



<b>Development</b>	120 bed space nursing home, duplex apartment building comprising of 16 assisted living and 16 staff accommodation units, improvements to the public road (L-7249-0) and all associated site works.
<b>Location</b>	Cappagh, Kinsale, Co. Cork.
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	24/6120
<b>Applicant(s)</b>	Peppard Construction Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission with conditions
<b>Type of Appeal</b>	Third party against decision
<b>Appellant(s)</b>	<ol style="list-style-type: none"><li>1. Residents of the Cappagh Area of Kinsale</li><li>2. Donie Searls</li></ol>
<b>Observer(s)</b>	<ol style="list-style-type: none"><li>1. Margo Searls</li></ol>
<b>Date of Site Inspection</b>	3 <sup>rd</sup> March 2026
<b>Inspector</b>	Phillippa Joyce

# Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	5
4.0 Planning History.....	10
5.0 Policy Context.....	11
6.0 The Appeal .....	17
7.0 Planning Assessment .....	24
8.0 Environmental Impact Assessment.....	49
9.0 Appropriate Assessment.....	50
10.0 Water Status Impact Assessment.....	51
11.0 Recommendation .....	51
12.0 Reasons and Considerations.....	51
13.0 Conditions .....	52
Appendix 1: Environmental Impact Assessment – Pre-Screening .....	64
Appendix 2: Environmental Impact Assessment – Preliminary Examination.....	65
Appendix 3: Appropriate Assessment – Screening .....	67
Appendix 4: Water Status Impact Assessment – Screening .....	69

## 1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Cappagh, c.1.2km to the northwest of Kinsale town centre (crow flies). The site is rectangular in configuration and indicated as measuring c.3.27ha.
- 1.2. The site is greenfield, comprising agricultural fields with perimeter boundaries of hedgerow, treelines, and stone walls. The topography of the site is notable with ground levels increasing from the southern boundary, peaking in the centre of the site, before decreasing in a northerly direction.
- 1.3. The site's southern boundary is formed by local road, L-7249, which several detached dwellings front onto and address the site. To the west of the site is a cul-de-sac, serving a single detached dwelling. Access to the site is via agricultural entrances on the cul-de-sac. Adjacent to the north of the site are agricultural fields, and to the east is the Gaelscoil Chionn tSáile national school. Further to the northeast and southeast are existing residential estates and residential developments under construction.
- 1.4. The L-7249 road is a single carriageway connecting regional roads, R605 (Bandon Road, to the north) and R606 (coast road, to the south). The road varies in condition along its route (width, footpath availability, vehicle passing opportunities), being particularly narrow further to the west of the site, travelling towards the R606.
- 1.5. The character of the area reflects its edge-of-town location. The transition in the built environment from rural (open fields, agricultural buildings, low-density detached housing) to increasingly suburban (existing housing estates, recent denser residential development, road improvement works) is evident.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the following elements:
  - Construction of a 120-no. bed space nursing home, 32 no. duplex apartment units comprising of 16 no. ground floor assisted living units and 16 no. first floor staff accommodation units, 1 no. childcare facility, improvements to the public road L-7249 and all associated landscaping, car parking, bicycle storage and site development works.

- Construction of a services building comprising of a substation, switch room and generator room, underground pump station, underground gas tanks and service yard with external plant enclosure.
- Improvements to the public road L-7249 to include traffic calming measures, a new footpath and cycleway and a new pedestrian crossing.
- Access to the proposed development will be via a new access road joining onto the L-7249.

2.2. During the assessment of the application, Further Information (FI) and Clarification of FI (CFI) were requested by the planning authority (see Section 3.0 below for details). In response to the FI and CFI requests, the applicant revised the proposed development. Key revisions to/ information received for the proposed development include:

- Omission of the childcare facility.
- Reduction in the building height of the duplex units along the southern boundary, and increased separation distances from the existing dwellings.
- Revisions to the roof profile and elevational treatment of the nursing home.
- Additional road signage, a raised junction, on-site car parking spaces (extra 16 spaces increasing the overall total to 92 spaces), landscaping and planting.
- Confirmation of feasibility for water services connections with Uisce Eireann.
- Revision of the surface water drainage system to include additional SuDS measures and an overflow outfall discharge to a minor watercourse, Liscahane More Stream, to the north of the site (in the case file the watercourse is also referred to as Lischanemore).
- Reservation of a secondary school site measuring 2.2ha (two layout options) within the applicant's landholding (blue line boundary) to the northeast of the nursing home scheme.
- Commitment by the applicant to enter into section 47 agreements in respect of the use, operation, ownership of the scheme.

I consider there to be planning merit in the revisions made to the proposed development at FI and CFI response stages and recommend to the Commission that regard is had to same in the assessment of this appeal.

### **3.0 Planning Authority Decision**

#### **3.1. Summary of Decision**

- 3.1.1. The application was lodged with the planning authority on 8<sup>th</sup> November 2024. On 13<sup>th</sup> January 2025, the planning authority requested Further Information (FI), which the applicant responded to on 11<sup>th</sup> July 2025 (following approval of an extension of time request). On 6<sup>th</sup> August 2025, the planning authority requested Clarification of FI (CFI), which the applicant responded to on 1<sup>st</sup> October 2025 (requiring readvertisement). On 25<sup>th</sup> November 2025, the planning authority issued a Notification of Decision to Grant Permission for the proposed development subject to 55 conditions.

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

##### **3.2.1. Planner's Reports**

###### Initial Assessment

The planner's report includes an assessment of the proposed development under the following headed items:

- Principle
- Land Use Zoning
- Accessibility
- Proposed Uses
- Archaeology
- Site Plan
- Building Design and Architecture
- Services
- Environmental Construction Impacts

- Screening for AA
- Screening for EIA

While some of the headed items are assessed as being acceptable, a number of items are identified as requiring design amendments, justification, and/ or further technical details. The initial assessment concludes with a recommendation that FI be requested from the applicant.

#### Further Information Assessment

A FI request issued to the applicant on nine items including:

- Site Plan
- Accessibility and Connectivity
- Detailed Design
- Archaeology
- Uses/ Operation Control and Management
- Services
- Ecology
- Environmental
- Other Matters (Land Ownership)

The FI response was found to not be comprehensive. The assessment concludes with a recommendation that Clarification of FI (CFI) be requested from the applicant.

#### Clarification of Further Information Assessment

A CFI request issued to the applicant, related to three FI headed items:

- Site Plan
- Uses/ Operation Control and Management
- Services

On assessment of the CFI response, the planning authority found the response to be satisfactory, and that the proposed development would be acceptable under the

previously outstanding headed items. The planning authority undertook screenings for AA and EIA, screening out the need for either assessment.

### Recommendation

The planning authority concluded that the proposal complied with objectives in the development plan, would not seriously injure the amenities of the area or be prejudicial to public health, and would be in accordance with the proper planning and sustainable development of the area.

#### 3.2.2. Other Technical Reports

Area Engineer: Initial report requests FI. FI report requests CFI. Subsequent CFI report has no objection subject to condition.

Estates: Initial report requests FI. FI report requests CFI. Subsequent CFI report has no objection subject to condition.

Traffic & Transport: Initial report requests FI. Subsequent FI report has no objection subject to condition.

Environment: Initial report requests FI. Subsequent FI report has no objection subject to condition.

Ecologist: Initial report requests FI. Subsequent FI report has no objection subject to condition.

Archaeologist: Initial report requests FI. Subsequent FI report has no objection, no condition.

Public Lighting: Initial report and subsequent FI report have no objection subject to condition.

Housing: no objection, no condition.

#### 3.2.3. Conditions

The 55 conditions attached to the grant of permission include both bespoke and standard conditions. The conditions arise from the technical reports, and there is a notable degree of overlap.

The conditions which are bespoke in nature are as follows:

- Enter into a section 47 agreement to ensure the single ownership and operation of the overall scheme (Condition 2).
- Enter into a section 47 agreement to ensure the assisted living and staff accommodation units solely for residential use associated with the nursing home operation (Condition 3).
- Details of the management company contract for the on-site pumping station, unless included in the connection agreement with Uisce Eireann, for which the applicant is responsible (Condition 6).
- Assisted living and staff accommodation units to be developed in conjunction/ tandem with the nursing home in a single development phase (Condition 8).
- Requirements for pedestrian crossings on the spine road (specifications for alignment, signage, design) (Conditions 16, 18, and 21).
- Requirements for pollution prevention measures to watercourses, activities to accord with named best practice guidelines (Condition 26).
- Requirement for a Construction Method Statement for the stormwater outfall to the Lischanemore watercourse to the north of the site (Condition 39).
- Revised traffic calming proposals to include a raised junction integrating with the proposed frontage and giving priority to pedestrian movements (Condition 47).

While standard conditions include the following:

- Payment of a security bond for provision of infrastructure (Condition 5).
- Management of the construction phase (i.e., requirements for a RWMP, CEMP, waste register, working hours, management of noise, dust and debris, standards for layout and services, landscaping scheme, planting programme) (Conditions 22, 23, 25, 29-33, 38, 49, 53, and 54).
- Management of the operational phase (i.e., requirements for a management company, and OWMP) (Conditions 4, and 24).
- Connection to Uisce Eireann water services, public foul sewer (Conditions 7 and 52).

- Public lighting specifications (Conditions 9-14).
- Ecological monitoring of works, measures specified in the EclA to be implemented, overseen by qualified ecologist, cutting or removal of vegetation to be outside of bird breeding season (Conditions 15, 37, and 40).
- Specifications for paths (footpath, shared), roads (public, internal), and entrance (markings, landscaping, materials, signage, design to accord with named manuals/ PA requirements, (Conditions 17, 19, 20, 34-36, 45, 46, and 50).
- Surface water management (construction and operation phases) (Conditions 27, 28, 41-44, 48, and 51).
- Payment of a section 48 development contribution (Condition 55).

### 3.3. **Prescribed Bodies**

Uisce Eireann: Requests the applicant engages with UE through the pre-connection enquiry (PCE) process to assess feasibility of connection to the public water/ wastewater infrastructure. FI report requests the applicant to submit the outcome of the PCE process to the planning authority. CFI report confirms feasibility of water supply and wastewater connections subject to upgrades of local UE infrastructure (alternative private water supply option, and studies/ investigations of wwtp infrastructure required at connection time). No objection subject to condition.

Inland Fisheries Ireland: Requests that the planning authority or UE signifies there is sufficient capacity on the public sewer to dispose of effluent from the development.

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

- 3.4.1. The planning authority indicates 23 third-party observations were received during the assessment of the application, and summarises the key issues raised in the initial planner's report. 13 additional third-party observations were received on the CFI response (following readvertisement), which are summarised in the subsequent planner's report.
- 3.4.2. I have reviewed the submissions on the case file and confirm several of the issues raised therein continue to form the basis of the appeal case, which are outlined in detail in Section 6.0 below.

## 4.0 Planning History

### Appeal Site

None.

### Adjacent Lands to East

*PA Ref. 25/4086 (not implemented at the time of site inspection)*

Permission granted to the Board of Management of Gaelscoil Chionn tSáile on the 17<sup>th</sup> October 2025 for the removal of existing pre-fabricated buildings on site and general site clearance, the construction of a 1 and 2 storey school building including general and specialist classrooms, Special Education Needs (SEN) units, general purpose rooms, servery, library, offices, staff room, stores, toilets and ancillary spaces, provision of a one-way vehicular entrance to the south of the site from the L7249-0 local road, an adjacent pedestrian and cyclist entrance, and a new internal road network, provision of bicycle, car parking and set-down areas within the school campus, provision of upgrades to existing junctions on the L7249-0 local road in the townland Ballinacubby to include new pedestrian crossings at the junction of Harbor Heights and Abbey Court estate, provision of external play and amenity areas including a SEN play area/ garden, 2 no. ballcourts, social areas, biodiversity areas, and all associated landscaping, boundary treatments and site lighting, provision of external bin stores, storage shelters, associated drainage, attenuation and other site services, and all related site development works.

### Lands further to the East

Planning applications PA Ref. 14/5331, PA Ref. 10/8049, PA Ref. 09/4318, and PA Ref. 07/4322 (implemented) permitted the development of national school Gaelscoil Chionn tSáile.

### Lands further to the Southeast

*PA Ref. 22/4920 (being implemented at the time of site inspection)*

Permission granted to WGRH Ltd on the 21<sup>st</sup> March 2023 for the construction of 9 no dwelling houses and associated site works, including a new vehicular entrance and connection to public services. This application is for permission for modifications to previously granted residential development planning ref 18/6381 and An Bord Pleanála ref ABP-304796-19 and includes (1) modifications to house types C and D with revised internal layouts, elevations and facades (2) updated road layouts and access point for the 4 no lower houses and ancillary site development works.

*ABP 304796-19, PA Ref. 18/6381 (parent permission).*

### Lands to the North

*PA Ref. 22/5388 (not implemented at the time of site inspection)*

Permission granted to Kinsale GAA Club on the 29<sup>th</sup> March 2023 for the provision of new club facilities and all ancillary site works. The proposed development includes the construction of 4 no. full sized playing pitches, an astroturf pitch, single storey clubhouse building, single storey gym building, single storey equipment store, surface car park and children's playground. The proposed development provides for ballstop netting serving each of the proposed pitches and the provision of 6 no. 21 metre floodlights serving pitch no. 2 and 4 no. 12-18 metre floodlights serving the proposed astroturf pitch. Ancillary development works include the provision of a pedestrian crossing on the L-3234 local road to connect the existing footpath network and servicing proposals including the diversion/undergrounding of existing overhead lines. Access to the proposed development will be provided from the L-3234.

## **5.0 Policy Context**

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

- 5.1.1. The applicable development plan for the appeal case is the Cork County Development Plan 2022-2028 (CDP). The CDP contains map-based designations and written based policy (particularly Volumes 1 and 5) which establish the context for the proposed development.
- 5.1.2. The relevant CDP map-based/ mapped designations include:

- The site is zoned as Community (C) which seeks to:  
*'Promote the provision of educational, community related and healthcare development including, where relevant, the provision of ancillary accommodation and facilities'*
- The site is at the northwestern edge of the development boundary for Kinsale.
- The site is part of the land parcel 'KS-C-04'. Adjacent to the east is land parcel 'KS-C-02'.
- The site is located within the Zone of Archaeological Potential associated with archaeological monument RMP CO112-090, Military Camp.
- The site is within a High Value Landscape (HVL) designation (indicated in CDP Volume 1, Figure 14.2, applies to surrounding Kinsale town, coastline and uplands).
- The site is located between two scenic views, the S62 (coast road) is c.650m to the south (crow flies) and the S63 (woodland, Bandon River valley) is c.505m to the north/ northeast.
- There are no other designations which apply to the site (e.g., built or natural heritage, flood risk).

5.1.3. The relevant CDP policy and objectives include:

- Chapter 4: Housing (Volume 1)
  - Objective HOU 4-3: Housing for Older People  
*'a) Encourage the provision of housing suitable for older people in all residential schemes of 10 units or more.*  
*b) Support the delivery of housing suitable for older people on infill, opportunity and regeneration-sites within town and village centres. See also Chapter 6 Social and Community- Section 6.6 Planning for Ageing.'*
- Chapter 6: Social and Community (Volume 1)
  - Policy in Section 6.6.22: Guidance for Residential Care Accommodation  
*'The following is a list of criteria for consideration in the provision of residential care accommodation:*

- *These facilities should be located within settlements and in order to enhance overall quality of life increase their links with, and accessibility to, local amenities, and therefore reduce the likelihood of social isolation while providing easy access to staff and visitors.*
- *That any new provision should be multifaceted or include flexible care models to include long stay care for persons with high dependency, assisted living accommodation for persons with medium dependency and some independent living accommodation for persons with low dependency where appropriate.*
- *Recognition should also be given to particular requirements of specialised residential care accommodation (i.e. dementia).'*
- Objective SC 6-11: Accommodation for Older Persons
 

*'Support the provision of residential care, assisted living, group/ community housing and other forms of accommodation for older persons.'*
- Chapter 14: Green Infrastructure and Recreation (Volume 1)
  - Policy in Section 14.8.9
 

*'Within these High Value Landscapes considerable care will be needed to successfully locate large scale developments without them becoming unduly obtrusive. Therefore, the location, siting and design of large-scale developments within these areas will need careful consideration and any such developments should generally be supported by an assessment including a visual impact assessment which would involve an evaluation of visibility and prominence of the proposed development in its immediate environs and in the wider landscape.'*
  - Policy in Section 14.8.11
 

*'The capacity of each landscape character type to absorb new development will largely depend on the sensitivity of the landscape type. Developments which are likely to create a significant environmental and particularly visual impact will best be absorbed in areas where the landscape is robust, i.e. has the capacity to absorb development without significantly changing its character. All developments should be assessed*

*on a site-by-site basis to avoid, minimise or mitigate any potential environmental or visual impact.'*

- Chapter 16: Built and Cultural Heritage (Volume 1)

- Policy in 16.2.21

*'Military campaigns, albeit a large battle field...have a significant place in our history... The Zone of Archaeological Potential of these sites can be quite an extensive landscape and can include associated features such as camp sites, entrenchments fortifications, siege works, and mass burials. These areas are difficult to identify and are currently not outlined on a map. There are significant battle sites in County Cork such as the site of The Battle of Kinsale (1601 and 1690) ... The Plan supports measures to protect these sites and therefore in assessing any development proposals in these areas, the impacts on the wider defensive landscape should be assessed and generally protected.'*

- Objective HE 16-7: Battlefield, Ambush and Siege Sites and Defensive Archaeology

*'Protect and preserve the defensive archaeological record of County Cork including strategic battlefield, ambush and siege sites, and coastal fortifications and their associated landscape due to their historical and cultural value. Any development within or adjoining these areas shall undertake a historic assessment by a suitably qualified specialist to ensure development does not negatively impact on this historic landscape.'*

- Chapter 18: Zoning and Land Use (Community)

- Policy in Section 18.3.48:

*'Areas designated for educational, civic land uses generally include community related development including schools and colleges, residential healthcare facilities (e.g. hospitals), residential care and development for other community uses... Often significant ancillary facilities such as staff accommodation and dedicated open space or sports facilities are included.'*

- Policy in Section 18.3.49:

*'These uses can sometimes cause amenity problems for adjoining uses ... However, they are generally considered essential uses and require a reasonable degree of operational freedom to function properly.'*

- Objective ZU 18-21: Community

*'Promote the provision of educational, community related and healthcare development including, where relevant, the provision of ancillary accommodation and facilities.'*

*'Appropriate Uses in Community Areas...*

*Education facilities including schools...residential care... ancillary facilities such as staff accommodation....'*

- Chapter 5 Scenic Views (Volume 2)

- Scenic Route S62:

Description and General Views being Protected:

R606 & R600 Regional Roads between Kinsale and Ballythomas (Coast Road). Views of the Bandon River, Whitecastle Creek & James Fort.

- Scenic Route S63:

Description and General Views being Protected:

R605 Regional Road & Local Road between Innishannon and Kinsale via Shippool. Views of woodland & the Bandon River Valley.

- Chapter 1.5: Kinsale (Volume 5)

- Policy in Section 1.5.22:

*'... Education facilities are distributed north and south of the town close to established residential areas. The Department of Education and Skills previously identified the need for two primary schools and one secondary school in the town...'*

- Objective KS-GO-05

*'Protect the heritage assets of the town including the Battlefield Sites, maritime heritage and its attractive townscape features including its*

*roofscape, urban morphology, fenestration details, slate-hung facades and street furniture.'*

- Objective KS-GO-06

*'Support the preparation of a Historic Landscape Characterisation Study of the siege and battlefield zone of archaeological potential associated with the Battle of Kinsale 1601 to avoid further deterioration of the battlefield landscape and to develop the area as a cultural tourism attraction.'*

- The Specific Development Objective (SDO) for land parcel 'KS-C-04' states:

*'Community Use. Provision of area for Secondary School (2.2ha) and for nursing home facilities to include assisted living, continuing care and independent living as part of the overall residential care complex.'*

*Any proposal should have to make provision for the proposed Relief Road and include proposals to provide walking and cycling connections to adjoining residential areas and future amenity facilities.'*

*Having regard to the site's location within an area of potential associated with the Kinsale Siege and Battlefield, an archaeological assessment will be required in advance of development works in order to guide the design and layout of any future development. The assessment should include geo-physical assessment to determine subsurface archaeological and should determine whether parts of the site formed part of the strategic locations of campsites or entrenchments of the 1601 military landscape.'*

- The SDO for land parcel 'KS-C-02' states:

*'Community Use. Provision for extension to existing primary school and provision of a childcare facility.'*

- Except for land parcel KS-C-04, there are no other references to, or sites identified for, new secondary schools and/ or nursing home facilities in Kinsale.

## **5.2. Natural Heritage Designations**

- 5.2.1. The appeal site is not located in or immediately adjacent to a European Site, a Natural Heritage Area (NHA) or a proposed NHA (pNHA).

5.2.2. The pNHA designations in proximity to the appeal site include:

- James Fort pNHA (001060) is c.1.9km to the southeast.

5.2.3. The European site designations in proximity to the appeal site include (measured at closest proximity):

- Sovereign Islands SPA (004124) is c.6.8km to the southeast.
- Old Head of Kinsale SPA (004021) is c.9.6km to the south.
- Courtmacsherry Estuary SAC (001230) and Courtmacsherry Bay SPA (004219) are c.10.9km to the southwest.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. This is a third-party appeal (two appellants, one representing 10 named persons) against the decision of the planning authority to grant permission for the proposed development. The appellants indicate addresses at Cappagh, Kinsale.

6.1.2. The appeal grounds include the following headed items, which can be summarised as follows:

#### Zoning Objective, Delivery of Secondary School Site

- Site zoned KS-C-04, composite zoning objective, requires provision for a nursing home/ residential care complex and a secondary school site (2.2ha). c.1.7ha indicated for the secondary school site which is a shortfall of c.0.5ha.
- School site is effectively sterilised (proposal and wastewater infrastructure consume majority of/ fragment zoned lands), renders the zoning objective undeliverable, constitutes a material contravention of the development plan.
- Refers to planning appeal case ABP Ref. 314696, where Board refused a submitted similar scenario (i.e., conflict between nursing home facility and educational use).
- Contravention of the development plan, as per section 37(2)(b) of the Planning and Development 2000 Act, is unjustified.

- Nursing home could be developed on a reduced site or in an alternative location so as not to sacrifice the only secondary school reservation in Kinsale.
- Significant doubt about whether the proposed development complies with the Zonings KS-C-02 and KS-C-04.
- Unclear whether the initially proposed creche remains part of the application, if so, it does not comply with the Zoning.
- Zoning KS-C-04 requires a secondary school site (minimum area of c.2.2ha). the proposed site layout provides for an area of 1.7ha and therefore does not comply with Zoning KS-C-04, permission should be refused.

#### Location of Nursing Home

- Development plan and national policy guides that nursing homes be located in settlements, town and village centres, in proximity to community and local services (refers to CDP Section 6.6.22, Objective HOU 4-3, Objective SC 6-9, and NPF NPO 10).
- Acknowledges that zoning objective KS-C-04 includes for nursing home facilities but submits that the site is greenfield, rural in nature, sparsely populated, just within the town boundary. As such, the location is otherwise not in accordance with the CDP.
- Refers to planning appeal case PL15.248452, where the Board refused a submitted similar scenario (i.e., site specific objective for a nursing home development in conflict with general locational policy).

#### Inclusion of Housing

- Housing officer's report refers to social and affordable housing need arising from the proposal (6 units).
- However, this is in contradiction to the description of assisted living and staff accommodation units.
- Proposed houses are generously sized, provided with car parking spaces, but Zoning does not require staff to be housed on site, questions whether these likely to be rented apartments.

## Change of Use

- Understands that the applicant operates a number of International Protection Accommodation (IPAS) centres.
- Refers to exempted development provisions allowable under Class 20F of Schedule 2 Part 1 of the Planning and Development Regulations 2001.
- If proposal to be granted, requests a prior to commencement condition be attached requiring the execution of an agreement under section 47 of the Planning and Development Act 2000.
- Specifies the terms of the section 47 agreement (use as a nursing home/ residential care facility only, no change of use including that allowed as exempted development, agreement to be a burden on the folio binding the applicant and all successors in title).
- Section 47 agreement is described as the appropriate mechanism in circumstances where standard planning conditions may be circumvented by exempted development provisions.
- Such an agreement will ensure that the basis upon which permission was assessed and granted is not subsequently undermined.

## Residential Amenity

- Inappropriate nursing home design for context, overdevelopment of a rural site, poor amenity outcomes for residents.
- Poor amenity and accommodation standards due to/ evident in:
  - internal layout and room quality (dominated by circulation and storage, long windowless corridors).
  - daylight and sunlight access (use of internal courtyards, poorly lit rooms, no daylight/ sunlight study).
  - half the assisted living units are poorly orientated (north-facing living areas and open spaces).
  - open space provision (size, quality, layout) will not result in high amenity levels.

- car parking provision (notably lower onsite provision than CDP maximum (92 spaces vs 172 spaces, 53%), contradictory to stated car use in the Traffic Assessment, unjustified and unevidenced, result in social isolation and traffic hazards).
- Due to the site's topography and proposal's height and scale, the scheme will be obtrusive and overbearing, reducing the visual amenity of existing residents, particularly those of neighbouring dwellings to the south.
- Due to proximity of assisted living units, building heights, and differences in ground levels, the scheme will cause overlooking (actual and perceived) and loss of privacy to the existing dwellings to the south, diminishing their residential amenity.

#### Historical Landscape, Archaeology

- Site within Zone of Archaeological Potential (RMP CO112-090, Military Camp) associated with the Battle of Kinsale 1601.
- Development plan seeks to preserve, inter alia, battlefield sites and their landscapes (refers to Objective HE 16-7, Objective KS-GO-05).
- No historic landscape characterisation (HLC) for the proposal, insufficient information to allow an assessment, undermines and potentially materially contravenes Objectives HE 16-7 and KS-GO-05.
- Site within High Value Landscape designation and visible from Scenic Route S63.
- Development plan includes policy and objectives relating to locating large scale development in and protecting such designations (refers to Sections 14.8.8, 14.8.9, 14.8.11, and Objectives GI 14-9, 14-10, 14-13, and 14-14).
- No landscape or visual impact assessment for the proposal, negative impact on the pastoral character of this sensitive landscape, seriously injure amenity of the area.
- Critical of Archaeology Report, entire lands not examined, report is incomplete, and permission cannot issue.

- Critical of the planning authority's approach to archaeological investigations at the site.
- Kinsale Battlefield is one of the most important battle sites in Irish history, imperative to complete a full and detailed archaeological survey of the entire site before deciding to grant permission.

#### Road Conditions, Traffic Generation, Access

- Proposal will result in a considerable intensification in traffic on the L-7249-0 (site's southern boundary), reflective of inappropriate location, proposal should be directed into town centre, creates car-dependent development.
- Numerous safety issues with L-7249-0 to the west of the site (width, limited opportunities for two-way traffic movements, no footpaths). Approaching the site from the west must be addressed.
- Residents of properties located to the northwest of the site are dependent on this constrained road network for access to Kinsale, road already used as a 'rat run' to the GAA grounds and the national school.
- Seriously inadequate level of car parking will likely to lead to a traffic hazard and overspill parking on the surrounding road network, including at the neighbouring school.
- Some residents have no practical alternative access route and would bear a disproportionate burden from intensified traffic generation.
- Raised junction proposed outside of the entrances of two dwellings. No details of the raised junction, impact on access to the affected dwellings is not assessed, impact on the ability of residents to safely access their dwellings unknown.
- No site-specific Construction Traffic Management Plan, no restrictive or protective measures to adjacent uses and road users, poses an unacceptable safety risk.
- If proposal to be granted, requests condition be attached relating to HGV movements, site access, marshalling.

- Conflicting details on drawings for the proposed development and other applications (refers to PA Ref. 24/4290, PA Ref. 25/4086), re. widening the Bandon Road.
- Appellant resides opposite the proposed entrance, traffic generation and glare will cause nuisance, diminish enjoyment of the family home, devalue property.
- Proposed entrance will also be used for construction traffic and for the notional future secondary school (lands in blue line boundary).
- Criticism of the assessment undertaken by the planning authority's traffic engineers.
- Requests refusal on adverse impact caused due to the proposed entrance alone, if permission granted, requests the relocation of the access road.

#### Wastewater Treatment Plan

- Absence of unequivocal confirmation from Uisce Eireann regarding network capacity, requests precautionary principle to refuse permission (refers to similar scenario in PL15.248452).
- Proposed development is premature in the absence of the necessary upgrades of Uisce Eireann infrastructure.
- Refers to the Council not taking the wastewater system into its charge, applicant indicates it can be privately administered.
- This is a concern as the final location of the pumping station is unclear, who will be responsible for same.
- Applicant has failed to demonstrate sufficient legal interest in the lands for the development.

#### Appropriate Assessment

- No AA screening report, no AA screening undertaken by the planning authority (was deferred in initial report), this is a fundamental procedural deficiency.
- Planning authority did not carry out an appropriate assessment screening adequately, did not reach any conclusion.

## 6.2. Applicant Response

6.2.1. A response has been received from the applicant on the appeal (both third party appeals). Responses to the appeal grounds as identified by the applicant are made under the following headings:

- Clarification Regarding the Omission of the Proposed Childcare Facility
- Archaeological Assessment and Historical Landscape
- Zoning and Land Use Compliance Concerns
- Concerns of Overdevelopment
- Landscape and Visual Impacts
- Council's Appropriate Assessment Procedure
- Clarity Regarding Housing and Operational Matters
- Traffic, Access and Road Safety
- Cumulative Impact on Local Road Network
- Wastewater Infrastructure and Services
- Safeguarding Against Unassessed Change of Use

6.2.2. The key points made in the applicant's response to the appeal are considered as relevant in section 7.0 Planning Assessment of this report below.

## 6.3. Planning Authority Response

6.3.1. A response has been received from the planning authority on the appeal stating that it is of the opinion that 'all the relevant issues have been covered in the technical reports already forwarded to the Bord as part of the appeal documentation and has no further comment to make in this matter'.

## 6.4. Observations

6.4.1. One observation has been received on the appeal. The observer indicates an address in Cappagh, Kinsale. The key issues raised can be summarised as follows:

- Extent of 1601 Battlefield at Kinsale has not been adequately investigated.

- Proposed entrance opposite observer's house. Adverse impacts from traffic generation, glare from vehicle lights. Proposed arrangement is dangerous for residents and pedestrians.
- Inadequate onsite parking during construction. Heavy building trafficking cause unreasonable interference and nuisance.
- Inadequate area set aside for future secondary school.
- Development plan policy requires aging population be close to amenities and services, childcare and schools are the opposite.
- Onsite parking provision only adequate for housing.
- Zoning does not permit housing, irrelevant whether housing is for staff.
- Omission of childcare facility from scheme not expressly confirmed.
- Intensive development which materially interferes with the protected high value landscape scenic route, R603.

## 6.5. Further Responses

6.5.1. An appellant, Donie Searls has made a submission on the appeal from the other appellant, Residents of the Cappagh Area of Kinsale. The key issues raised can be summarised as follows:

- Refers to the quoted description of development, citing opposition to the works on the L-7249-0 (traffic calming, paths, pedestrian crossing).
- Submits these works are on lands under his control (centreline of the public road, folio details and images included), and that the Council's charge of the road and footway are for maintenance purposes and not works.
- Application site is a location of one of the 'skirmishes' in the Battle of Kinsale, none of the battle sites has been fully or properly investigated.
- Planning authority did not complete its AA determination, flawed and invalid decision.

## 7.0 Planning Assessment

### 7.1. Introduction

7.1.1. Having reviewed the appeal, examined the documentation on the case file, inspected the site, and had regard to the relevant policy context, I consider that the main issues in the appeal to be as follows:

- Principle of Development
- Proposed Uses
- Design and Visual Amenity
- Residential Amenity
- Archaeology and Cultural Heritage
- Access, Traffic and Transport
- Water Services and Water Quality
- Other Matters

I propose to address each item in turn below.

## 7.2. Principle of Development

7.2.1. Appeal grounds include opposition to the use classes within the proposed development (childcare facility, staff accommodation) and to the mix of uses at land parcel KS-C-04 (education uses co-locating with nursing home facilities).

Noncompliance with the requirements of the Specific Development Objective (SDO) for KS-C-04 is also raised (provision/ sterilisation of the secondary school site), as is confusion with/ misapplication of the requirements of SDO for adjacent KS-C-02 (provision of a childcare facility).

7.2.2. In this subsection, I propose to address issues of use classes briefly (as greater detail is provided in the following subsection 7.3 Proposed Uses) and the extent of compliance with the SDO for KS-C-04.

### Zoning Objective and Use Classes

7.2.3. The appeal site is zoned as Community in the CDP, the objective of which is to *‘Promote the provision of educational, community related and healthcare development including, where relevant, the provision of ancillary accommodation and facilities’*. Appropriate use classes in the Community zoning are listed in CDP

Objective ZU 18-21 and comprise education facilities including schools, residential care, and ancillary facilities such as staff accommodation.

- 7.2.4. The proposed development (as revised at FI response stage) comprises a nursing home operation with assisted living units (ground floor duplex apartments) and ancillary residential accommodation for staff (first floor duplex apartments). The proposal also reserves lands to the north of the site for a secondary school complex.
- 7.2.5. In terms of use classes, the uses are permissible in principle, and I find the proposed development to comply with the Community zoning objective at the site.

#### Parcel KS-C-04 and Specific Development Objective

- 7.2.6. In addition to being zoned for Community use, the appeal site is also located within land parcel 'KS-C-04' in Kinsale town (CDP Volume 5: West Cork, Section 1.5). The total area of the land parcel is indicated as measuring 7.34ha. I note that the extent of the KS-C-04 lands largely align with the lands under the applicant's control (i.e., blue line boundary).
- 7.2.7. The Specific Development Objective (SDO) for KS-C-04 reaffirms the Community zoning use for the land parcel and the requires the provision of a secondary school area (2.2ha), nursing home facilities (including assisted living, continuing care and independent living), the proposed Relief Road, and walking and cycling connections (SDO cited in full in section 5.0 of this report above).
- 7.2.8. Appeal grounds include that the area provided for the secondary school is insufficient and inadequate (stated as 1.7ha), represents a shortfall of c.0.5ha, and should be refused. Further grounds include that the proposal sterilises the development of the secondary school site due to the excessive land take, water services infrastructure layout, and is a material contravention of the development plan.
- 7.2.9. Of the reservation of the secondary school site, I have reviewed the applicant's plans and particulars and the planning authority reports. Questions regarding the secondary school site were subject of the FI and CFI requests. The reference in the appeal grounds to an area measuring 1.7ha appears to arise from the planning officer's initial report (pg. 10).

7.2.10. In the FI response (see Kinsale Nursing Home: Further Information Response to Architectural Items report, Appendices I and II), details indicating the adjacent national school (expansion area), the GAA development, and link to the road reservation corridor are provided. Clarity on the reservation of the secondary school site is provided in the CFI response (see Indicative Options 1 and 2), wherein the reservation of an area measuring 2.2ha is confirmed (differences in layout (building, pitches, drop off zone, access)). The reservation of the secondary school site is within the applicant's blue line boundary and the development boundary of KS-C-04. Accordingly, I consider any initial issue regarding the provision and size of the secondary school site to have been addressed at CFI stage, the reservation can be subject to general condition (i.e. Condition 1), thereby allowing the development of same to be subject of a future application process.

7.2.11. Of the school site being sterilised by the proposal due to land take and the layout of wastewater infrastructure, I do not agree. As outlined above, on review of the CFI Indicative Options 1 and 2, the reservation of an area of 2.2ha is confirmed within land parcel KS-C-04. It is evident from the options that available lands remain around the perimeter of the school site/ between the proposed development and the school site (i.e., there is no excessive land take by the proposal causing a shortfall in provision). The wastewater and surface water drainage arrangements for the proposal were subject of the FI and CFI responses. The latter includes the final infrastructural layouts which indicate the location of the internal access road, pumping station (northwest corner of the site), sewers, and soakaways. The routes of the main sewers align with the internal service road/ close to the western boundary, thereby efficiently conserving lands. The wastewater rising main connection from the pumping station to the public system (in the Hillcrest estate to the northeast) runs under lands indicated as pitches/ recreation/ drop off zone (as per the Indicative Options dwgs) and does not interfere with the provision of a standard sized secondary school building (e.g., c.4,650sqm).

7.2.12. Except for land parcel KS-C-04, there are no other references to, or sites identified in Kinsale for new secondary schools and/ or nursing home facilities. The identification of these uses is plan led (outlined in CDP Section 1.5.22, Volume 5), and their delivery should not be prejudiced. I consider that the applicant has demonstrated that there is sufficient space within the land parcel to accommodate both the school

site and the proposed development (i.e., the nursing home does not need to be developed elsewhere in the town as suggested).

7.2.13. The appeal grounds include a lack of clarity regarding the childcare facility and the potential confusion with/ misapplication of the SDO for adjacent KS-C-02. On review of the case file details, I confirm that the childcare facility, as initially proposed (north of the nursing home complex), was omitted by the applicant at the FI response stage. I consider this to be clear in the documentation in the case file (applicant's details, planning authority reports). As the childcare facility has been omitted from the proposal, I do not consider there to be any doubt regarding/ conflict with/ prejudice of the SPO for KS-C-02 as submitted in the appeal grounds.

7.2.14. Finally, in the interests of completeness for the Commission, I have had regard to the remaining requirements in SDO for KS-C-04 relating to the provision of the Relief Road, pedestrian/ cycle connections, and an archaeological assessment. The planner's report outlines the provision of the relief road is no longer required (route changed, changed route incorporated in the consent for the GAA pitches (north of the site), route requires further study, Planning Policy Unit confirmed that the non-provision of the relief road is a contravention but not a material contravention of the CDP). I note that the non-provision of the relief road in the proposed development has not been raised as an appeal ground. I recommend the Commission can rely on the planning authority's position, that being, its omission is not a material contravention of the development plan. The provision of walking/ cycling connections and an archaeological assessment are considered in the relevant subsections of this report below.

### Conclusion

7.2.15. In conclusion, I consider that the proposed development accords with the CDP Community zoning objective for the lands, includes a number of permissible uses classes, and materially complies with SDO for KS-C-04. The proposed development would not prejudice the achievement of the SDO for KS-C-04, nor constitute a material contravention of the development plan as submitted in the appeal grounds

## **7.3. Proposed Uses**

7.3.1. Appeal grounds include opposition to the site's location for the nursing home scheme, which is stated as being in conflict with other applicable CDP policy, and to

the nursing home being inappropriately co-located with an educational use. Further appeal grounds relating to the proposed uses in the scheme include the inclusion of residential units for staff accommodation, and concerns regarding the potential for a future change of use of the scheme.

#### Location of Nursing Home

- 7.3.2. Of opposition to the location of the site for a nursing home, as outlined in the previous subsection, the SDO for KS-C-04 specifies the provision of nursing home facilities thereon. The site is the only location in Kinsale town identified for new nursing home facilities; thus, I consider its identification to be plan-led.
- 7.3.3. Notwithstanding, appeal grounds include that the proposal is contrary to general policy in the CDP, referring to Objective HOU 4-3 and policy in Section 6.6.22. Objective HOU 4-3 relates to the provision of housing for older people in certain formats/ locations, including infill, opportunity and regeneration-sites within town and village centres. Conversely, I do not find that the proposal runs counter to or prejudices the development housing for older people but is additional to and complimentary with this aim.
- 7.3.4. I consider Section 6.6.22, which provides guidance for new residential care accommodation, as being of key relevance. The location-related policy requires that such facilities are located within settlements, with links/ accessible to local amenities, and to provide easy access to staff and visitors.
- 7.3.5. While I acknowledge the edge-of-town location and present greenfield nature of the site as raised by appellants, I do not consider the site to be as remote and/ or inaccessible as is submitted in the appeal grounds. The site is in a suburban area within the existing settlement of Kinsale. I calculate a travelling distance of c.1.4km from the town centre, which corresponds with walking and driving times of 19 mins and 8 mins respectively. I do not consider these distances and times to be prohibitive or excessive in terms of accessibility to town centre services and facilities. Further, in close proximity to the east of the site are established (and developing) residential areas and amenities nearby which will be in easier access to the nursing home.
- 7.3.6. The increasingly transitional nature of the area (from rural to urban) is evident. I note the current and planned road and pathway improvements in the vicinity of the site as

outlined in the planning authority's reports (e.g., planning officer's initial report (pgs. 7-8) and CFI report (pgs. 2-3)). I consider these improvements (and other infrastructural improvements in the proposed development) to result in increasing links and improving accessibility to the nursing home, reducing the likelihood of social isolation, and ensuring easy access to staff and visitors. On balance therefore, I consider the proposed development to comply with the applicable policy.

#### Co-Location of Nursing Home with Education Use

- 7.3.7. Of opposition to the co-location of the nursing home with the secondary school, I note the policy provisions in CDP Section 18.3.48. The section clearly establishes the policy context for supporting the co-location and clustering of a range of community uses. These include schools, residential care, ancillary facilities such as staff accommodation, and dedicated open space or sports facilities, several of which the proposed development incorporates and provides for.
- 7.3.8. I do not agree with the appellant/ observer positions that schools and childcare facilities are inappropriate uses next to housing for the elderly, which are described as the opposite to amenities and services. Instead, I concur with the development plan policy and consider the proposed uses to be compatible and synergistic community-based uses.
- 7.3.9. Related to the concerns regarding conflicting use classes (i.e., education and residential care, residential care and residential), I highlight CDP policy in Section 18.3.49. The section acknowledges the potential for facilities in community zonings to cause amenity problems for adjoining uses, but that the community facilities are essential and require a reasonable degree of operational freedom to function properly.
- 7.3.10. I consider the proposed development to come within the scope of such a scenario. The appeal site is part of a wider Community zoning which seeks to accommodate new educational facilities and a nursing home complex to serve the town. The site is the only location in Kinsale identified in the CDP for such community facilities. I consider their provision at this location to be plan-led and reasonable.

#### Inclusion of Staff Accommodation

- 7.3.11. The proposed development includes 32 duplex apartment units, comprising 16 ground floor assisted living units and 16 first floor staff accommodation units. Of the opposition to the proposed residential use (i.e., staff accommodation) in the scheme, as outlined in the previous subsection, staff accommodation is considered to be ancillary development to the main nursing home operation, and is expressly allowed for in CDP Section 18.3.48 and in CDP Objective ZU 18-21.
- 7.3.12. That being, while the appellants and observer focus on the provisions of SDO for KS-C-04 (which does not refer to ancillary residential accommodation), the underlying CDP Community zoning objective and associated policy on same is clear, accommodation for staff is expressly provided for.
- 7.3.13. I note references in the appeal grounds to the planning authority Housing Officer's report (conflicting identification of need for social and affordable housing) and concerns regarding the potential for the accommodation to be privately rented. However, I do not consider these concerns to be applicable to the appeal case as the accommodation is for assisted living and staff purposes only, not subject to Part V of the Planning Act, and not for market sale or rent. In the event of a grant of permission, I recommend that the use and management of same would be conditioned appropriately.
- 7.3.14. As discussed below, subject to appropriate condition(s) relating to the use of the components of the complex and the management of the staff accommodation (restrictions on being rented, sold etc), I do not consider there to be any planning issue relating to their inclusion in the scheme.

#### Change of Use of Residential Care Complex

- 7.3.15. In its grant of permission, the planning authority attached two bespoke conditions, requiring the applicant to enter into section 47 agreements firstly, in relation to the ownership and operation of the overall scheme (Condition 2) and secondly, that the assisted living and staff accommodation units be solely for residential use associated with the nursing home operation (Condition 3).
- 7.3.16. Of the potential for a change of use of the nursing home complex, an appellant refers to International Protection Accommodation (states the applicant is involved in the provision of same), the associated exempted development provisions (Class 20F of Schedule 2 Part 1 of the 2001 Regulations), and requests that a section 47

agreement be entered into (were the Commission to grant permission for the proposed development) with the terms of the agreement being specified (outlined in the section 6.0 of this report above).

- 7.3.17. A section 47 is described by the appellant as the appropriate mechanism in circumstances where standard planning conditions may be circumvented by exempted development provisions. The section 47 agreement is stated as being necessary to ensure that the basis upon which permission is assessed and granted is not subsequently undermined.
- 7.3.18. The Commission will be familiar with the guidance on conditions in the section 28 Ministerial Guidelines, Development Management Guidelines for Planning Authorities, 2007. Section 7.3 identify that basic criteria for conditions include being necessary, relevant to planning, and relevant to the development to be permitted.
- 7.3.19. While I note the appellant's request and specified terms for a section 47 agreement, I do not consider a condition requiring one to be necessary for the proposed development. In my opinion, the description of development and plans and particulars in the case are clear (i.e., reference is made to nursing home, assisted living and staff accommodation units, with commitments by the applicant to the ownership and management of the scheme, which are reiterated in the applicant's appeal response).
- 7.3.20. I do not recommend attaching a condition relating to ownership of the scheme (similar to Condition 2) as I do not consider this to be relevant to planning or to the development to be permitted. I do however consider a condition relating to the use of the component parts and management of the overall scheme would be necessary and relevant (having regard to the inclusion of ancillary residential units in the scheme, and that the planning authority has indicated the proposal will not be taken in charge).
- 7.3.21. I recommend a condition be attached specifying the operation as residential care use with ancillary residential use only, prohibiting any amalgamation of units/ bedrooms, and preventing the ancillary residential units from being sold, leased, sub-let, or in any manner separated from the main residential care use. I consider that such a condition would appropriately and efficiently manage the scheme without necessitating a section 47 agreement.

7.3.22. Related, I note further guidance in Section 7.6 of the Development Management which advises on conditions relating to the occupation of buildings and the use of same being restricted to persons of a particular class or description.

7.3.23. While discussing section 47 agreements in the context of occupancy of rural dwellings, I consider the guidance cited below to be applicable in the appeal:

*'Planning permissions attach to the land, and not to the applicant. Section 39(2) of the Planning Act, enables a condition to be attached, specifying that the use of a structure as a dwelling shall be restricted to use by persons of a particular class or description. Planning authorities should be sparing in their approach to such conditions ... the Sustainable Rural Housing Guidelines ... advise that the use of so-called "sterilisation agreements" under section 47, that is, agreements for the purposes of restricting or regulating the development and use of land permanently or for a specified period, should be avoided apart from highly exceptional cases, because of the inflexible nature of such agreements.'*

7.3.24. The guidelines advise against the use of section 47 agreements except in highly exceptional circumstances, which I do not consider the proposed development to be. Should the Commission disagree and consider it necessary, the Commission may consider it appropriate to attach the planning authority's bespoke conditions.

#### Planning History

7.3.25. Of the planning history cases referred to by an appellant as setting a precedent for the appeal case, I have reviewed same and find one to not relate to a nursing home. Of the other, I consider the similarities to be general, and not specific. I do not identify any issue in these cases which would set a precedent justifying the refusal of permission for the proposed development.

#### Conclusion

7.3.26. In conclusion, I consider that the site is an appropriate location for the proposed development and the nursing home and secondary school are compatible community use classes which can be suitably co-located. Both the site selection and choice of community uses have been subject of a plan-led decision-making process. I do not consider there to be, or potential for, a material contravention of the

development plan arising from conflicting policy regarding the location or mix of uses in the proposed development.

#### **7.4. Design and Visual Amenity**

- 7.4.1. Appeal grounds include the inappropriate design, excessive building height, and overdevelopment of a rural site. Further grounds relating to visual amenity include the negative impact on the sensitive landscape (the site is located within the High Value Landscape and between two Scenic Routes) and that no landscape or visual impact assessment has been undertaken for the proposal.

##### Design

- 7.4.2. The proposed development comprises several buildings: the nursing home, two rows of duplex units (four semi-detached pairs in each row), a pumping station, and refuse stores. The buildings are consistent and complementary in their design (architectural style, elevational treatment, solid to void proportions, fenestration size and arrangement, roof profiles, and external finishes).
- 7.4.3. While I note the criticisms of the design approach and its being inconsistent with the character of the area (predominantly single/ 1.5 storey detached dwellings), I consider that the design approach is acceptable and reflects the community use of the buildings within the scheme (i.e., the primary nursing home building framed by the ancillary residential units).
- 7.4.4. I identify design policy in CDP Section 6.6.22 on residential care accommodation as applicable. The policy guides that new nursing home facilities should include flexible care models such as long stay care, assisted living accommodation and some independent living accommodation. I consider that the proposed development incorporates a sufficient mix of accommodation with (potential for short/ long) stay residential care (120 bed spaces) and assisted living units (16 units), and that the overriding design choice complies with CDP requirements.
- 7.4.5. The proposal includes high quality external finishes (white/ light grey self-cleaning renders, metal roof, timber cladding, steel louvres, aluminium finishes), boundary treatments (clad walls, steel railing, timber fencing, planting), hard and soft landscaping (flagstone, paving, tree, hedge planting), and minimal signage (at main entrance).

### Layout

- 7.4.6. The nursing home building is centrally located in the scheme, aligned on a north-south axis, parallel to the main internal access road, and framed by the two rows of duplexes. The duplex rows address the nursing home building, with car parking spaces to the front and amenity spaces to the rear. Overall, I consider the layout to be logical and practicable, accommodating, and allowing easy access between the mix of uses and buildings.
- 7.4.7. I acknowledge the concern raised in the appeal grounds regarding the siting of the southern duplex row such that its rear elevation addresses the public road and a number of dwellings. I have reservations regarding its relationship with the road and weakening of the street frontage. While it would be preferable for the front elevations of the duplex units to address the road and create a stronger street frontage, I accept that this would involve reconfiguring the on-site parking spaces along the public road (a poorer urban design outcome) and/ or providing footpaths for the assisted living unit residents (likely an impractical arrangement). I consider the proposed boundary treatment (part wall and railing (800mm each)), and hedging, as per dwg Hard Landscaping Plan and Boundary Treatment, FI response) along the road will ameliorate the degree of visual impact and sense of enclosure (i.e., not a solid block wall, avoidance of tunnelling effect, soft landscaping incorporated).

### Building Height

- 7.4.8. The nursing home building is 3 storeys in design with a principal height of c.13.3m (reduced in overall height, scale and massing in the FI response). The duplex units are 2 storeys in design with principal heights of c.8.3m. While I acknowledge that the proposed building heights differ from those of existing proximate structures (national school, dwellings), I do not consider the proposed heights to be excessive or injurious to the character of the area, which as outlined previously, I consider to be transitional in nature.
- 7.4.9. Further, I note the planning officer's commentary (CFI report, pg. 2) regarding the ridge heights of the newly permitted national school building (adjacent to the east) and the proposed development. The national school building is at c.83.48m OD, while the nursing home structure at c.82.95m OD is c.0.5m lower. In this transitional context, I find the proposed building heights to be acceptable.

## Visual Amenity

- 7.4.10. Of the proposed development causing injury to the High Value Landscape (HVL) designation and adversely impacting views along Scenic Routes, I have had regard to the plans and particulars initially submitted with the application (architectural design statement and photomontages) and those at FI response stage (response to architectural items, revised plans indicating reduced height, scale and massing of the nursing home building, increased setback of duplex units from the southern boundary, and revised landscaping plan).
- 7.4.11. Of the HVL designation, I note that this extends widely to encompass all Kinsale town and the surrounding coastline and uplands (extent indicated in CDP Figure 14.2). Of the two Scenic Routes, the CDP protected views for the S63 (c.505m to the north, extends for several kilometres) are of woodland and the Bandon River Valley, and CDP protected views for the S62 (c.650 to the south, similarly extends for several kilometres) are of the Bandon River, Whitecastle Creek and James Fort.
- 7.4.12. The photomontages include seven viewpoints, four taken from along the S63 in a southerly direction (Views 1-4), and three taken from local roads (Views 5-7). The proposed development is evident in Views 1-3, its siting on a rising hill is clear. I also note the extent to which existing development to the east of the site is visible along the ridge of the hill. View 4 is obscured by extensive vegetation. Again, in Views 5-7, where the viewpoints are closer, the proposed development is clearly visible in the open landscape. There are no viewpoints from the S62 (coast road), which is acceptable as it is apparent that the proposal would not be visible from same (evident from westerly View 5 (only roofscapes visible), notable changes in topography). Additionally, views eastwards from the S62 towards the site are not protected.
- 7.4.13. While I note the proposed development is visible in several viewpoints from scenic route S63, I do not consider that the proposal (as revised in the FI response stage, so reduced from that generated in the photomontages images) is of a height, scale or massing that causes injury to the extensive HVL designation at this location or adversely effects the views from S63 (proposed development is not interfering with protected views of woodland and/ or the Bandon River Valley). I consider the

proposed development would be visually interpreted as a continuation of the existing built environment at this location.

- 7.4.14. Of claims of material contravention of the development plan due to the absence of a visual impact assessment, I note that policy in CDP Section 14.8.9 does not exclusively require a visual impact assessment (but generally be supported by). I am satisfied that there is sufficient documentation in the case file to have allowed an assessment of the impact on the visual amenity of the area to be undertaken.
- 7.4.15. I acknowledge that the development of the scheme will result in a notable change in outlook for adjacent residents and passing road users. However, in respect of policy in CDP Section 14.8.11, which refers to the sensitivity of the landscape type, as stated previously, I consider the character of the area to be in transition, that the site is at an urban edge and not overly vulnerable to change.

#### Conclusion

- 7.4.16. In conclusion, I consider the architectural design of the proposed development to be a uniform expression of this community/ ancillary residential typology, the layout to be a logical arrangement of new buildings, open spaces and services, and building height to be a consistent with the transitional nature of area. Subject to condition, I consider the proposed development can be absorbed into the site without adversely impacting on the landscape or visual amenities of the area.

### **7.5. Residential Amenity**

- 7.5.1. Appeal grounds include concerns regarding the residential amenity of future occupants due to the inappropriate design of nursing home scheme, and the adverse impact on the residential amenity of existing residents due to overlooking and overbearance.

#### Future Residential Amenity

- 7.5.2. Poor amenity levels are predicted for future residents due to several issues identified relating to accommodation design and standards. I propose to address each in turn and in so doing note the content of the applicant's FI response and subsequent appeal response.
- 7.5.3. Of the nursing home's internal layout and room quality, I note the design is of an established format, satisfying the applicable industry standards and requirements for

same. I find that the internal layout is practical and logical, and the private rooms are adequately sized with facilities. Of access to daylight and sunlight, I do not agree with the criticism regarding the use of courtyards in the nursing home design, instead I consider these allow all rooms to be at least single aspect, which would achieve sufficient natural light and ventilation. Of the duplex units and open spaces, I note that the units are orientated north-south, all dual aspect, and not densely sited (i.e., sufficient circulation spaces, adequate separation distances to other buildings). Having regard to their orientation, design and layout, I consider the units and open spaces would achieve adequate levels of daylight and sunlight during a standard 24hr period (typically determined for March 21<sup>st</sup>). Of the car parking provision, I note the provision of 16 spaces at FI response stage to increase the overall total to 92 spaces. I positively note that the applicant indicates 16 spaces are assigned to the assisted living and staff accommodation units (i.e., each unit would be served by a dedicated car space).

- 7.5.4. Based on the above details, I do not agree with the appeal grounds on the issue. Conversely, I find that future residents will be provided with varied and quality accommodation, which meet the industry standards where specified, and include communal facilities and services in a managed environment. I consider the proposal complies with CDP Objective SC 6-11 by supporting the delivery of accommodation for older persons in residential care and assisted living units. In the event of a grant of permission, I recommend appropriate conditioning of the use of the accommodation and management of the scheme.

#### Existing Residential Amenity

- 7.5.5. Of concerns regarding overlooking and overbearance of the existing dwellings to south/ opposite the site, these are stated to arise due to the proximity of the duplexes on the southern boundary, the topography and differences in ground levels, and the height and scale of the proposal.
- 7.5.6. A duplex row is sited along the southern boundary, and the rear elevations of the units address the opposite dwellings. The orientation of the opposite dwellings is notable as the façades/ front gardens face the proposed development not, importantly, the more sensitive rear elevations and back gardens. The façades and front gardens of these properties are presently visible from the public realm. I note

the separation distances between the rear elevations of the duplex row and the front elevations of opposite dwellings vary between c.33.5m-c.41m. Within the intervening area are the existing front garden spaces and boundary walls, public road, proposed footpath/ cycle path, grassed embankment, hedging, boundary wall/ fence, and duplex rear garden areas (as per dwg Sections and Elevations, FI response). The ground level in the site is higher than that of the public road (c.0.6m), however, this difference in level is relatively marginal when considered across the separation distance.

- 7.5.7. Therefore, in having regard to the orientation of the existing properties (front onto the site and are visible from the public road), the extent of the separation distances (all notably in excess of the minimum 16m separation distance cited in the Compact Settlement Guidelines for between opposing windows), the nature of the intervening area described above, the marginal difference in ground levels (such that potential overlooking would be no more than that experienced from road users (pedestrians, drivers) at present), and the modest building heights of the southern duplex row (2 storeys, c.8.3m principal height), I consider that the opposite properties would not be adversely affected by overlooking from the proposed development.
- 7.5.8. Further, I highlight that were the duplex units in the southern row to be reorientated to address the road/ opposite dwellings, the balconies at first-floor level would then have an outlook towards the road and opposite dwellings. I consider that such an arrangement would be less amenable for both future and existing residential amenities.
- 7.5.9. In respect of overbearance, for the reasons outlined in subsection 7.4 above, I consider the design and visual impact of the proposed development to be acceptable. I positively note the changes made to the proposal at FI response stage (reductions in building heights and roof profile and massing, increased separation distances), and do not consider that excessive or undue overbearance will be caused to adjacent properties. While I acknowledge that the existing outlook of adjacent dwellings will be altered, I do not consider that the extent of the change is such as to warrant a refusal of permission in and of itself.

### Conclusion

7.5.10. In conclusion, I consider that the proposal will offer varied and quality accommodation in a managed environment, ensuring that future residents are provided with adequate levels of amenity, and complying with CDP objectives relating to housing for older people. While the development of the site will change the receiving environment for adjacent residents (particularly the outlook), significant negative impacts to the residential amenity of existing properties, such that would warrant refusal of permission, are not reasonably anticipated.

## 7.6. Archaeology and Cultural Heritage

7.6.1. Appeal grounds include that the archaeological assessment for the proposal is incomplete, the entire battlefield site has not been adequately investigated, no historic landscape characterisation has been undertaken, and the proposed development undermines and potentially materially contravenes objectives in the development plan.

### Context

7.6.2. SDO for KS-C-04 identifies the site's location within '*an area of archaeological potential associated with the Kinsale Siege and Battlefield*'. The SDO requires an archaeological assessment to be undertaken to guide the design and layout of any future development, and that the assessment should include geophysical investigation to determine whether the land parcel formed part of the strategic locations of campsites or entrenchments of the 1601 military landscape.

7.6.3. Such an archaeological assessment was not submitted with the application and was subject of the FI request. In the FI response, the applicant submitted a Geophysical Survey Report (June 2023) and an Archaeological Testing Report (May 2025). In addition, there are two internal reports from the planning authority's archaeologist assessing the proposed development.

7.6.4. The Geophysical Survey Report concludes that '*geophysical investigations did not identify anything of obvious archaeological potential*'. The Archaeological Testing Report concludes that '*no features or finds of archaeological significance were identified during the archaeological investigations. No further archaeological works are recommended*'. The applicant's documents and the conclusions therein are accepted by the county archaeologist. The final report of which states '*no further archaeological requirements.*'

## Archaeological Assessment

- 7.6.5. The appeal site is located within the zone of archaeological potential (ZoAP) for RMP CO112-090 (Military Camp) associated with the Battle of Kinsale 1601. The extent of the ZoAP is indicated in the Geophysical Survey Report (Fig 2, pg. 18) and the Archaeological Testing Report (Fig 3, pg. 4). The county archaeologist report indicates the ZoAP (Fig 1, pg. 3) and also the locations of high sensitivity areas and battlefield scones (Fig 2, pg. 3).
- 7.6.6. Lands under the applicant's control (blue line boundary) correspond with the extent of land parcel KS-C-04, and the appeal site is the majority part of the land parcel. However, I note that the ZoAP extends beyond the land parcel KS-C-04, encompassing lands further to the west and east/ southeast of the appeal site.
- 7.6.7. Of the appeal grounds that the archaeological assessment is incomplete, I note that geophysical surveying was undertaken of the lands under the applicant's control (i.e., the KS-C-04 land parcel, as per Figs 5, 6, pgs. 21, 22). Archaeological test trenching (21 test trenches) was undertaken of anomalies across KS-C-04 as identified by the geophysical survey (as per Fig 11, pg. 15). I consider that the applicant has undertaken the necessary archaeological investigations of land parcel KS-C-04. In so doing, I find that the proposed development complies with the requirements of SDO for KS-C-04, and the archaeological assessment can be considered complete.
- 7.6.8. Of the appeal ground that the entire battlefield has not been adequately investigated, I acknowledge that there are lands to the west that are within the ZoAP but outside of the land parcel KS-C-04/ blue line boundary. (Note: the lands in the ZoAP to the east/ southeast of the site were the application site for PA Ref. 25/4086 (national school development)). I consider that the archaeological investigations undertaken by the applicant are sufficient having regard to the extent of the lands under their control.
- 7.6.9. I note the county archaeologist was satisfied with the findings of the applicant's reports and did not consider any condition to be necessary. Further, I note that the Commission consulted with/ invited observations from three prescribed bodies on the appeal case, none of which responded.

7.6.10. Therefore, from the foregoing, I consider that the proposed development complies with policy in CDP Section 16.2.21 and Objectives HE 16-7 and KS-GO-05 as an adequate archaeological assessment has been undertaken and the investigations have established that there are no archaeological remains or cultural heritage assets at the site required to be incorporated into the design of the proposal, recorded by excavation, or protected by remaining in situ.

7.6.11. Finally, I note the appeal ground reference to CDP Objective KS-GO-06 and the absence of the Historic Landscape Characterisation Study. I consider that the proposed development does not prejudice the delivery of same. The applicant has undertaken an archaeological assessment which determined that there is no undue impact on archaeology and by association on the cultural heritage of the site.

### Conclusion

7.6.12. In conclusion, I consider the information on the case file is sufficiently robust, the Commission can rely on same, and the proposed development would not adversely impact on archaeology or cultural heritage at the site or in the receiving area.

## **7.7. Access, Traffic and Transport**

7.7.1. Appeal grounds include opposition to the intensification of traffic along the L-7249, public and traffic safety concerns, constrained access routes particularly approaching from the west, substandard and inadequate on-site car parking provision, overspill parking on the surrounding road network, disruption and inconvenience to residences opposite the proposed entrance, and the lack of conflicting details regarding the raised junction, road and path alignment, and the requirement for a construction management plan.

7.7.2. Access to the proposed development is via a new entrance onto the L-7249, the site's southern boundary. No access arrangements are proposed from the cul de sac along the site's western boundary. The proposed development also includes the setting back of the site's southern boundary, provision of a shared pedestrian and cycle path, a raised junction, and pedestrian crossing to link with the existing footpath on the southern (opposite) side of the L-7249 (as per dwg Site Layout Plan I, CFI response).

- 7.7.3. Of opposition to the proposed entrance location and provision of a raised junction, while I acknowledge the third-party concerns regarding nuisance and inconvenience, I consider the location of the entrance to be the most suitable as this allows tie-in with the existing footpath on the southern side of the L-7429, the most logical alignment for the internal access road, and the most efficient internal layout for the scheme whilst facilitating future access to the secondary school site. The plans and particulars of the proposal (including being subject of a Road Safety Audit) indicate the entrance can be safely provided with the required sightlines. The provision of the raised junction is also reasonable to ensure pedestrian and traffic convenience and safety.
- 7.7.4. Of opposition to the use of the L-7429 to the west of the site (connecting with the R606 coast road), I note the planning authority technical reports. An updated Road Safety Assessment was included in the applicant's FI response to address the potential impact. Proposals are included for additional signage and road markings at the junction of L-7429/ R606 to notify drivers of the unsuitable nature of the road to support two-way traffic. Further, signage is proposed at the site entrance to advise drivers to turn left (east) on exit. While I acknowledge third-party concerns regarding the use of the L-7429 west of the site, I travelled the road at the time of my site inspection and, while not as numerous as eastbound on the L-7429, noted opportunities for two-way traffic/ vehicles to pass. Having regard to the existing built-up area and future development of the town, I consider it reasonable to anticipate that the majority of trips would be eastbound. I note the planning authority accepted the proposed solutions, and I consider these to be reasonable and pragmatic.
- 7.7.5. Of criticisms relating to the technical/ design details on the raised junction, road and path alignment, I consider these infrastructural elements are adequately indicated in the plans and particulars submitted at the FI response stage and found in the main to be acceptable by the planning authority. Final agreement on same will be subject to condition, including the continued attachment of the planning authority's bespoke conditions.
- 7.7.6. Of on-site car parking provision, in the FI response the layout and number of spaces were revised. A total of 92 no. total spaces is proposed (76 no. spaces for the nursing home and 16 no. spaces for the ancillary residential units), which include 10 no. EV spaces. The planning authority indicates the provision complies with the

CDP requirements, and I agree considering the on-site provision of 76 no. dedicated spaces is sufficient for the intensity of the proposed nursing home facility (120 no. bedspaces).

- 7.7.7. While I acknowledge the concerns regarding the potential for overspill parking demand in the surrounding area, I consider that the likelihood for same is low. This is due to the extent of on-site provision, the nature of the surrounding roads, road improvement measures on the L-7429 incorporated into the scheme, and the planning history in the surrounding area (road and active travel alignment referred to in the planning officer's CFI report). Any incidence of overspill parking to roads or locations where to do so is illegal would require enforcement by relevant statutory bodies. I note that the planning authority did not cite any concerns regarding overspill parking and an adverse impact on residential amenity.

#### Conditions

- 7.7.8. The planning authority permission includes bespoke and standard transportation conditions. Bespoke Conditions 16, 18, and 21 relate to pedestrian crossings on the spine road (main north-south road to the east of the proposed buildings, as per dwgs Site Layout Plan I and II, CFI response) , and Condition 47 relates to the raised junction on the public road. Reasons given for the conditions include pedestrian and road safety. I consider these bespoke conditions should continue to apply in the event of a grant of permission. Standard transportation related conditions include design specifications and technical requirements, and I consider these can be addressed by/ incorporated into An Coimisiún Pleanála (ACP) model conditions for same.
- 7.7.9. Similarly, of criticism regarding the lack of construction management details in respect of traffic, I note details are incorporated in the outline/ preliminary CEMP, and I recommend these be subject of final agreement with the planning authority by way of ACP model condition.

#### Conclusion

- 7.7.10. In conclusion, I do not consider there to be any access, traffic or transport related impediment to the development of the proposal. Subject to the attachment of appropriate conditions, no planning issues or adverse impacts on the receiving environment are reasonably anticipated.

## 7.8. Water Services and Water Quality

- 7.8.1. Appeal grounds include concerns relating to the availability of water services infrastructure to serve the proposal, lack of clarity on capacity/ requirement for upgrades of same by Uisce Eireann, final location of the pumping station is unclear, and responsibility for the proposed wastewater infrastructure inconclusive.
- 7.8.2. Additionally, I identify the surface water drainage proposals and implications for water quality as relevant considerations. I have had regard to several relevant plans and particulars in the case file (notable change in surface water drainage proposals at CFI response stage) and to the applicant's appeal response.

### Proposed Water Services Infrastructure

- 7.8.3. The proposed development seeks connections to the public water supply and wastewater drainage networks. As initially proposed, the surface water drainage proposals centred on on-site collection and discharge to/ storage in soakaways towards the north of the site. Issues relating to water services were the subject of FI and CFI requests from the planning authority.
- 7.8.4. In its final report, Uisce Eireann confirmed that connections for water supply and wastewater drainage are feasible subject to upgrades. For water supply, as a number of CoFs have been issued connection will be dependent on available capacity at the time of request, St Elton's Booster Station requires upgrades, and an alternative private source could be provided. Similarly, for wastewater treatment, as a number of CoFs have been issued connection will be dependent on available capacity at the time of request. Further detailed studies and/ or investigations are stated as necessary to confirm the available capacity and to determine the full extent of any upgrades which may be required. A manhole survey to be provided as part of the connection application process.
- 7.8.5. While I acknowledge the concerns raised in the appeal grounds regarding a lack of clarity on the availability of water services infrastructure, I consider Uisce Eireann has, in principle, confirmed that the proposed development can connect to both the water supply and wastewater drainage networks. The additional details outlined by UE are, in effect, for information purposes and all details will be finalised at the time of the connection process. I consider the UE report is akin to a holding position and not indicative of any problem per se with servicing the proposed development.

- 7.8.6. In respect of surface water drainage, amendments were incorporated into the scheme at the CFI response stage. These include increased focus on and provision of SuDS measures (permeable paving, soakaways (with additional information provided on soil conditions, infiltration rates, and distances from buildings/ features (ditches etc)), tree pits, and green roofs on the nursing home (with details on the biodiversity gain of same)).
- 7.8.7. Also included is an alternative overflow outfall arrangement whereby surface water will discharge via an extended surface water drain with a headwall to the Liscahane More Stream located to the north of the proposed development (landowner consent provided). The planning authority found the proposals to be acceptable and conditioned same accordingly (bespoke Conditions 26 and 39 relate to the outfall).
- 7.8.8. In respect of clarity regarding the location of pumping station and responsibility for the wastewater infrastructure, I consider the location of same is as indicated in the plans and particulars included in the CFI response (there are no conditions attached to the grant of permission relocating same). While the UE report focuses on capacity in the wastewater system, the position of the planning authority is clear in its reports that the wastewater infrastructure will be the responsibility of the developer. This position is reflected in bespoke Condition 6. Further, I note the applicant's position in the appeal response which states the ownership, operation and maintenance of the pumping station will remain the sole responsibility of the private owner of the development, with its design and construction complying with UE requirements.

#### Conditions

- 7.8.9. In the event of a grant of permission, I recommend the following in respect of conditions. It is apparent from the UE report that final options for water supply and wastewater drainage will be decided between the parties. As such, I consider the ACP model condition for UE connections to be appropriate.
- 7.8.10. For surface water drainage, the planning authority attached several conditions (Conditions 27, 28, 41-44, 48, and 51). I have reviewed same and consider that the ACP model condition (for agreeing all surface water design and specification items) covers all the sub-items included in the planning authority conditions and, accordingly, recommend the attachment of same.

- 7.8.11. Bespoke Condition 26, referred to above, relates to pollution prevention measures to watercourses with construction activities to accord with CIRIA and IFI best practice guidelines. Bespoke Condition 39 requires agreement on a Construction Method Statement for the stormwater outfall to the Lischanemore watercourse. I consider both conditions to be appropriate and necessary and recommend the attachment of same in the event of a grant of permission.
- 7.8.12. Bespoke Condition 6, as discussed above, refers to a management company contract for the on-site pumping station for which the applicant is stated as being responsible. I consider the substantive issue of responsibility would be addressed in the ACP model condition requiring the establishment of a management company for the overall scheme (i.e., Condition 6 is not necessary).

#### Water Quality

- 7.8.13. As outlined above, the CFI response incorporated a surface water overflow outfall to Liscahane More Stream to the north of the site (initially and FI stage surface water drainage system had proposed on-site collection, discharge to soakaways for storage, and infiltration to ground). Details regarding the watercourse are included in the Ecological Impact Assessment (EclA), revised and submitted at FI response stage.
- 7.8.14. The EclA details that the Liscahane More Stream flows in a westerly direction into the Ardmartin River and onwards to the main channel of the Bandon River before draining into Kinsale Harbour. The proposed development is located approximately 800m northeast of the main channel of the Bandon River. The watercourses and site location are indicated on Figure 9.2 of the EclA.
- 7.8.15. The planning authority permission includes several conditions managing the construction phase of development, including bespoke Conditions 26 and 39 described above.
- 7.8.16. I note that there are hydrological connections between the proposed development and surface water and groundwater bodies (via the drainage infrastructure). However, due to the scale and intensity of the proposal, the nature of the adjacent watercourse (minor stream), and the separation distances to other watercourses, the hydrological connections are considered to be weak and/ or not meaningful.

7.8.17. I have assessed the proposed development with regard to water quality and find that no issues arise in respect of water quality/ Water Framework Directive. (For the Commission's clarity, the EPA (source: <https://gis.epa.ie/EPAMAPS/Water>) references Liscahane More Stream as Knocknabohilly\_10, and Ardmartin River as Derrynagasha\_10). The requirement for a Water Status Impact Assessment (WSIA) has been reasonably screened out (see Appendix 4 of this report below).

### Conclusion

7.8.18. In conclusion, I do not consider there to be any water services related impediment to the development of the proposal. Subject to the attachment of appropriate conditions relating to connection to public services, on-site servicing, construction and operational (i.e., occupation) phase processes, no planning issues or adverse impacts on the receiving environment are reasonably anticipated.

### **7.9. Other Matters**

7.9.1. In respect of other matters, appeal grounds relate to Appropriate Assessment (AA) and land ownership issues. I also identify the planning authority conditions not previously discussed.

7.9.2. Appeal grounds include that the planning authority did not undertake an AA screening for the proposal, describing this as a fundamental procedural deficiency and a flawed and invalid decision. There are criticisms regarding the omission of an AA screening report (AASR) by the applicant. I have reviewed the planning authority reports and confirm the need for appropriate assessment was screened out in the Ecology Section FI response report. In any event, as the Commission is the competent planning authority for the appeal case, I have undertaken an AA screening determination for the proposed development (see section 9.0 and Appendix 3 of this report below).

7.9.3. Of issues raised in respect of land ownership (works on the public road, water services infrastructure across the site), I note the application includes letters of consent from the planning authority and owner of lands to the north through which the overflow outfall pipe is routed.

7.9.4. The Commission will be familiar with guidance in Section 5.13 of the Development Management Guidelines for Planning Authorities, 2007, to which I defer on this

matter. Following my review of the case file, I am satisfied that for planning purposes, and subject to the restrictions explicit in section 34(13) of the 2000 Act (i.e., a person is not entitled solely by reason of a permission to carry out any development), the applicant has demonstrated sufficient legal interest to make the application.

- 7.9.5. Of conditions not previously discussed, I note Condition 8 requires that the assisted living and staff accommodation units be developed in conjunction/ tandem with the nursing home in a single development phase. I note there are references in some of the application documents to developing the scheme in phases, with the nursing home developed initially. Due to the supportive nature of the residential units for the nursing home facility, to minimise the construction phase impacts on the receiving area, and to ensure an avoidance of doubt, I agree with the condition and recommend a single-phase delivery be specified with flexibility for agreement with the planning authority if necessary.
- 7.9.6. An Ecological Impact Assessment (EclA) accompanied the application and includes Mitigation Measures (Section 6) relating to dust, noise, protection of soil, surface waters and groundwater, avifauna, bats, non-volant mammals, and biodiversity enhancement. I note the planning authority conditions relating to biodiversity and consider the ACP model conditions relating to implementing measures in the EclA under supervision of an Ecological Clerk of Works would address the requirements of same.
- 7.9.7. Otherwise, I consider that the remaining standard planning authority conditions can be adequately and appropriately addressed by ACP model conditions for the relevant item.

## **8.0 Environmental Impact Assessment**

- 8.1. The proposal is of a class of development identified in Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended (2001 Regulations) for the purposes of Environmental Impact Assessment (EIA). Accordingly, I have undertaken a pre-screening exercise and preliminary examination of the proposed development (see Appendix 1 and Appendix 2 respectively of this report below).

8.2. By taking into account the nature and scale of the proposed development, the location of the site on zoned and serviced lands within an existing built-up area and outside of any sensitive and/ or designated location, the existing pattern of development in the vicinity, the information and reports submitted as part of the application and appeal, and the criteria set out in Schedule 7 of the 2001 Regulations, I have concluded that there is no real likelihood of significant effects on the environment arising from the proposed development, and that the need for an EIA and the submission of an EIAR is not required.

## 9.0 **Appropriate Assessment**

### 9.1. **Screening Determination for Appropriate Assessment**

9.1.1. In accordance with section 177U(4) of the Planning and Development Act 2000, as amended (2000 Act), and on the basis of objective information, I conclude that the proposed development would not have a likely significant effect on any European site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (Stage 2) under section 177V of the 2000 Act is not required.

9.1.2. This conclusion is based on:

- Nature, scale and location of the proposed development.
- Objective information presented in the case file and from verified sources (e.g., EPA, NPWS, planning authority).
- Qualifying interests and conservation objectives of the European sites.
- Absence of any meaningful pathways to any European site.
- Distances from European sites.
- Standard pollution controls and project design features that would be employed regardless of proximity to a European site and the effectiveness of same.

9.1.3. No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion (see Appendix 3 of this report below).

## 10.0 Water Status Impact Assessment

### 10.1. Screening Determination for Water Impact Status Assessment

- 10.1.1. I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive (WFD) which seek to protect and, where necessary, restore surface water and ground waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration.
- 10.1.2. I conclude that the proposed development will not result in a risk of deterioration on any waterbody (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively, or on a temporary or permanent basis, or otherwise jeopardise any waterbody in reaching its WFD objectives and consequently can be excluded from further assessment (see Appendix 4 of this report below).
- 10.1.3. This conclusion is based on:
- Nature, scale and location of the proposed development.
  - Objective information presented in the case file and from verified sources.
  - Nature of the closest surface watercourse and proximity to other surface watercourses.
  - Lack of any meaningful hydrological connection to any waterbody.
  - Use of best practice construction practices during construction phase.

## 11.0 Recommendation

Following from the above assessment, I recommend that permission is GRANTED for the development as proposed due to the following reasons and considerations, and subject to the conditions set out below.

## 12.0 Reasons and Considerations

The Commission considers that, subject to conditions, the proposed development would be consistent with the applicable Community zoning objective and other policies and objectives of the Cork County Development Plan 2022-2028, would be

an appropriate community use at this location, would not seriously injure the residential or visual amenities of property in the vicinity, would not adversely affect archaeology or cultural heritage at the site or in the vicinity, and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### 13.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application to the planning authority, as amended by the further information plans and particulars received by the planning authority on the 11<sup>th</sup> day of July 2025 and by the clarification of further information plans and particulars received by the planning authority on the 1<sup>st</sup> day of October 2025, 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. The development shall be implemented as follows:
  - a) The nursing home facility (120 no. beds) shall be used and operated for residential care purposes only.
  - b) The assisted living (16 no.) and staff accommodation (16 no.) units shall be used and operated for ancillary residential purposes only associated with the main residential care use.
  - c) The assisted living and staff accommodation units, and/ or bedrooms within each unit, shall not be amalgamated or combined.

- d) The assisted living and staff accommodation units shall not be sold, leased, sub-let, or in any manner separated from the ancillary residential use associated with the main residential care use.
- e) The nursing home facility and the assisted living and staff accommodation units shall be constructed and made available for use in a single phase of development, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of clarity and protecting the amenities of occupiers of the units and surrounding properties.

- 3. a) Details of the materials, colours, and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise agreed in writing with the planning authority.
- b) Details of security shuttering (if any), external lighting, and signage for the nursing home facility shall be submitted to and agreed in writing with the planning authority prior to commencement of development.
- c) Details of a maintenance strategy for all external finishes to the proposed buildings shall be submitted to and agreed in writing with the planning authority prior to commencement of development.
- d) Details of the location, types, textures and finishes of all proposed boundary treatments within the scheme shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

In default of agreement, the matter(s) in dispute shall be referred to An Coimisiún Pleanála for determination.

**Reason:** In the interest of visual amenity and orderly development.

- 4. a) Prior to commencement of development, the developer shall submit for the written agreement of the planning authority, proposals for a development name and numbering scheme and associated signage. Thereafter, all such

name and numbering shall be provided in accordance with the agreed scheme.

b) The development name 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 place names for new residential areas development.

5. Prior to the 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 its 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 proper planning and sustainable development.

6. Prior to the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to the planning authority for its written agreement. This plan shall provide details of the construction practice for the development including, inter alia:
  - 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) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
- j) 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.
- k) Off-site disposal of construction/ demolition waste and details of how it is proposed to manage excavated soil.
- l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- m) A record of daily checks that the works are being undertaken in accordance with the CEMP shall be kept for inspection by the planning authority.

The agreed CEMP shall be implemented in full in the carrying out of the development.

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

7. Prior to the commencement of development, the developer shall submit to the planning authority for its written agreement, proposals, measures, and/ or revised plan(s) as relevant, indicating the following:
- a) The southern-most pedestrian crossing on the proposed spine road shall be re-positioned to align with the centre-line of the proposed east-west shared path. The crossing shall be similar in width to the proposed east-west shared path and shall have appropriate tactile paving on either side of the crossing. Signage in accordance with the traffic signs manual shall also be incorporated at the crossing on poles supported on retention sockets.
  - b) On the southern end of the internal north-south road adjacent to the eastern side of the proposed main building, a pedestrian crossing shall be installed across the proposed ramp in east-west direction, with appropriate tactile and signage accompanying the crossing point that accords with the Traffic Signs Manual.
  - c) On the northern end of the internal north-south spine road, a pedestrian crossing shall be installed across the northern side of the proposed ramp in east-west direction, with appropriate tactile and signage accompanying the crossing point that accords with the Traffic Signs Manual.
  - d) All works shall be undertaken at the developer's expense and completed to the satisfaction of the planning authority.

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

8. Prior to the commencement of development, revised traffic calming proposals shall be submitted for the written agreement of the planning authority making provision for a raised junction and the precise location, specification, and make up of these shall be clearly shown on a revised site plan and shall be designed to integrate with the proposed frontage and prioritised to cater for pedestrian movements. Once agreed, the proposed traffic calming measures on the L-7249 shall be constructed entirely at the applicant's expense and in

accordance with the proposed phasing plan to the satisfaction of the planning authority.

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

9. a) The vehicular entrance to the development on the L-7429 shall be provided in accordance with the standards specified in the Design Manual for Urban Roads for the applicable design speed with associated minimum unobstructed visibility splays, unless otherwise agreed with the planning authority, and to the construction standards of the planning authority for such works.

b) The site frontage along the L-7429 shall be set back and supporting infrastructure (e.g., pedestrian pathway, cycle track, road paving, pedestrian crossing) shall be provided in accordance with the revised layout plan (subject of Condition 8 above) and to the construction standards of the planning authority for such works.

c) The internal road network serving the proposed development, including carriageway widths, corner radii, turning bays, junctions, set down/ drop off area(s), parking areas, footpaths, kerbs, pedestrian crossings, raised tables, and cycle lanes, shall be in accordance with the detailed construction standards of the planning authority for such works, and design standards outlined in the Design Manual for Urban Roads and Streets and the National Cycle Manual issued by the National Transport Authority.

In default of agreement the matter(s) in dispute shall be referred to An Coimisiún Pleanála for determination.

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

10. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** To safeguard the amenities of property in the vicinity.

11. No additional development shall take place above roof parapet level of the nursing home and/ or duplex units including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas, or equipment, unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity and orderly development.

12. a) The developer shall enter into water and/ or wastewater connection agreement(s) with Uisce Eireann, prior to commencement of development.

b) All development shall be carried out in compliance with Uisce Eireann codes and practices.

**Reason:** To provide adequate water and wastewater facilities in the interest of public health.

13. Drainage arrangements, including the attenuation and 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.

14. Prior to the commencement of development, the developer shall submit for agreement a Construction Method Statement for works associated with the stormwater outfall to the Lischanemore watercourse to the north of the site. The Construction Method Statement shall incorporate details of all water quality protection measures and ecological mitigation measures as required to protect the aquatic and terrestrial environment of this watercourse.

The layout of the stormwater sewer to the north of the site shall be reviewed to minimise impact to existing hedgerow and treelines. The Construction Method Statement shall be prepared by a qualified and experienced person whose experience shall be cited.

No works shall commence on site until the Construction Method Statement and revised stormwater layout has been agreed. All construction works shall be implemented in accordance with the final agreed Construction Method Statement.

**Reason:** To protect the aquatic and terrestrial environment and prevent water quality impacts.

15. Construction activities shall be carried out, as a minimum, in accordance with good practices as set out in CIRIA 'Guidelines Control of Water Pollution from Construction Sites - Guide to Good Practice'. Construction practices shall also be carried out in accordance with the IFI's 'Guidelines on Protection of Fisheries During Construction Works in and Adjacent to Waters'.

**Reason:** To protect the amenity of the area and prevent water quality impacts.

16. a) The site shall be landscaped in accordance with the landscape scheme submitted with the planning application, unless otherwise agreed in writing with the planning authority.

b) The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter.

c) This landscaping scheme shall be completed before the nursing home facility is operational and any of the ancillary residential units are made available for occupation unless otherwise agreed in writing with the planning authority.

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

17. a) The mitigation measures contained in the submitted Ecological Impact Assessment Report, shall be implemented in full.

b) All works shall be supervised by an on-site Ecological Clerk of Works who will report on compliance with the relevant mitigation measures. The Ecological Clerk of Works shall be empowered to halt works where they consider that the continuation of the works is likely to result in a significant pollution or siltation incident or impact on protected habitats or species, and on-site works will cease until authorised to continue by the planning authority. A compliance monitoring report shall be prepared by the Ecological Clerk of Works and shall be submitted to the planning authority at the end of the main construction period.

**Reason:** To protect the environment.

18. Public lighting shall be provided in accordance with a scheme which shall be submitted to the planning authority for its written agreement prior to the commencement of development. Such lighting shall be provided before the nursing home facility is operational and any of the ancillary residential units are made available for occupation.

**Reason:** In the interests of pedestrian and traffic safety.

19. 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. All existing over ground cables shall be relocated underground as part of the site development works.

**Reason:** In the interest of visual amenity and of the amenities of occupiers of the units.

20. a) All areas within the development not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.

b) Details of the management company contract, and drawings/ particulars describing the parts of the development for which the company would have responsibility, shall be submitted to and agreed in writing with, the planning authority before the nursing home facility is operational and any of the ancillary residential units are made available for occupation.

**Reason:** To provide for the satisfactory future maintenance of this development.

21. a) An Operational Waste Management Plan (OWMP) containing details for the management of waste within the development, the provision of facilities for the storage, separation, and collection of the waste and for the ongoing operation of these facilities, shall be submitted to the planning authority for its written agreement, not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed OWMP.

b) The OWMP shall provide for screened communal bin stores, the locations and designs of which shall be as indicated in the plans and particulars lodged within the application unless otherwise agreed in writing with the planning authority. Bin stores shall not be stored on the public footpath.

**Reason:** In the interest of the amenities of occupiers of the units, and to ensure the provision of adequate refuse storage for the proposed development.

22. 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 and/ or management company 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 Coimisiún Pleanála for determination.

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

23. 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 Coimisiún 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 me, directly or indirectly, following my professional assessment and recommendation set out in my report, in an improper or inappropriate way.

---

Phillippa Joyce

Senior Planning Inspector

31<sup>st</sup> March 2026

## Appendix 1: Environmental Impact Assessment – Pre-Screening

<b>1. Does the proposed development come within the definition of a ‘project’ for the purposes of EIA?</b>	
(“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.	
<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.	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/ exceeds the threshold.	
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.  Proceed to Q4.	Class 10(b)(i) and/ or Class 10(b)(iv)  Relevant thresholds arising from Class 10(b): - Class 10(b)(i): more than 500 dwelling units. - Class 10(b)(iv): urban development in an area greater than 10ha
<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>	
<input checked="" type="checkbox"/> No	Pre-screening determination conclusion remains as above (Q1 to Q3)

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

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

## Appendix 2: Environmental Impact Assessment – Preliminary Examination

<p><b>The Commission carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations. This preliminary examination should be read with, and in the light of, the rest of the Inspector’s Report attached herewith.</b></p>	
<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>Project comprises the construction of a nursing housing facility (120 no. bedspaces), assisted living and staff accommodation units (32 no. units), and range of associated site works. Project does not differ significantly in terms of character or of scale from the surrounding area (i.e., community uses adjacent/ in the wider area, residential uses adjacent, modest scaled buildings, c. 2-3 storeys in height).</p> <p>Project would cause physical changes to the appearance of the site during the construction and operation (occupation) phases. However, the former would be temporary in nature and not significant, and the latter are associated with new buildings, boundaries, and landscaping. These are within acceptable parameters for this edge-of-town, zoned site and the receiving area (in transition from rural to suburban character).</p> <p>No significant use of natural resources is anticipated. The project would connect into the public water supply and wastewater treatment systems. The project proposes surface water drainage systems on-site (with several SuDS features), which would discharge to ground/ local surface watercourse.</p> <p>Construction phase activities would result in the use of potentially harmful materials (including potential for asbestos), and cause noise and dust emissions. These would likely be typical of similar construction sites. Conventional waste produced from construction and operational activities would be managed.</p> <p>Project would not cause significant risks to human health through water contamination/ air pollution due to the design of the scheme, connection to public water services systems, and scale of the community and ancillary residential activities arising.</p>
<p><b>Location of development</b></p> <p>(The environmental sensitivity of geographical</p>	<p>Project is not located in, on, or adjoining any European site, any designated or proposed Natural Heritage Area, or any other listed area of ecological interest or protection. The site is greenfield in nature. An EclA has been undertaken for the</p>

<p>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>project . There is no evidence of the presence of any protected habitats, plants, or fauna species.</p> <p>The Liscahane More Stream is the closest watercourse, located c.250m to the north of the site. There are hydrological connections (surface water drainage) between the project and surface water and groundwater bodies. However, these connections are considered to be weak and/ or not meaningful and have no consequence for any protected nature designation.</p> <p>The site is located within a High Value Landscape designation and visible from a Scenic Route. However, the design of the project is considered to be acceptable and to not adversely affect the visual amenity of the receiving area. The site is within a Zone of Archaeological Potential associated with a military camp of the Battle of Kinsale. However, an archaeological assessment (including geophysical survey and test trenching) has been undertaken which confirmed the absence of archaeological features at the site. There are no protected structures at or adjacent to the site.</p>	
<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>Amelioration of environmental impacts have been incorporated into the project's design.</p> <p>Mitigation measures would include those required by conditions attached in the event of a grant of permission in relation to construction and operation phases.</p> <p>There are no likely significant effects identified or anticipated in terms of cumulative and/ or transboundary effects.</p>	
<b>Conclusion</b>		
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>	<b>Yes or No</b>
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
<del>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</del>	<del>Schedule 7A Information required to enable a Screening Determination to be carried out.</del>	No
<del>There is a real likelihood of significant effects on the environment.</del>	<del>EIAR required.</del>	No

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

### Appendix 3: Appropriate Assessment – Screening

I have considered the project in light of the requirements section 177U of the Planning and Development Act 2000 as amended. The project is for a nursing home scheme including assisted living and staff accommodation with associated site works on a greenfield site at an edge-of-town/ suburban location.

The project is located inland of two European site designations; the Sovereign Islands SPA (004124) is c.6.8km to the southeast and the Old Head of Kinsale SPA (004021) is c.9.6km to the south. The qualifying interest (QI) of the Sovereign Islands SPA is the cormorant seabird (conservation objective (CO) for which is to restore the favourable condition of same). The QIs of the Old Head of Kinsale SPA are the kittiwake and guillemot seabirds (COs are to restore the favourable condition of same).

The site is part of an agricultural field with no evidence of habitats or species with direct links to any European sites (i.e., no ecological connections).

The project includes an on-site pumping station and rising main connecting to the public wastewater system, soakaways and an outfall for the disposal of surface water run-off to Liscahane More Stream. The soakaways ensure on-site attenuation of surface water (with initial treatment) prior to environmentally safe discharge to ground via infiltration and discharge via the overflow outfall to the watercourse. This is a minor watercourse (stream, drainage ditch) located c.252m to the north of the site. The stream (also referenced as Knocknabohilly\_010, EPA), rises to the northeast of the site and flows in a southwesterly direction intersecting with the Bandon River (Bandon\_100) c.1.2km (downstream) from the discharge point). The Bandon River merges c.3km downstream into Kinsale Harbour.

There are hydrological connections between the project and surface water and groundwater bodies, via the proposed surface water drainage infrastructure. However, due to the scale and intensity of the project, the nature of the adjacent watercourse (minor stream, drainage ditch), and the separation distances to other watercourses, the hydrological connections are considered to be weak and/ or not meaningful. There are no meaningful direct hydrological connections to any European sites.

I consider the project would be developed using standard construction processes and best practice measures to protect surface and ground waterbodies (i.e., no requirement for specific measures to protect a European site). The likelihood of a pollution event at the site which would be of a magnitude to cause a significant effect on the downstream European sites can be reasonably excluded.

Criticisms that the applicant did not submit an AA screening report and that the planning authority's screening decision is procedurally flawed are included in the appeal grounds. I highlight that an AASR was submitted with the application. Further, I have reviewed the applicant's EclA (updated and submitted at the FI response stage) which considers European sites in the project's zone of influence. I have also had regard to the planning authority reports (planner, ecologist/

environmental scientist). The planning authority screened out the need for appropriate assessment (Ecology Section FI response report, 22<sup>nd</sup> July 2025).

Having regard to my own assessment, I consider the applicant has provided sufficient information in the initial AASR and subsequent EclA to allow the Commission to determine there are no issues relating to AA. I concur with the planning authority's screening determination.

I am satisfied that the project can be eliminated from further assessment because there is no conceivable risk to any European site. This conclusion is based on the:

- Nature, scale and location of the project.
- Objective information presented in the case file and from verified sources (e.g., EPA, NPWS, planning authority).
- Qualifying interests and conservation objectives of the European sites.
- Absence of any meaningful pathways to any European site.
- Distances from the European sites.
- Standard pollution controls and project design features that would be employed regardless of proximity to a European site and the effectiveness of same.

#### Conclusion

I conclude that the project would not have a likely significant effect on any European site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (Stage 2) under section 177V of the Planning and Development Act 2000 is not required.

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

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

## Appendix 4: Water Status Impact Assessment – Screening

The project is for a nursing home scheme including assisted living and staff accommodation with associated site works on a greenfield site at an edge-of-town/suburban location.

The project includes an on-site pumping station and rising main connecting to the public wastewater system, and soakaways and an outfall for the disposal of surface water run-off. The soakaways ensure on-site attenuation of surface water (with initial treatment) prior to environmentally safe discharge to ground via infiltration and discharge to Liscahane More Stream via an overflow outfall. This is a minor watercourse (stream, drainage ditch) located c.252m to the north of the site.

The stream (also referenced as Knocknabohilly\_010, EPA), rises to the northeast of the site and flows in a southwesterly direction intersecting with the Bandon River (Bandon\_100) c.1.2km (downstream) from the discharge point). The Bandon River merges c.3km downstream into Kinsale Harbour.

The Knocknabohilly\_010 waterbody (EPA: IE\_SW\_20K190980), has a Water Framework Directive (WFD) status of 'good', an environmental objective of 'good', a risk status of not achieving its WFD objective as under 'review', and no identified pressures on the waterbody. The underlying groundwater body is Bandon (EPA: IE\_SW\_G\_086), which has a WFD status of 'good', an environmental objective of 'good', a 'not at risk' of not achieving its WFD objective, and no identified pressures on the waterbody.

There are hydrological connections between the project and surface water and groundwater bodies, via the proposed surface water drainage infrastructure. However, due to the scale and intensity of the project, the nature of the adjacent watercourse (minor stream, drainage ditch), and the separation distances to other watercourses, the hydrological connections are considered to be weak and/ or not meaningful. The planning authority accepted the veracity of the on-site drainage proposals.

I have assessed the project and considered the objectives as set out in Article 4 of the WFD which seek to protect and, where necessary, restore surface water and ground waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface water and/ or ground waterbodies either qualitatively or quantitatively.

The reason for this conclusion is as follows:

- Objective information presented in the case file and from verified sources (e.g., EPA, planning authority).
- Nature of the closest surface watercourse and proximity to other surface watercourses.

- Lack of any meaningful hydrological connection to any waterbody.
- Use of best practice construction practices during construction phase.

Conclusion

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

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