Road Safety Audit shall be incorporated into the design of the development. The developer shall submit to the Planning Authority a Stage III Road safety Audit on the completion of the development and shall undertake to rectify any concerns raised therein.

**Reason:** In the interest of amenity and of traffic and pedestrian safety

6. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation unless otherwise agreed with the planning authority and shall be maintained as public open space by the developer until taken in charge by the local authority.

**Reason:** In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

7. The landscaping scheme, as submitted to the planning authority on the 9<sup>th</sup> day of September 2024 shall be carried out within the first planting season following substantial completion of external construction works.

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 [or until the development is taken in charge by the local authority, whichever is the sooner], shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity.

8. Prior to the commencement of development activity, protective fencing in accordance with BS 5837, shall be installed to protect all trees identified to be retained. The fencing shall be installed in such a manner as to provide

protection to the critical root zone of trees to be protected and it shall be retained on site until all construction works are completed. No soil, spoil, construction material or waste will be stored or tipped within the fenced off area and no construction plant or vehicles will be parked within the spread of trees/hedgerows identified to be retained. The fencing shall be retained until such time as works are completed.

Reason: To protect biodiversity.

9. Trees identified for removal in the tree survey shall be marked prior to the commencement of works. Treatment of Rhododendron shall be undertaken prior to the removal of other trees. Only those outlined in the Arboricultural Tree Survey, as submitted to the planning authority on the 9<sup>th</sup> day of September 2024, shall be felled.

Reason: To ensure the protection of trees.

10. Japanese Knotweed and Rhododendron shall be treated in accordance with the Invasive Species Management Plan as submitted to the Planning Authority 9<sup>th</sup> Day of September 2024.

Reason: To control the risk of spread of invasive alien species from this site.

11. Construction operations during the hours of darkness shall be kept to a minimum. If construction lighting is required during the bat activity period (April to September), lighting shall be directed away from all woodland habitat. Lighting at construction and operational stages shall be implemented in line the recommendations of the Bat Survey as submitted to the Planning Authority on 9<sup>th</sup> Day of September 2024.

Reason: To minimise disturbance to bats.

12. Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The scheme shall include lighting along pedestrian routes through open spaces. Such lighting shall be provided prior to the making available for occupation of any residential unit. The lighting

scheme shall be designed in accordance the recommendations of the Bat Survey as submitted to the Planning on 9<sup>th</sup> Day of September 2024.

**Reason:** In the interest of amenity and public safety and to minimise disturbance to bats.

13. Trees with bat roosting potential shall be identified by a bat specialist prior the commencement of felling and shall only be felled following examination by and under the supervision of a bat specialist.

**Reason:** In the interest of ensuring the protection of bats.

14. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interests of visual amenity.

15. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity and to ensure an appropriate high standard of development.

16. Proposals for an estate/street name, numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and dwelling numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

17. 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.

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

18. The disposal of surface water shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health and surface water management.

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

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

20. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
  - (b) Location of areas for construction site offices and staff facilities;
  - (c) Details of site security fencing and hoardings;

- (d) Details of on-site car parking facilities for site workers during the course of construction;
- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (f) Measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) Provision of parking/access for existing adjoining properties during the construction period;
- (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (n) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority;

**Reason:** In the interest of amenities, public health and safety and environmental protection.

21. Prior to commencement of development, a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) shall be prepared and submitted to the planning



authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

**Reason:** In the interest of reducing waste and encouraging recycling.

22. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

(b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

23. (a) Prior to the commencement of any house in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant houses 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.

(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each specified house for use by individual purchasers

and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

**Reason:** To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

24. 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.

**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.

25. 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 and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public 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 or maintenance 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.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

26. The developer shall pay a financial contribution of €40,000 (forty thousand euro) to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of the provision of a footpath on the L-6105, which benefits the proposed development. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development, and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority in respect of public services, which are not covered in the Development Contribution Scheme or the Supplementary Development Contribution Scheme and which will benefit the proposed development.

27. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or

on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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

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Rónán O'Connor  
Senior Planning Inspector

13<sup>th</sup> May 2025

## Appendix 1 - Form 1 - EIA Pre-Screening

<b>Case Reference</b>	ABP-321774-25
<b>Proposed Development Summary</b>	Construction of 19 houses and all associated site works. Natura Impact Statement submitted with application.
<b>Development Address</b>	Glanduff, Kilbrittain, 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="" 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 checked="" 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	

development under Article 8 of the Roads Regulations, 1994.  <b>No Screening required.</b>	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.  <b>EIA is Mandatory. No Screening Required</b>	<b>State the Class and state the relevant threshold</b>
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.  <b>Preliminary examination required. (Form 2)</b>  <b>OR</b>  <b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b>	Class 10, (b), (i) (threshold is 500 dwelling units) – proposal is for 19 no. dwelling units. Class 10, (b), (iv) (threshold is 10 Ha.) – site area is 1.1 ha.

<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>	
Yes <input type="checkbox"/>	
No <input checked="" type="checkbox"/>	<b>Pre-screening determination conclusion remains as above (Q1 to Q3)</b>

## Appendix 2 - Form 2 - EIA Preliminary Examination

Case Reference	
<b>Proposed Development Summary</b>	Construction of 19 houses and all associated site works. Natura Impact Statement submitted with application.
<b>Development Address</b>	Glanduff, Kilbrittain, 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>	
<p><b>Characteristics of proposed development</b></p> <p>(In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The proposed development comprises the construction of 19 no. residential units and all associated site works.</p> <p>At operational stage, the proposed development will connect to the existing wastewater and stormwater network. Water supply will be via the mains water network. Uisce Eireann have not cited any capacity constraints (in relation to wastewater treatment) or cited any constraints in relation to water supply.</p> <p>The site lies within the settlement boundary of Kilbrittain and surrounding land uses are mainly residential and community uses. It is not considered that any significant cumulative environmental impacts will result when considered in cumulation with existing developments.</p> <p>There are no demolition works involved, and there is no identified risks of accidents or disasters, nor is there any obvious risks to human health that result from the proposed development.</p> <p>The proposed development will not give rise to the production of significant waste, emissions or pollutants.</p>

<p><b>Location of development</b></p> <p>(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).</p>	<p>The site is not located within any designated site. The closest Natura 2000 sites are the Courtmacsherry Estuary SAC (001230), located 0.8km to the east and Courtmacsherry Bay SAC (004219) – 1.2km to the south-east.</p> <p>In relation to Natura 2000 sites, I refer to the conclusions of the Appropriate Assessment, where I have concluded that adverse effects on site integrity of the Courtmacsherry Estuary SAC [001230] and Courtmacsherry Bay SPA [004219] can be excluded in view of the conservation objectives of these sites and that no reasonable scientific doubt remains as to the absence of such effects.</p> <p>While there will be some loss of trees and hedgerows, there is no evidence on file that the site is of particular ecological value, nor is there evidence that the site of particular ecological value for any species, and I am satisfied that there will be no significant effects on biodiversity. While potentially significant effects on bats were identified in the Bat Survey (as submitted to the Planning Authority on the 9<sup>th</sup> day of September 2024), as a result of the impacts of construction and operational lighting, I am satisfied that the mitigation measures as set out in Section 6 of the Bat Survey, and subject to appropriate conditions, will be sufficient to ensure that there will be no significant residual effects on bats resulting from the proposed development.</p> <p>The site has not been identified as of particular historic, cultural or archaeological significance.</p>
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<p><b>Types and characteristics of potential impacts</b></p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>During the construction phase noise, dust and vibration emissions are likely. However, any impacts would be local and temporary in nature and the implementation of standard construction practice measures would satisfactorily mitigate potential impacts. Impacts on the surrounding road network at construction stage can be mitigated by way of adherence to a Construction Management Plan.</p> <p>No significant impacts on the surrounding road network are considered likely at operational stage.</p>
<p align="center"><b>Conclusion</b></p>	
<p><b>Likelihood of Significant Effects</b></p>	<p><b>Conclusion in respect of EIA</b></p>
<p><b>There is no real likelihood of significant effects on the environment.</b></p>	<p><b>EIA is not required.</b></p> <p><b>Include the following paragraph under EIA Screening (a separate heading) in the Inspectors report.</b></p>

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

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

(only where Schedule 7A information or EIAR required)

## Appendix 3 Stage 1 AA Screening

### Template 2: Standard AA Screening Determination Template Test for likely significant effects

Screening for Appropriate Assessment Test for likely significant effects	
<b>Step 1: Description of the project and local site characteristics</b>	
<b>Brief description of project</b>	It is proposed to construct 19 houses and all associated site works
<b>Brief description of development site characteristics and potential impact mechanisms</b>	<p>The application site is located within the settlement boundary of Kilbrittain village. The site area is stated as 1.1ha. The site is a greenfield site. To the south of the site there is a sports ground and an informal walkway. To the west there are other sports facilities (tennis-court and clubhouse) along with a recently constructed new all-weather pitch and floodlighting. The proposed operational vehicular access is along the western boundary, via a turning area serving Meadowview housing estate, and off a road serving another residential estate, Castlevue, and the sports grounds. The northeastern and eastern boundary is a wooded area. The ground levels fall from south to north.</p> <p>The nearest EPA mapped watercourse is the Kilbrittain River, located c50m from the site, and which discharges to Courtmacsherry Bay. The nearest Natura 2000 sites to the proposed development are as follows:</p> <ul style="list-style-type: none"> <li>• Courtmacsherry Estuary SAC (004219) – c800m to the east.</li> </ul>

	<ul style="list-style-type: none"> <li>• Courtmacsherry Bay SPA (004219) – c1.2km to the south-east.</li> <li>• Seven Heads SPA (004191) – c7km to the south.</li> </ul> <p>Wastewater management will consist of a new 225mm PVC connection to the existing public sewer.</p> <p>Stormwater from the proposed development joins the existing network on Meadowview Road. This will then join a new stormwater line on the main road which will then discharge to the Kilbrittain River. Other surface water measures integral to the design include a stormwater swale to the north of the proposed units, which will reduce stormwater flow from the site, as well as tree pits which will also reduce stormwater flow. Attenuation is also proposed, as well as a hydrobrake, which will restrict the outflow off the site to the equivalent of the existing agricultural runoff. It is set out that the stormwater system has been designed with a 20% increase in capacity, to account for climate change. Silt traps are proposed upstream of the attenuation tank, with a petrol interceptor located downstream of the attenuation tank and hydrobrake.</p>
<b>Screening report</b>	Y
<b>Natura Impact Statement</b>	Y
<b>Relevant submissions</b>	<p>An appellant has raised concerns in relation to wastewater and impact on water quality, noting that the stream beside the WWTP goes into the sea to SAC 0.5km downstream. Appellants have also stated that there are streams running along the boundary of the site and these are closer than the 50m as cited in the NIS. The capacity of the Kilbrittain WWTP is also raised as a concern within a number of the appeal submissions. An observer has raised concerns</p>

	<p>about impacts on water quality, and subsequent impacts on downstream Natura 2000 sites.</p> <p>It is also set out within the observer submission that the NIS has not accounted for the stream running to the eastern boundary of the site and therefore the mitigation measures as set out will not be effective as a result.</p> <p>Uisce Eireann have not raised any concerns in relation to the capacity of the Kilbriain WWTP [submission dated 01/03/2024]</p>
<p>As noted above, the appeal submissions, and the observer on the appeal, has stated that there is a stream or ‘streamlets’ that run within the woodland and also along to the eastern boundary of the site, and have provided photographic and locational evidence of same. These drainage ditches or streams were not immediately apparent from my site visit, however the site boundary was heavily obscured by existing planting. Drainage ditched or streams running close to the boundary are not specifically referenced in the applicant’s AA Screening Report, or the NIS. However, the report of the Ecologist on file refers to the need for a 5m buffer from any drainage ditches proximate to the site (dated 21/03/2024). As such, and applying the precautionary principle, I am satisfied that, given the volume of evidence submitted with the appeal submissions, and the comments of the Ecology Officer, there is likely to be streams or drainage ditches at a location close to the eastern boundary of the site, within the adjacent woodland, and furthermore it is likely that these drainage ditches or streams discharge into the Kilbriain River, as discussed above. I am satisfied that the lack of discussion same does not represent a fundamental lacuna in the AA Screening or NIS, noting that potential effects cited within the AA Screening relate to pollutants or sediments that could enter nearby watercourses, and I am satisfied that the AA Screening Report has adequately identified any potential effects on any Natura 2000 sites within the zone of influence of the project (see additional discussion of same below).</p>	
<p><b>Step 2. Identification of relevant European sites using the Source-pathway-receptor model</b></p>	

European Site (code)	Qualifying interests <sup>1</sup> Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections <sup>2</sup>	Consider further in screening <sup>3</sup> Y/N
Courtmacsherry Estuary SAC (001230)	<p><u>Qualifying Interests</u></p> <p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glaucopuccinellietalia maritima) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p><b>Conservation Objectives<sup>4</sup>:</b></p>	c0.8 to the east	Yes. I would note the AA Screening Report has 'screened in ; this site due to the indirect ecological connections by way of the stream running c50m from the site (which I have assumed is a reference to the Kilbrittain River). However, there is also a likely indirect ecological connection by way of drainage ditches or streams running near the eastern boundary of the site, which are likely to discharge to the Kilbrittain River, which in turn discharges to the Courtmacsherry Estuary SAC.	Yes.

<sup>4</sup> See [https://www.npws.ie/sites/default/files/protected-sites/conservation\\_objectives/CO001230.pdf](https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO001230.pdf) for full text of same.

	<p>To restore the favourable conservation condition of</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330]</p> <p>To maintain the favourable conservation condition of the remainder of the above listed qualifying interests.</p>			
<p>Courtmacsherry Bay SPA (004219)</p>	<p><u>Qualifying Interests</u></p> <p>Great Northern Diver (Gavia immer) [A003]</p> <p>Shelduck (Tadorna tadorna) [A048]</p> <p>Wigeon (Anas penelope) [A050]</p> <p>Red-breasted Merganser (Mergus serrator) [A069]</p> <p>Golden Plover (Pluvialis apricaria) [A140]</p> <p>Lapwing (Vanellus vanellus) [A142]</p> <p>Dunlin (Calidris alpina) [A149]</p>	<p>c1.2km to the south-east.</p>	<p>Yes. I would note the AA Screening Report has 'screened in ; this site due to the indirect ecological connections by way of the stream running c50m from the site (which I have assumed is a reference to the Kilbrittain River). However, there is also a likely indirect ecological connection by way of drainage ditches or streams running near the eastern boundary of the site, which is likely to discharge to the Kilbrittain River, which in turn discharges into Courtmacsherry</p>	<p>Yes</p>

	<p>Black-tailed Godwit (Limosa limosa) [A156]</p> <p>Bar-tailed Godwit (Limosa lapponica) [A157]</p> <p>Curlew (Numenius arquata) [A160]</p> <p>Black-headed Gull (Chroicocephalus ridibundus) [A179]</p> <p>Common Gull (Larus canus) [A182]</p> <p>Wetland and Waterbirds [A999]</p>		Bay which would then flows to Courtmacsherry Bay SPA (004219)	
	<p><u>Conservation Objectives<sup>5</sup></u></p> <p>To maintain the favourable conservation condition of the qualifying interests listed above</p>			
<b>Seven Heads SPA (000091)</b>	<p><b><u>Qualifying Interest</u></b></p> <p>Chough (Pyrrhocorax pyrrhocorax) [A346]</p> <p><b><u>Conservation Objectives<sup>6</sup></u></b></p> <p>To maintain the Favourable conservation condition of Chough in Seven Heads SPA</p>	c7km to the south.	No. As set out in Section 4.2 of the AA Screening Report, the range of the Chough is around 2km. The site is outside this range. In addition, potential nesting or foraging habitat for breeding choughs does not exist within or adjacent to the works.	No.

<sup>5</sup> For full text see: [https://www.npws.ie/sites/default/files/protected-sites/conservation\\_objectives/CO004219.pdf](https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004219.pdf)

<sup>6</sup> For full text see: [https://www.npws.ie/sites/default/files/protected-sites/conservation\\_objectives/CO004191.pdf](https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004191.pdf)



### Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites

As set out in the AA Screening Report (Section 4.2 of same), impacts on the above 2 no. Natura sites could result from increased levels of suspended solids or fuel/lubricant spills entering the nearby stream at construction stage, if works are carried out unmitigated. Further impacts could result in unmitigated site drainage, which could alter the flood regime and cause erosion of Annex 1 habitats downstream. The impacts as described above could impact habitats within the Courtmacsherry Estuary SAC, and could impact on bird species within the Courtmacsherry Bay SPA, due to impacts on habitats upon which the bird species depend. It is further set out that potential impacts could occur from the spread of invasive species downstream.

In relation to same, I would be of the view that, while the proposed development has included best practice measures at construction phase and operational phases to mitigate impacts on water quality, and water quantity emanating from the site (such as silt traps at construction stage, and attenuation, hydrobrake and hydrocarbon interceptors at operational stage), of relevance is the likely proximity of the adjacent drainage ditches or stream to the site, and I would note also the proximity of the 2 no. Natura Sites (Courtmacsherry Estuary SAC and Courtmacsherry Bay SPA), as cited above. As such, I am of the view that such measures could be construed as mitigation measures designed to reduce impacts on a Natura 2000 site. Furthermore, the presence of invasive species on and close to the site could lead to the spread of same to the 2 no. Natura sites cited above, given the proximity of the site to same.

In relation to potential impacts from wastewater, I am satisfied that the evidence on file indicates that there is sufficient capacity at the Kilbrittain WWTP so as to ensure that there will be no significant impacts on water quality in the 2 no. no. Natura 2000 sites cited above (see also discussion of same in Section 7.8 of this report).

There is no evidence on file that there are other plans and projects that could lead to any significant in-combination impacts on the 2 no. Natura 2000 sites cited above, nor on any other Natura 2000 sites.

#### AA Screening matrix

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
<b>Site 1:</b> Courtmacsherry Estuary SAC (001230)  <u>Qualifying Interests</u>  Estuaries [1130]  Mudflats and sandflats not covered by	Potential negative indirect impacts on surface water/water quality due to construction related emissions including increased sedimentation and construction related pollution.  Potential negative indirect impact at operational stage due to changes in flood regime.	Potential significant negative effects on habitat quality/function.  Possible Significant negative effects on habitat function and prey availability.

<p>seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glaucopuccinellietalia maritima) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p><b>Conservation Objectives<sup>7</sup>:</b> To restore the favourable conservation condition of</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p>	<p>Potential negative indirect impact at construction stage as a result of the spread of invasive species.</p>	<p>Potential significant negative effects as a result of the spread of invasive species.</p> <p>Specifically in relation to Salicornia and other annuals colonising mud and sand [1310] and Atlantic salt meadows (Glaucopuccinellietalia maritima) [1330], the proposed development could undermine objectives to restore the favourable conservation condition of same, due to impacts on both water quality and impacts due to erosion, resulting from changes in the flood regime.</p> <p>The possibility of significant effects cannot be ruled out without further analysis and assessment.</p>
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<sup>7</sup> See [https://www.npws.ie/sites/default/files/protected-sites/conservation\\_objectives/CO001230.pdf](https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO001230.pdf) for full text of same.

Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]		
To maintain the favourable conservation condition of the remainder of the above listed qualifying interests.		
	<b>Likelihood of significant effects from proposed development (alone): Yes</b>	
	<b>If No, is there likelihood of significant effects occurring in combination with other plans or projects?</b>	
	<b>Impacts</b>	<b>Effects</b>
<p>Site 2:</p> <p>Courtmacsherry Bay SPA (004219)</p> <p><u>Qualifying Interests</u></p> <p>Great Northern Diver (Gavia immer) [A003]</p> <p>Shelduck (Tadorna tadorna) [A048]</p> <p>Wigeon (Anas penelope) [A050]</p> <p>Red-breasted Merganser (Mergus serrator) [A069]</p> <p>Golden Plover (Pluvialis apricaria) [A140]</p> <p>Lapwing (Vanellus vanellus) [A142]</p> <p>Dunlin (Calidris alpina) [A149]</p>	<p>Negative indirect impacts on surface water/water quality due to construction related emissions including increased sedimentation and construction related pollution.</p> <p>Negative indirect impacts at operational stage due to changes in flood regime.</p> <p>Negative indirect impact at construction stage as a result of the spread of invasive species.</p>	<p>Potential significant negative effects on habitat quality.</p> <p>Potential significant negative effects on habitat extent (due to erosion)</p> <p>Potential significant negative effects on habitat function and prey availability.</p> <p>Potential significant negative effects as a result of the spread of invasive species.</p> <p>The possibility of significant effects cannot be ruled out without further analysis and assessment.</p>

<div>Black-tailed Godwit (Limosa limosa) [A156]</div> <div>Bar-tailed Godwit (Limosa lapponica) [A157]</div> <div>Curlew (Numenius arquata) [A160]</div> <div>Black-headed Gull (Chroicocephalus ridibundus) [A179]</div> <div>Common Gull (Larus canus) [A182]</div> <div>Wetland and Waterbirds [A999]</div> <div><u>Conservation Objectives<sup>8</sup></u></div> <div>To maintain the favourable conservation condition of the qualifying interests listed above</div>		
	Likelihood of significant effects from proposed development (alone): Y	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects?	
Step 4 Conclude if the proposed development could result in likely significant effects on a European site		

<sup>8</sup> For full text see: [https://www.npws.ie/sites/default/files/protected-sites/conservation\\_objectives/CO004219.pdf](https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004219.pdf)

It is not possible to exclude the possibility that proposed development alone would result significant effects on Courtmacsherry Estuary SAC (004219) and Courtmacsherry Bay SPA (004219) from effects associated with habitat quality, habitat extent (due to erosion), habitat function and prey availability, as well as significant negative effects as a result of the spread of invasive species.

An appropriate assessment is required on the basis of the possible effects of the project 'alone'. Further assessment in-combination with other plans and projects is not required at screening stage.

**Proceed to AA.**

## **Screening Determination**

### **Significant effects cannot be excluded**

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that it is not possible to exclude that the proposed development alone will give rise to significant effects on Courtmacsherry Estuary SAC (004219) and Courtmacsherry Bay SPA (004219) in view of the sites' conservation objectives. Appropriate Assessment is required.

This determination is based on:

A likely indirect ecological connection by way of a drainage ditches or streams running near the eastern boundary of the site, which are likely to discharge to the Kilbrittain Stream, which in turn discharges into Courtmacsherry Bay and in turn into Courtmacsherry Estuary SAC and Courtmacsherry Bay SPA. As such it is not possible to exclude the possibility that proposed development alone would result significant effects on Courtmacsherry Estuary SAC (001230) and Courtmacsherry Bay SPA (004219) from effects associated with habitat quality, habitat extent (due to erosion), habitat function and prey availability and significant negative effects as a result of the spread of invasive species.

## Appendix 4: Standard AA Template and AA Determination

### Appropriate Assessment

The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177V [or S 177AE] of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Taking account of the preceding screening determination, the following is an appropriate assessment of the implications of the proposed development for the construction of 19 houses and all associated site works in view of the relevant conservation objectives of Courtmacsherry Estuary SAC (000091) and Courtmacsherry Bay SPA (004219) based on scientific information provided by the applicant.

The information relied upon includes the following:

- Natura Impact Statement Rev B prepared by Rory Dalton, Independent Ecologist (July, 2024)
- Drainage Impact Assessment (DIA) and SUDS Statement prepared by BRH Design Partners (July, 2024)
- Invasive Species Management Plan prepared by Rory Dalton, Independent Ecologist (July 2024)
- Engineering & Infrastructure Report BRH Design Partners (October, 2023)
- Drg. No. 0303 Rev B Construction Management Plan
- Publically accessible information on the NPWS website.
- Publically accessible information on the EPA Website and the EPA Appropriate Assessment Tool.

I am satisfied that the information provided is adequate to allow for Appropriate Assessment. I am satisfied that all aspects of the project which could result in significant effects are considered and assessed in the NIS and mitigation measures designed to avoid or reduce any adverse effects on site integrity are included and assessed for effectiveness.

### Submissions/observations

An appellant has raised concerns in relation to wastewater and impact on water quality,

noting that the stream beside the WWTP goes into the sea to SAC 0.5km downstream. The capacity of the Kilbriann WWTP is also raised as a concern within a number of the appeal submissions. Appellants have also stated that there are streams running along the boundary of the site and these are closer than the 50m as cited in the NIS. An observer has raised concerns about impacts on water quality, and subsequent impacts on downstream Natura 2000 sites. It is also set out within the observer submission that the NIS has not accounted for the stream running to the eastern boundary of the site and therefore the mitigation measures as set out will not be effective as a result.

**Site 1:**

**NAME OF SAC/ SPA (SITE CODE):**

Courtmacsherry Estuary SAC (004219)

**Summary of Key issues that could give rise to adverse effects (from screening stage):**

- (i) Water quality degradation (construction)
- (ii) Change in the flood regime leading to erosion (operation)
- (iii) Spread of invasive species

See also Table 6.1 NIS

Qualifying Interest features likely to be affected	Conservation Objectives Targets and attributes (summary)	Potential adverse effects	Mitigation measures (summary)
Estuaries [1130]	<p>To maintain the favourable conservation condition of Estuaries in Courtmacsherry Estuary SAC, which is defined by the following list of attributes and targets:</p> <ul style="list-style-type: none"> <li>• Habitat area</li> <li>• Community Distribution</li> </ul>	Negative indirect impacts on surface water/water quality due to construction related emissions including increased sedimentation and construction related pollution, as well as operational related hydrocarbon pollutants.	<p>Surface Water Management Plan (Construction Stage)</p> <p>Surface Run-Off and Wastewater Management Plan (Operational Stage)</p>

Estuaries [1130]	As above	The transport of non-native invasive plants from the site.	Onsite Management of Invasive Japanese Knotweed.	
Mudflats [1140]	To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide in Courtmacsherry Estuary SAC, which is defined by the following list of attributes and targets: <ul style="list-style-type: none"> <li>• Habitat area</li> <li>• Community Distribution</li> </ul>	Negative indirect impacts on surface water/water quality due to construction related emissions including increased sedimentation and construction related pollution, as well as operational related hydrocarbon pollutants.	Surface Water Management Plan (Construction Stage)  Surface Run-Off and Wastewater Management Plan (Operational Stage)	
Annual vegetation of drift lines [1210]	To maintain the favourable conservation condition of Annual vegetation of drift lines in Courtmacsherry Estuary SAC, which is defined by the following list of attributes and targets: <ul style="list-style-type: none"> <li>• Habitat Area</li> <li>• Habitat Distribution</li> <li>• Physical structure: functionality and sediment supply</li> <li>• Vegetation structure: zonation</li> <li>• Vegetation composition: typical species and sub-communities</li> <li>• Vegetation composition:</li> </ul>	None	No mitigation required.	



	negative indicator species			
Perennial vegetation of stony banks [1220]	<p>To maintain the favourable conservation condition of Perennial vegetation of stony banks in Courtmacsherry Estuary SAC, which is defined by the following list of attributes and targets:</p> <ul style="list-style-type: none"> <li>• Habitat Area</li> <li>• Habitat Distribution</li> <li>• Physical structure: functionality and sediment supply</li> <li>• Vegetation structure: zonation</li> <li>• Vegetation composition: typical species and sub-communities</li> <li>• Vegetation composition: negative indicator species</li> </ul>	The transport of non-native invasive plants from the site.	Onsite Management of Invasive Japanese Knotweed.	
Salicornia and other annuals colonising mud and sand [1310]	<p>To restore the favourable conservation condition of Salicornia and other annuals colonizing mud and sand in Courtmacsherry Estuary SAC, which is defined by the following list of attributes and targets:</p> <ul style="list-style-type: none"> <li>• Habitat Area</li> <li>• Habitat Distribution</li> <li>• Physical structure: functionality and sediment supply</li> </ul>	The transport of non-native invasive plants from the site.	Onsite Management of Invasive Japanese Knotweed.	

	<ul style="list-style-type: none"> <li>• Physical structure: creeks and pans</li> <li>• Physical structure: flooding regime</li> <li>• Vegetation structure: zonation</li> <li>• Vegetation structure: vegetation height</li> <li>• Vegetation structure: vegetation cover</li> <li>• Vegetation composition: typical species and sub-communities</li> <li>• Vegetation composition: negative indicator species <i>partina anglic</i></li> </ul>			
Altantic Salt Meadows [1330]	<p>To restore the favourable conservation condition of Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) in Courtmacsherry Estuary SAC, which is defined by the following list of attributes and targets:</p> <ul style="list-style-type: none"> <li>• Habitat Area</li> <li>• Habitat Distribution</li> <li>• Physical structure: functionality and sediment supply</li> <li>• Physical structure: creeks and pans</li> <li>• Physical structure: flooding regime</li> <li>• Vegetation structure:</li> </ul>	The transport of non-native invasive plants from the site.	Onsite Management of Invasive Japanese Knotweed.	

	<ul style="list-style-type: none"> <li>zonation</li> <li>Vegetation structure: vegetation height</li> <li>Vegetation structure: vegetation cover</li> <li>Vegetation composition: typical species and sub-communities</li> <li>Vegetation composition: negative indicator species <i>partina anglic</i></li> </ul>			
Altantic Salt Meadows [1330]	As above.	Negative indirect impact at operational stage due to changes in flood regime.	Surface Run-Off and Wastewater Management Plan (Operational Stage)	
Mediterranean Salt Meadows [1410]	<p>To maintain the favourable conservation condition of Mediterranean salt meadows (<i>Juncetalia maritimi</i>) in Courtmacsherry Estuary SAC, which is defined by the following list of attributes and targets:</p> <ul style="list-style-type: none"> <li>Habitat Area</li> <li>Habitat Distribution</li> <li>Physical structure: functionality and sediment supply</li> <li>Physical structure: creeks and pans</li> <li>Physical structure: flooding regime</li> <li>Vegetation structure:</li> </ul>	Negative indirect impact at operational stage due to changes in flood regime.	Surface Run-Off and Wastewater Management Plan (Operational Stage)	

	<ul style="list-style-type: none"> <li>• zonation</li> <li>• Vegetation structure: vegetation height</li> <li>• Vegetation structure: vegetation cover</li> <li>• Vegetation composition: typical species and sub-communities</li> <li>• Vegetation composition: negative indicator species <i>partina anglic</i></li> </ul>			
Embryonic shifting dunes [2110]	<p>To maintain the favourable conservation condition of Embryonic shifting dunes in Courtmacsherry Estuary SAC, which is defined by the following list of attributes and targets:</p> <ul style="list-style-type: none"> <li>• Habitat Area</li> <li>• Habitat Distribution</li> <li>• Physical structure: functionality and sediment supply</li> <li>• Vegetation structure: zonation</li> <li>• Vegetation composition: plant health of foredune grasses</li> <li>• Vegetation composition: typical species</li> </ul>	None	No mitigation required.	

	<p>and sub-communities</p> <ul style="list-style-type: none"> <li>Vegetation composition: negative indicator species</li> </ul>			
Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]	<p>To maintain the favourable conservation condition of Shifting dunes along the shoreline with <i>Ammophila arenaria</i> ('white dunes') in Courtmacsherry Estuary SAC, which is defined by the following list of attributes and targets:</p> <ul style="list-style-type: none"> <li>Habitat Area</li> <li>Habitat Distribution</li> <li>Physical structure: functionality and sediment supply</li> <li>Vegetation structure: zonation</li> <li>Vegetation composition: plant health of foredune grasses</li> <li>Vegetation composition: typical species and sub-communities</li> <li>Vegetation composition: negative indicator species</li> </ul>	The transport of non-native invasive plants from the site.	Onsite Management of Invasive Japanese Knotweed.	
Fixed Dunes [2130]	<p>To maintain the favourable conservation condition of Fixed coastal dunes with herbaceous vegetation ('grey</p>	The transport of non-native invasive plants from the site.	Onsite Management of Invasive Japanese Knotweed.	

	<p>dunes') in Courtmacsherry Estuary SAC, which is defined by the following list of attributes and targets:</p> <ul style="list-style-type: none"> <li>• Habitat Area</li> <li>• Habitat Distribution</li> <li>• Physical structure: functionality and sediment supply</li> <li>• Vegetation structure: bare ground</li> <li>• Vegetation structure: sward height</li> <li>• Vegetation composition: typical species and sub-communities</li> <li>• Vegetation composition: negative indicator species (including Hippophae rhamnoides)</li> <li>• Vegetation composition: scrub/trees</li> </ul>			
<p><b>Site 2:</b>  <b>NAME OF SAC/ SPA (SITE CODE):</b>    Courtmacsherry Bay SPA (004219)</p> <p>Summary of Key issues that could give rise to adverse effects (from screening stage):</p> <p>(i) Water quality degradation (construction)  (ii) Change in the flood regime leading to erosion (operation)  (iii) Spread of invasive species</p> <p>See also Table 6.1 NIS</p>				
<b>Qualifying Interest features</b>	<b>Conservation Objectives</b>	<b>Potential adverse effects</b>	<b>Mitigation measures (summary)</b>	

likely to be affected	Targets and attributes (summary)			
<p>Great Northern Diver (Gavia immer) [A003]</p> <p>Shelduck (Tadorna tadorna) [A048]</p> <p>Wigeon (Anas penelope) [A050]</p> <p>Red-breasted Merganser (Mergus serrator) [A069]</p> <p>Golden Plover (Pluvialis apricaria) [A140]</p> <p>Lapwing (Vanellus vanellus) [A142]</p> <p>Dunlin (Calidris alpina) [A149]</p> <p>Black-tailed Godwit (Limosa limosa) [A156]</p> <p>Bar-tailed Godwit (Limosa lapponica) [A157]</p> <p>Curlew (Numenius arquata) [A160]</p> <p>Black-headed Gull (Chroicocephalus ridibundus) [A179]</p>	<p>To maintain favourable conservation condition as defined by long term population trend being stable or increasing.</p> <p>No significant decrease in the range, timing or intensity of use of areas by the SCI birds other than that occurring from natural patterns of variation.</p> <p>Wetlands [A999]</p> <p>To maintain permanent extent of Habitat area.</p>	<p>Negative indirect impacts on surface water/water quality due to construction related emissions including increased sedimentation and construction related pollution, as well as operational related hydrocarbon pollutants.</p>	<p>Surface Water Management Plan (Construction Stage)</p> <p>Surface Run-Off and Wastewater Management Plan (Operational Stage)</p>	

Common Gull (Larus canus) [A182]				
Wetland and Waterbirds [A999]				
As above.	As above	Negative indirect impact at operational stage due to changes in flood regime.	Surface Run-Off and Wastewater Management Plan (Operational Stage)	
As above	As above	The transport of non- native invasive plants from the site.	Onsite Management of Invasive Japanese Knotweed.	
<p>The above table is based on the documentation and information provided on the file, as well as information as contained on the NPWS website. While the NIS has not specifically identified the relevant attributes and targets of the Qualifying Interests of the 2 No. Natura sites considered, the NIS does identify general pressures and threats that relate to each qualifying interest, with reference to information as set out on the NPWS website. I am satisfied that the NIS has adequately considered potential effects on each relevant qualifying interest, therefore.</p> <p>Section 6.2 'Mitigation Plans' of the NIS sets out the proposed mitigation measures in more detail. It is set out therein that the percolation qualities of the site are good, due to the flat nature of the site. I would not necessarily concur with the statement that the site is flat, as it is sloped from south to north. I do not have sufficient information in relation to the percolation qualities of the soil itself to dispute the contention that the soil is free draining as stated in the NIS, although I note an observer submission has stated that there is a high water table underlying the site. Notwithstanding, the measures that are described in the NIS relating to the protection of water quality are sufficient in my view to ensure same are effective.</p> <p>At construction phase, these include a 5m buffer zone from any drainage ditches that adjoin the site. Soil and subsoil will stored at least 10m from any drainage ditches. It is set out that, if dewatering is required on site, the excavated areas will be dewatered prior to the pouring of concrete, to minimise of pollutants mixing with the water to be extracted. The NIS also sets out appropriate measures as relates to fuel and oil management. While not explicitly referenced in the NIS, I would note that Drg. No. 0303 Rev B 'Construction Management Plan', as submitted to the PA at FI stage (on the 9th September 2024) also indicates that a 700mm high silt fence will be installed to prevent the release of sediments and other contaminants to nearby drains, as well as measures to scarify areas of the site to reduce surface water run off velocities.</p> <p>At operational phase, reference is made to the Infrastructure Report (dated October, 2023), which includes proposals for surface water/storm water, as well as wastewater</p>				



proposals. Wastewater management will consist of a new 225mm PVC connection to the existing public sewer (see also discussion of same in Section 7.8 of this report). Surface water management for the site is set out in the NIS, and is as described in Section 7.8 of this report. Surface water management details are also set out within the Drainage Impact Assessment and SUDS Statement (July,2024). The surface water will eventually discharge to the Kilbrittain Stream and the proposed design includes attenuation, a hydrobrake and a petrol interceptor. I am satisfied the above operational surface water design will ensure that there will be no adverse impacts on water quality within the 2 no. Natura Sites as described above, nor will there be changes to the quantity of surface water emanating from the site, as attenuation and hydrobrake will limit the discharge quantity to pre-development greenfield rates.

In relation to Invasive Species, reference is made within the NIS to the Invasive Species Plant Survey carried out in June 2024. I note also the contents of the Invasive Species Management Plan (July, 2024). It is set out within same that that a small stand of Japanese Knotweed was found between the proposed site and the community field. In relation to mitigation to ensure the spread of same is contained, it is proposed to place a fence at 7m radius from the stand of knotweed and no works will be carried out within same. This fence will remain in place for the duration of the works. Chemical treatment of the plant will continue until the plant is eradicated. It is also set out that Rhododendron was found in a number of locations along the western boundary of the site, and the majority of this plant will need to be removed as it is located at the proposed entrance of the site. A number of recommended measures are set out to ensure the removal of same. I would note that the NIS is not definitive in recommending the specific measure that is to be used (4 alternative measures are set out). However, the Invasive Species Management Plan (July, 2024) recommends chemical treatment and continued chemical treatment of regrowth for both Japanese Knotweed and Rhododendron. I am satisfied that the measures as described in the NIS, and as described in Invasive Species Management Plan, will ensure that the spread of this invasive species to the 2 no. Natura Sites as described above will not occur.

In relation to other specific issues raised by submissions on the appeal, I would note the NIS is not clear on the location of the nearest watercourse, stating same is 50m from the site. In relation to same, submissions have stated that there is a stream running along the eastern boundary of the site, and have provided photographic evidence of same. Notwithstanding the lack of a specific reference to this stream within the AA Screening Report or the NIS, I am of the view that the NIS, and the additional documentation submitted with the application, as referred to above, have set out sufficient mitigation measures that relate to the protection of water quality, at both construction and operational stages, and related to the maintenance of greenfield run off rates, so as to ensure that there is no changes to the quality or quantity of surface water emanating from the site at operational stage. As such, the water quality and quantity within streams or drainage ditches will be maintained, and subsequently the water quality, and the flood regime,

within the 2 no. Natura Sites referred to above, not be adversely impacted upon as a result of this proposed development.	
<p><b>In-combination effects</b></p> <p>I am satisfied that in-combination effects has been assessed adequately in the NIS (Section 6.3 considers same). The applicant has demonstrated satisfactorily that no significant residual effects will remain post the application of mitigation measures and there is therefore no potential for in-combination effects.</p>	
<p><b>Findings and conclusions</b></p> <p>The applicant determined that following the implementation of mitigation measures the construction and operation of the proposed development alone, or in combination with other plans and projects, will not adversely affect the integrity of this European site.</p> <p>Based on the information provided, I am satisfied that adverse effects arising from aspects of the proposed development can be excluded for the European sites considered in the Appropriate Assessment. No direct impacts are predicted. Indirect impacts would be temporary in nature and mitigation measures are described to prevent ingress of silt laden or polluted surface water to surrounding surface water bodies, at construction and operational stage, and at operational stage measures have been designed to prevent changes to the flood regime resulting from changes in the volume of surface water emanating from the site. I am satisfied that the mitigation measures proposed to prevent adverse effects have been assessed as effective and can be implemented. In combination effects have also been reasonably assessed and there is no potential for in-combination effects.</p> <p><b>Reasonable scientific doubt</b></p> <p>I am satisfied that no reasonable scientific doubt remains as to the absence of adverse effects.</p> <p><b>Site Integrity</b></p> <p>The proposed development will not affect the attainment of the Conservation objectives of the Courtmacsherry Estuary SAC [001230] and the Courtmacsherry Bay SPA [004219]. Adverse effects on site integrity can be excluded and no reasonable scientific doubt remains as to the absence of such effects.</p>	
<b>Appropriate Assessment Conclusion: Integrity Test</b>	

In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on Courtmacsherry Estuary SAC [001230] and the Courtmacsherry Bay SPA [004219].in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of S177U was required.

Following an examination, analysis and evaluation of the NIS and all associated material submitted and taking into account observations of third parties, I consider that adverse effects on site integrity of the Courtmacsherry Estuary SAC [001230] and Courtmacsherry Bay SPA [004219] can be excluded in view of the conservation objectives of these sites and that no reasonable scientific doubt remains as to the absence of such effects.

My conclusion is based on the following:

- Detailed assessment of construction and operational impacts.
- The relevant conservation objectives for Courtmacsherry Estuary SAC [001230] and Courtmacsherry Bay SPA [004219].
- Effectiveness of mitigation measures proposed including standard practice construction mitigation measures and operational surface water measures.
- Application of planning conditions to ensure these measures.
- The proposed development will not affect the attainment of conservation objectives for Courtmacsherry Estuary SAC [001230] and Courtmacsherry Bay SPA [004219]