



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316415-23

|                                     |                                                                                               |
|-------------------------------------|-----------------------------------------------------------------------------------------------|
| <b>Development</b>                  | 30 units and all associated site works.                                                       |
| <b>Location</b>                     | Grove, Dingle, Co. Kerry                                                                      |
| <b>Planning Authority</b>           | Kerry County Council                                                                          |
| <b>Planning Authority Reg. Ref.</b> | 221128                                                                                        |
| <b>Applicants</b>                   | Zinbar Grove Developments                                                                     |
| <b>Type of Application</b>          | Permission                                                                                    |
| <b>Planning Authority Decision</b>  | Grant permission                                                                              |
| <b>Type of Appeal</b>               | Third Party                                                                                   |
| <b>Appellants</b>                   | (1) Elizabeth Uí Huigín<br>(2) Peter and Síne Graham<br>(3) Goat Street Residents Association |
| <b>Observers</b>                    | Conradh na Gaeilge                                                                            |
| <b>Date of Site Inspection</b>      | 12/06/2023                                                                                    |
| <b>Inspector</b>                    | Siobhan Carroll                                                                               |

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## **1.0 Site Location and Description**

- 1.1. The appeal site is located circa 640m to the north of Dingle town centre. The town of Dingle located in the West Kerry Gaeltacht lies to the southern side of the Dingle peninsula. The town originally developed as a fishing port located to the northern side of Dingle Harbour. The town remains a deep-sea fishing port and it is also a popular tourist destination.
- 1.2. The site has a stated area of 0.412 hectares. It is situated to the south-western side of the Dingle Relief Road. The roadside boundary is defined by a low wooden fence stone and there is an existing gated entrance to the site.
- 1.3. The eastern site boundary extends for circa 50m it is formed by a mature hedge. There are number of mature trees along this boundary. To the east of this boundary there is a detached dormer dwelling.
- 1.4. The site is grassed it extends for circa 120m to the north-east to the Dingle Relief Road. The surrounding area is characterised predominantly by housing. The pattern of housing in the area comprises mainly two storey terraced properties which directly address the public footpath. The Cnoc An Cairn housing estate containing approximately 67 no. dwellings is situated to the northern side of the Dingle Relief Road opposite the appeal site. The south-western boundary of the site extends for circa 146m it adjoins the rear gardens of properties located on Goat Street. This boundary is defined by mature trees and hedging. The site level falls from the north-west to the south-east with a decrease of circa 6m.

## **2.0 Proposed Development**

- 2.1. Permission is sought for a residential scheme of development of 30 no. dwellings.
- 2.2. The proposal comprises the following;
  - Terrace building forming a streetscape fronting onto the Dingle Relief Road,
  - Containing 15 no. ground floor living units and 15 no. duplex units over the first and second floors accessible from both elevations street side and the rear,

- Served by associated car and bicycle parking and an external waste bin amenity enclosure, the units are to be connected to public services and to include all associated site works,
- Permission to remove 6 no. parallel car parking spaces along the Dingle Relief Road to facilitate the proposed site entrance and also to include associated site works.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

3.1.1. The Planning Authority granted permission subject to 21 no. conditions.

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

3.2.1. Planning Reports

3.2.2. Further information was requested in relation to the following;

1.
  - (a) Submit - Independent Stage 1 & 2 Road Safety Audit.
  - (b) Address relocation of public lighting
  - (c) Submit lighting design.
  - (d) Submit site drainage layout details
2. It will be necessary to ensure that access road layout serving proposed development complies in full with Objective D-UD-10 of the Corca Dhuibne LAP 2021-2027, ensuring provision is made for access onto this road from adjacent lands south-west of site (northern side of Goat Street). Required to comment and address.
3. Address items raised by Housing Estates Unit. Referring to tactile paving and dropped kerbs; stop sign/line and 1m lateral clearance for all fixed objects.

- 3.2.3. Planning Officers report dated 29/3/2023: Following the submission of a response to the further information the Planning Authority were satisfied with the details provided and a grant of permission was recommended.
- 3.2.4. Other Technical Reports
- 3.2.5. Roads, Transportation and Marine: report dated 14/12/22 - further information required.
- 3.2.6. Roads, Transportation and Marine: report dated 29/3/23 - Recommendation that all of the recommendations of the Stage 1/2 Safety Audit for the proposed development be implemented and that a stage 3 Safety Audit shall be carried out at the completion of the proposed development and the recommendations acted upon.
- 3.2.7. Housing Estates Unit - A number of issues raised.
- 3.2.8. County Archaeologist - No further mitigation required.
- 3.2.9. Biodiversity Officer - The report did not identify any potential for significant effects on European Sites.

### **3.3. Prescribed Bodies**

- 3.3.1. Uisce Eireann - no objection.
- 3.3.2. Transport Infrastructure Ireland - no observations.
- 3.3.3. Inland Fisheries Ireland - Conditions are recommended to be attached to a grant of permission.

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

- 3.4.1. The Planning Authority received 9 no. submissions/observations in relation to the application. The main issues raised are similar to those set out in the appeals.

## **4.0 Planning History**

- 4.1.1. Reg. Ref. 19/599 - Permission was granted for the construction of a terraced building forming a streetscape fronting onto the New Dingle Relief Road. This terrace building will consist of 9 no. terraced dwelling houses and 6 no. apartments. All connected to

public services and all associated site works. Site is located to the north of the appeal site on the opposite side of the Dingle Relief Road.

- 4.1.2. Reg. Ref. 17/399 - Permission was granted for the construction of a terraced building forming a streetscape fronting onto the New Dingle Relief Road. This terrace building will consist of 5 no. terraced dwelling houses and 6 no. apartments and 2 no. detached dwelling houses. All connected to public services and all associated site works. Site is located to the north of the appeal site on the opposite side of the Dingle Relief Road.
- 4.1.3. Reg. Ref. 06/559 - Permission was granted for the construction of 26 no. Detached dwelling houses, 20 no. semi-detached dwelling houses, 2 no. terraced blocks which will consist of 22 no. dwelling houses, also to include 4 no. apartments, 2 no. maisonettes and 2 no. retail outlets. Permission to include all associated site works and connection to the public sewer.

## **5.0 Policy Context**

### **5.1. Project Ireland 2040 – National Planning Framework**

- 5.1.1. The NPF includes a Chapter, No. 6 entitled 'People, Homes and Communities'. It sets out that place is intrinsic to achieving good quality of life. National Policy Objective 33 seeks to "prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location".
- 5.1.2. National Policy Objective 35 seeks "to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights".
- 5.1.3. National Planning Objective 13 also provides that "In urban areas, planning and related standards, including in particular height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated

outcomes, provided public safety is not compromised and the environment is suitably protected”.

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

5.2.1. The following is a list of section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities (2024)
- Sustainable Urban Housing: Design Standards for New Apartments (2023)
- ‘Design Manual for Urban Roads and Streets’ (DMURS) (2019)
- ‘The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’) (2009)

## **5.3. Climate Action Plan 2024**

5.3.1. The Climate Action Plan 2024 (CAP24) is the third annual update to Ireland’s Climate Action Plan.

5.3.2. The purpose of the Climate Action Plan is to lay out a roadmap of actions which will ultimately lead us to meeting our national climate objective of pursuing and achieving, by no later than the end of the year 2050, the transition to a climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy. It aligns with the legally binding economy-wide carbon budgets and sectoral emissions ceilings that were agreed by Government in July 2022.

## **5.4. National Biodiversity Action Plan 2023 – 2030**

5.4.1. Ireland’s 4th National Biodiversity Action Plan (NBAP) sets the national biodiversity agenda for the period 2023-2030 and aims to deliver the transformative changes required to the ways in which we value and protect nature.

5.4.2. The targets set out in the Plan are in the context of five objectives that lay out a clear framework for our national approach to biodiversity.

- Objective 1: Adopt a Whole of Government, Whole of Society Approach to Biodiversity.
- Objective 2: Meet Urgent Conservation and Restoration Needs.
- Objective 3: Secure Nature’s Contribution to People.
- Objective 4: Enhance the Evidence Base for Action on Biodiversity.
- Objective 5: Strengthen Ireland’s Contribution to International Biodiversity Initiatives.

## **5.5. Kerry County Development Plan 2022-2028**

- 5.5.1. Chapter 3 – Core and Settlement Strategy – Dingle (Daingean Ui Chuis) is designated in the Settlement Hierarchy as a Regional Town, the function of which is to harness and develop the complementary strengths and synergies between the settlements and their functional hinterland, to create highly connected centres of scale with the necessary critical mass, in terms of population and employment, to enable them to compete and grow to fulfil their potential and drive regional development in tandem with regional and national policy. The population of Dingle is estimated (2022) as 2,181 with a population growth target of 282 and a housing target of 221. The zoning of land will be set out in the Municipal District LAP.
- 5.5.2. Housing policies and objectives include the following:
- 5.5.3. KCDP 4-1 – Support and facilitate the objectives of ‘housing for all’ to regenerate towns and villages and to achieve compact growth and increased population in these centres.
- 5.5.4. KCDP 4-9 – Facilitate and support Language Plans for Daingean Ui Chuis, Tralee and Cahersiveen to achieve their target of increasing the number of daily Irish speakers.
- 5.5.5. KCDP 4-10 – ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy an enhanced quality of life and well-being.
- 5.5.6. KCDP 4-17 – Facilitate the development of sustainable compact settlements with the “10-minute” town concepts, whereby a range of community facilities and services are

accessible in short walking and cycle timeframes from homes, with walkways and link routes to Greenways or are accessible by high quality public transport services connecting people to larger scaled settlements delivering these services

- 5.5.7. Chapter 8 Gaeltacht Areas, Culture and Heritage New initiatives to plan and develop the Gaeltacht areas and use of the Irish language were introduced by the Gaeltacht Act 2012. The key measures include the development of Limistéir Phleanála Teanga (LPT)(Language Planning Areas) and the development of Bailte Seirbhísí Gaeltachta (BSG)(Gaeltacht Service Towns). The designation of BSGs is a recognition of the provision of services required to support Gaeltacht areas including digital and educational resources. Chorca Dhuibhne is designated as an LPT and Daingean Uí Chuis is designated as a BSG. Relevant policies include;
- 5.5.8. KCDP 8-6 - Facilitate and support Language Plans of the County: Tobar Dhuibhne - Plean Teanga Chiarraí Thiar (2018), Dúchas an Daingin - Plean Teanga for Bhaile Seirbhíse Gaeltachta Daingean Uí Chúis and Brí Uíbh Ráthaigh -Plean Teanga Chiarraí Theas 2019-2026 to achieve their target of increasing the number of daily Irish Speakers, long term in Gaeltacht areas.
- 5.5.9. KCDP 8-7 - Ensure that developments of multiple residential units (2 or more) in An Ghaeltacht settlements shall be subject to linguistic and occupancy requirements in order to protect and sustain the linguistic and cultural heritage of the Gaeltacht areas including the promotion of Irish as the community language. The linguistic impact statement shall be prepared by a person qualified in the area of language planning.
- 5.5.10. KCDP 8-8 - Ensure that a minimum of 66% of Housing Developments on R1 and R4 zoned lands within the Gaeltacht areas shall be reserved for Irish Speakers. The standard of Irish required shall be determined and assessed by Kerry County Council. A language Enurement Clause (LEC) will be applied for a duration of 15 years from the date of first occupancy of the unit.
- 5.5.11. Appendix 6 of the CDP includes information regarding the land-use zoning used in the plan.
- 5.5.12. Volume Six of the Plan includes (1) Development Management Standards & Guidelines.
- 5.5.13. Section 1.5 refers to Residential Development.

## **5.6. Corca Dhuibhe Electoral Area Plan 2021-2027**

5.6.1. Section 2.8 refers to Land Use Zoning

5.6.2. Mixed Use (Town Centres/Core Retail Area) (M1-M5)

5.6.3. Mixed use areas are generally intended to cater for zones which are specifically mixed use in nature and provide for a wide range of uses. The primary/core retail areas will form the main focus and preferred location for new retail development, appropriate to the scale and function of each town centre. It is policy to primarily provide for mixed uses and any other uses appropriate to the town centre in areas zoned mixed use. Proposed developments should improve the vitality and viability of the town centre and shall meet the needs of the town. Residential development will also be encouraged particularly in mixed use developments.

5.6.4. The zoning matrix indicates that on M2 zoned lands Residential is open to Consideration.

5.6.5. Part B – Regional Town and section 3.2 refers to Dingle - Daingean Uí Chúis

5.6.6. Zoning Objective – M2 – Town Centre.

5.6.7. The future vision for Dingle / Daingean Uí Chúis is for the continued growth and development of the town as the primary urban centre for a large rural hinterland with key employment, educational, cultural, service and tourist functions. The town should develop in a sustainable manner and in a way that will improve the quality of life for residents and visitors alike.

5.6.8. Section 3.2.2. Strategic Issues and Strategy

In order for Dingle / Daingean Uí Chúis to develop in a sustainable manner it is important that;

- Sufficient population growth occurs through increasing employment opportunities and the provision of an attractive town,
- Affordable housing is provided in order to retain permanent residents,
- Development of residential units on vacant, derelict and infill sites is promoted ensuring that at least 30% of all new residential development takes place on brownfield and or infill sites,

- 5.6.9. Objective No: D-RES-1 – Facilitate the development of residential units on vacant, derelict and infill sites.
- 5.6.10. Objective No: D-RES-3 – Ensure that future residential development is only permitted on appropriately zoned land to ensure a sustainable and compact urban form.
- 5.6.11. Objective No: D-UD-10 – Facilitate the provision of an access for the development of lands and service access to the properties on the northern side of Goat St which shall be constructed in accordance with the standards set out in the Recommendations for Site Development Works for Housing Areas, Guidelines for Planning Authorities (1998).

## **5.7. Natural Heritage Designations**

- 5.7.1. Mount Brandon SAC (site code 000375) is located c.470m to the north.
- 5.7.2. Dingle Peninsula SPA (site code 004153) is located approx. 2.4km to the south.
- 5.7.3. Blasket Islands SAC (site code 002172) is located approx. 13km to the west.
- 5.7.4. Castlemaine Harbour SAC (site code 000343) is located approx. 15km to the southeast.

## **5.8. EIA Screening**

- 5.8.1. The proposed development comprises 30 residential units on a 0.412 hectare site. The development subject of this application falls within the class of development described in 10(b) Part 2, Schedule 5 of the Planning and Development Regulations, 2001, as amended. EIA is mandatory for developments comprising over 500 dwelling units or over 10 hectares in size or 2 hectares if the site is regarded as being within a business district.
- 5.8.2. The number of dwelling units proposed at 30 is well below the threshold of 500 dwelling units noted above. Whilst within the town of Dingle it is not in a business district. The site is, therefore, materially below the applicable threshold of 10 hectares.
- 5.8.3. The proposal for 30 residential units is located within the development boundary of Dingle on lands zoned Objective 'M2' - Town Centre – in the Corca Dhuibhne

Electoral Area Local Area Plan 2021-2027. The site comprises a greenfield site. It is noted that the site is not designated for the protection of the landscape or of natural or heritage. The proposed development will not have an adverse impact in environmental terms on surrounding land uses. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. It is detailed in Section 2.4 of the Corca Dhuibhne Electoral Area Local Area Plan 2021-2027 that Dingle has adequate wastewater capacity to cater for the area of lands zoned in the plan. The issues arising from the proximity/connectivity to a European Site can be adequately dealt with under the Habitats Directive. The application is accompanied by a Design Statement and Stage 1/2 Road Safety Audit. These address the issues arising in terms of the sensitivities in the area.

5.8.4. Having regard to;

- the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- the location of the site on lands within the development boundary of Dingle on lands zoned under the provisions of the Corca Dhuibhne Electoral Area Local Area Plan 2021-2027 and the results of the strategic environmental assessment of the Corca Dhuibhne Electoral Area Local Area Plan, undertaken in accordance with the SEA Directive (2001/42/EC).
- the location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of residential development in the area.
- the location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended),
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),

The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and the need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. See Appendix 2 attached to this Report for the preliminary examination.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

Third party appeals have been submitted by (1) Elizabeth Uí Huigín (2) Peter and Síne Graham and (3) Goat Street Residents Association. The issues raised are as follows;

#### **(1) Elizabeth Uí Huigín**

- It is highlighted that this area of Dingle has experienced a significant amount of development since 2012 and that it is not proportionate to the level of development which has occurred in other areas of Dingle.
- There are a significant amount of existing houses and apartments bounding Dingle Relief Road. The existing houses are not served by front gardens and have small yards. Therefore, it is necessary that satisfactory open space is provided to serve the housing.
- Concern is expressed that due to the level of existing housing in the area that it has generated car parking along the designated cycle lane.
- Concern is expressed that the proposed development would generate further car parking which could occur along the cycle lane.
- The appeal refers to the loss of green space as a result of the proposed development.

## (2) Peter and Síne Graham

- The appellants have raised concern that the proposed red line boundary has been significantly altered between submissions. They state that the red line boundary now includes additional land which previously formed part of an approved planning permission Reg. Ref. 17/399 including a cycle land on the northern side of the road and parking along the southern side of the road.
- The proposal would result in the omission of 8 no. parking spaces for Reg. Ref. 17/399.
- The proposed open space provision is substandard and inconsistent with national policy. No meaningful private open space is proposed. Public open space of 271sq m represents 6.8% of the site area. The design statement accompanying the application demonstrates a lack of understanding of the distinction between private, communal (semi-private) and public open space. The triangular public open space on the northern edge of the site is substandard. It has not been designed to compliment the residential layout.
- The proposed car parking is deficient. Car parking will not be allocated to individual apartments but is in the form of a grouped car parking area.
- Concern is expressed that the layout would result in unauthorised car parking along the Dingle Relief Road.
- The development is located over 1km from a public transport bus stop. Therefore, it is considered that there will be a high level of car dependency.
- Car parking for properties at Cnoc an Cairn have been designated along the Relief Road. Revisions to the proposed scheme remove 8 no. car parking spaces directly opposite the appellants house.
- The proposed density of 75.9 dwellings per hectare would represent overdevelopment of the site and is considered inappropriate to the site context.
- In relation to the proposed design the scale, massing and elevational treatment is considered unsympathetic to its context.

- The design and location of the proposed bin store is raised. Concern is expressed that bins will be left for collection at the front doors along the Dingle Relief Road.
- Regarding vehicular access it is stated that the proposed route for refuse and emergency vehicles has not been clarified. A road traffic audit was undertaken which highlighted the need for a swept path analysis.

### (3) Goat Street Residents Association

- The proposed development abuts the rear gardens/lands on Goat Street. While the appellants welcome the development of this vacant site they have serious concerns in relation to the proposal not complying with development objective D-UD-10 of the Corca Dhuibhne Electoral Area LAP 2021-2027.
- Objective D-UD-10 states; It is an objective to facilitate the provision of an access for the development of lands and service access to the properties on the northern side of Goat St which shall be constructed in accordance with the standards set out in the Recommendations for Site Development Works for Housing Areas, Guidelines for Planning Authorities (1998).
- Section 2 of the Design Statement submitted with the application states that: “the main vehicular access route within the site runs along the southern boundary, this takes into consideration proposal D-UD-10 contained within the Corca Dhuibhne Electoral Area LAP 2021-2027.
- It does not account for the proposed service entrances to the lands adjoining the access route to the south set out in development objective D-UD-10.
- In order to facilitate the proposed service access from the proposed access road to the landowners’ properties a series of dished kerbs ought to be included on the developments southern boundary with the lands on the northern side of Goat Street. None of which are indicated on the proposed site layouts as submitted.
- The drawings that have been submitted with the application to date do not show how the applicant intends to facilitate service accesses to the adjacent lands to the south of the site/land to the rear of properties on the northern side of Goat Street.

- It is noted in the Planners report referring to the response to further information that “The lands at this location is zoned M2, Town Centre as per the Corca Dhuibhne Electoral Area Local Area Plan 2021-2027. There is a specific objective contained in this LAP to allow for access from the rear of the properties on Goat Street onto this plot. It is considered that this is facilitated in the proposed development. It is set out in the appeal that there is no clarity or evidence in the submitted documents of how this ‘provision’ is going to be facilitated.
- The drawings submitted with the application and those submitted with the response to further information do not show how access to the rear of the properties on Goat Street is achieved or facilitated.
- There is no comment from the applicant as to how they intend to provide the Local Authority or the residents as to the implementation of this.
- There is no condition attached to the grant of permission stipulating that access to the rear of the properties on Goat Street forms part of the planning application or if land is reserved to provide same.
- It is therefore considered that the development is not in compliance with policy objective U-UD-10 of the LAP. The applicant is under no direction by the Local Authority to adhere in full to the development objective as no appropriate condition directs the applicant to provide the intended service entrances to the rear of the properties on Goat Street.
- It is in the interest of proper planning and sustainable development that a condition is attached to the grant of permission which is inherently attached to the site and not the applicant to ensure the service access are provided for and is enforceable through the attachment of a condition.
- In conclusion the appellants highlight while they do not object to the principle of the development in this location they have concerns that the ‘provision’ setting out how the intended services accesses are achieved for the properties to the northern side of Goat Street.

## 6.2. Applicant Response

A response to the third party appeals has been submitted by Declan Noonan & Associates on behalf of the applicant Zinbar Grove Developments. The issues raised are as follows;

- Regarding the appeal from Goat Street Residents Association the primary issue raised refers to the proposal not complying with Objective D-UD-10.
- The requirement of Objective D-UD-10 states, “Facilitate the provision of an access for the development of lands and service access to the properties on the northern side of Goat St which shall be constructed in accordance with the standards set out in the Recommendations for Site Development Works for Housing Areas, Guidelines for Planning Authorities (1998).”
- The maps accompanying the plan provide an indicative access with a line and arrow. The written statement offers no clarity in relation to how this objective is to be implemented and carried out.
- The provision of this objective arose from a proposed material alteration amendment 47 to the Draft LAP to, “amend the Dingle/Daingean Uí Chúis zoning map to include an indicative laneway access see Map 21, and insert a new objective D-UD-10; Facilitate the provision of an access laneway 2.4m in width to facilitate service access only to the properties on the northern side of Goat Street which shall be constructed in accordance with the standards set out in the Recommendations for Site Development Works for Housing Areas, Guidelines for Planning Authorities (1998)”
- This amendment was a new insert in the LAP as it did not form part of the original published Draft LAP.
- There were no submissions made by any party in relation to the original published Draft LAP and there was no reference to it and it does not appear in the Chief Executive Officers report on the submissions on the Draft Corca Dhuibhne Electoral Area Local Area Plan 2020-2026.
- There was no clear indication therefore of how this proposal came into existence prior to the adoption by the elected members and/or that it was the

subject of any part of the public participation process prior to its insertion and adoption as amendment 47 of the Draft LAP.

- It is highlighted that there was no consultation with the applicant Zinbar Grove Developments.
- The applicant has recognised the amendments as adopted and has made provision for a 6m wide access to facilitate the access which is in excess of the 2.4m referred to in the initial amendment 47.
- It is a matter for Kerry County Council to progress the access and the stated objective LAP D-UD-10 to access the backland area when the access is taken over and in their charge not for the applicant.
- It is highlighted that the applicant can only apply for development on the applicant's land and not on other lands without consent and therefore a condition stipulating that lands to the rear of the properties on Goat Street form part of the application would not be a valid application or condition.
- The applicant is not in a position or required to seek such consent or be in a position to know how many parties have the required title to give consent.
- There is no obligation for the applicant they simply have to provide and facilitate the means by which the objective can be achieved and the proposal as presented does not in any manner contravene or materially contravene the objective stated in the plan or would not in any way inhibit the achievement of the objective.
- In response to the appeal of Peter and Síne Graham it is set out that in designing the development regard was had to the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued under Section 28 of the Planning and Development Act, 2000 (as amended).
- The provision of facilitates, design and complying with standards outlined was applied and it is submitted that the development complies with the guidelines in relation to design, dual aspect, unit size, waste management, open space, parking and other criteria outline.

- The appeal refers specifically to open space. It is stated that there is a shortfall of open space and that 15% of the site should be provided.
- The development is an apartment development it is also a relatively small site in close proximity to the town centre and it is zoned town centre. The open space provision, private and communal is required to be designed in a manner to meet the constraint and configuration of the site.
- The development complies with the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020) in relation to private and communal open space provision and will provide a satisfactory provision of open space for the occupants of all the individual residential units and provide a reasonable communal open space for a town centre site.
- The appeal refers to deficient and non-user friendly car parking.
- Section 4.22 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020) refers to parking for peripheral and/or less accessible urban locations. It provides for the requirement for one car parking space per unit along with an element of visitor parking such as one for every 3-4 apartments.
- As indicated the site is in close proximity to the town centre and a more relaxed provision could be considered. The development provides for 37 no. car parking spaces which is in excess of the benchmark guidelines.
- The contention by the appellant that 60 no. car parking spaces should be provided would be totally at variance with current practice and guidance which is to reduce parking and car dependency.
- It is not possible to provide parking at the entrance door to individual units and this is an acceptable feature of apartment developments and residential developments generally as indicated in DMURS guidance.
- The appeal refers to the Cnoc An Cairn residential development located on the opposite side of the Relief Road to the appeal site and that two parking spaces designated for the appellants are removed and other residents of Cnoc An Cairn also affected by loss of car parking spaces.

- The Cnoc An Cairn development was granted under Reg. Ref. 17/399 and the development provided for kerbside parking on both sides of the proposed relief road.
- The kerbside parking is for all residents and there is no specific parking bays dedicated to any specific residential unit.
- The lands including on which the relief road was constructed and on both sides of the road including the kerbside parking was then and currently remains in the ownership of the applicants and not acquired by the Roads Authority or any individual party.
- The level of parking provision within the appeal site and along the relief road meets the requirements of parking provision required by the Planning Authority. The Planning Authority did not raise any issue in relation to the level of parking provided. They did not consider it to be deficient and they did not require a levy in relation to any identified shortfall in parking provision.
- It is highlighted that the development was subject of assessment by the Roads and Transportation section of Kerry County Council and that a stage 1/2 DMURS Road Safety Audit was undertaken and the development was deemed acceptable subject to conditions which were incorporated in the conditions of the decision to grant planning permission.
- In relation to the density there are general guidelines as specified in the Sustainable Residential Development Guidelines 2009. Section 6.9 refers to small towns it advises that it is difficult to be prescriptive about the level of density recommended and there is also reference to increased densities which can be acceptable as long as they contribute to the enhancement of towns or village form by reinforcing the street pattern or assisting in the redevelopment of backlands.
- Section 6.9 refers to centrally located sites and states that there can be marked variations in development context which affect density of development and external space standards need to take account of those contexts.
- The appeal site presents design issues to resolve as it is a relatively small site in effect created by the construction of the new relief road. It provides a new

streetscape and in the context of the location and configuration of the site and the scale and density is appropriate. The reference in the grounds of appeal to the design and the use of a terrace is not accepted. The use of a terrace is an appropriate design response in this particular location and was deemed acceptable by the Planning Authority.

- The appeal submitted by Elizabeth Uí Huigín raised issues referring to too many houses, parking and cycle lanes being blocked.
- The proposed development complies with the zoning. There is a need for housing in the town, residential development is appropriate to the site and the development complies with the national and local standards.
- Matters in relation to the use and enforcement of unauthorised use and enforcement of unauthorised impeding of cycle lanes are not a matter for the applicant to resolve and are for the Roads Authority to address. The proposed development does provide for dedicated cycle parking as part of the overall layout of the development and therefore facilitates cycling.
- In conclusion, the Board is requested to uphold the decision of the Planning Authority and grant permission for the proposed development.

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

- None received.

### **6.4. Observations**

6.4.1. An observation to the appeal has been received from Conradh na Gaeilge.

- Planning and Development Act, 2000 (as amended) – refers to Content of Development Plan. Section 10(2) (m) states; - the protection of the linguistic and cultural heritage of the Gaeltacht including the promotion of Irish as the community language, where there is a Gaeltacht area in the area of the development plan;
- Kerry County Development Plan 2022-2028 – KCDP 5-13 - Ensure that cluster developments in An Ghaeltacht settlements listed in Table 5.1 shall be subject to linguistic and occupancy requirements in order to protect the

linguistic and cultural heritage of the Gaeltacht areas including the promotion of Irish as the community language and that a minimum of 66% of Housing in Cluster Developments within the Gaeltacht areas shall be reserved for Irish Speakers. The Standard of Irish shall be B2 Meánleibhéal 2 in the Teastas Eorpach na Gaeilge (TEG) exams. The Standard of Irish shall be determined by way of a standard procedure and carried out by a person/organisation qualified in language proficiency assessment to the satisfaction of Kerry County Council.

- Kerry County Development Plan 2022-2028 - KCDP 8-8 - Ensure that a minimum of 66% of Housing Developments on R1 and R4 zoned lands within the Gaeltacht areas shall be reserved for Irish Speakers. The standard of Irish required shall be determined and assessed by Kerry County Council. A language Enurement Clause (LEC) will be applied for a duration of 15 years from the date of first occupancy of the unit.
- Conradh na Gaeilge recognises the specific objectives set out by Kerry County Council in the Kerry Development Plan 2022-2028 in relation to the protection of the linguistic and cultural heritage of the Gaeltacht and the Council's application of such policies in relation to the planning permission in question in this appeal.
- Strong language conditions are essential for the future development and progress of the language and the language community in Dingle and West Kerry.
- Conradh na Gaeilge strongly recommends that this permission not be granted unless the language conditions stated in the permission are implemented in full and a Language Impact Statement is provided.

## **6.5. Further submissions**

6.5.1. A further submission was received from Peter and Síne Graham in response to the submission from the first party. The issues raised are as follows;

- It is submitted that vehicular access to the site needs to be relocated. The location of the proposed vehicular access to the apartment development site is unsuitable for vehicles to both access/egress to the appeal site and to service the rear properties on Goat Street.

- The submission reiterates the appellants concerns in relation to access arrangements to the site by refuse and emergency vehicles.
- The submission refers to the requirement for a detailed topographical survey of the site.
- The submission reiterates the appellants concerns in relation to car parking.

## 7.0 **Assessment**

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

- Policy context
- Amenity space
- Access and parking
- Other issues

### 7.1. **Policy context**

- 7.1.1. The proposed development seeks permission for the construction of 30 no. dwelling units and all associated site works. The site at Grove, Dingle is located within the town boundary of Dingle. Under the provisions of the Corc Dhuibhne Electoral Area Local Area Plan 2021- 2027 the appeal site is zoned Objective 'M2' – Town Centre. The site is a greenfield and infill site located to the south-west of the Dingle Relief Road.
- 7.1.2. Section 2.8 of the Corc Dhuibhne Electoral Area LAP refers to Land Use Zoning. It advises that it is policy to primarily provide for mixed uses and any other uses appropriate to the town centre in areas zoned mixed use and that residential development will also be encouraged particularly in mixed use developments. The

zoning matrix indicates that on 'M2' zoned lands Residential is open to Consideration.

- 7.1.3. The matter of the proposed density of development is raised in the grounds of appeal. The site has a stated area of 0.412 and 30 no. residential units are proposed. The density of the proposed scheme is equivalent to 73 units per hectare.
- 7.1.4. I note that the Kerry Development Plan 2022 – 2028 do not provide specific densities requirements. Appendix 6 of the Development Plan contains a number of documents including Section 1 which refers to Development Management Standards and Guidelines. Section 1.5.2 refers to density and it states that the Council recognises the benefits of increasing the density of residential development at appropriate locations in accordance with various strategies and reports such as the 'National Planning Framework' (NPF), the 'Sustainable Residential Development in Urban Areas Planning Guidelines (2009)' and the 'Southern Region Spatial and Economic Strategy' (SRSES).
- 7.1.5. It is set out under Section 1.5.2 that in general, the number of units to be provided on a site should be determined with reference to the Guidelines for Planning Authorities on 'Sustainable Residential Development in Urban Areas' (2009) or any update thereof. This Plan seeks to promote the development of 'live work' communities by promoting sustainable development by creating compact, high-quality developments. Higher residential densities will be encouraged within walking distance of town and village centres and public transport infrastructure.
- 7.1.6. I note that the 2009 Guidelines on Sustainable Residential Development in Urban Areas have now been replaced by the recently adopted new guidelines, Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities (2024).
- 7.1.7. Section 3.3.4 of the Sustainable Residential Development and Compact Settlement – Guidelines for Planning Authorities, 2024 refers to small and medium sized towns. Table 3.6 refers to Areas and Density Ranges for Small to Medium sized towns and states in many cases, the town centre comprises a main street and streets immediately adjoining, while the inner urban neighbourhood consists of the early phases of residential development around the centre, and may include local services and inter dispersed commercial, industrial and institutional uses. Backland,

brownfield and infill sites will generally be in the town centre or inner urban neighbourhoods. It is a policy and objective of these Guidelines that the scale of new development in the central areas of small to medium sized towns should respond positively to the scale, form and character of existing development, and to the capacity of services and infrastructure. Therefore, the guidelines do not set a specific density range in relation to town centre sites in small and medium sized towns.

- 7.1.8. In relation to the design of the proposed scheme it comprises a three-storey building containing 30 no. residential units. The ground floor apartments address the south-western side of the site and the proposed residential units over the upper floors address the north-east onto the Dingle Relief road. Accordingly, the scheme was designed having regard to the particular topography of the site and to provide a new section of streetscape directly addressing the Dingle Relief road. The proposed design will integrate with the character of the surrounding properties on the opposite side of the road at Cnoc An Cairn. The design of the proposed building follows the curvature of the road. It features the stepping and varying of roof profile of the proposed units. The pitched roof design is in keeping with the character of the existing development within the town. The use of variety in the elevational treatment including a contrast of colours to the rendered plaster finish proposed serves to break up the appearance of the bulk of the overall building. The proposed fenestration is contemporary in design, and it follows the scale and positioning of the fenestration of existing dwellings within the town. Accordingly, I am satisfied that the proposal provides for a design which reflects the existing character of the surrounding streetscape.
- 7.1.9. Accordingly, having regard to the town centre zoning of the appeal site and the relative proximity of the site to the retail and service core of Dingle town centre and the design of the proposed scheme, I consider that the proposed density of 73 units per hectare is appropriate and in accordance with the provisions of the Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities (2024), the Kerry County Development Plan 2022-2028 and the Corc Dhuibhne Electoral Area Local Area Plan 2021- 2027.
- 7.1.10. The appeal from Goat Street Residents Association refers to Objective No: D-UD-10 contained in the Corc Dhuibhne Electoral Area LAP. Objective No: D-UD-10 seeks to facilitate the provision of an access for the development of lands and service access

to the properties on the northern side of Goat Street which shall be constructed in accordance with the standards set out in the Recommendations for Site Development Works for Housing Areas, Guidelines for Planning Authorities (1998).

- 7.1.11. The appellants consider that the development is not in compliance with policy objective U-UD-10 of the LAP. They state that the applicant is under no direction by the Local Authority to adhere in full to the development objective as no appropriate condition directs the applicant to provide the intended service entrances to the rear of the properties on Goat Street.
- 7.1.12. The Planning Authority as part of the further information requested that the applicant address the requirement that the access road layout serving proposed development complies in full with Objective No: D-UD-10 of the Corca Dhuibne LAP 2021-2027, ensuring provision is made for access onto this road from adjacent lands south west of site (northern side of Goat Street).
- 7.1.13. In response to the matter the applicant confirmed that the proposed 6.0m wide access road serving the development is located indicatively based on the Dingle zoning map and that it meets the requirements of Objective No: D-UD-10. The applicant confirmed that the proposed boundary fence inside the existing stone wall and sod boundary ditch will be located 1.0m from the access. They confirmed that the residents on Goat Street in the properties backing on this access road can make their own arrangements with Kerry County Council Housing Estates Department to access the new road when the development is taken in charge by Kerry County Council.
- 7.1.14. The report of the Planning Officer dated 29/3/2023 confirms that the Planning Authority considered that item no. 2 of the further information request referring to Objective No: D-UD-10 has been satisfactorily addressed by the applicant.
- 7.1.15. The first party in their appeal response stated that the objective was an amendment which was a new insert in the LAP as it did not form part of the original published Draft LAP. They highlighted that while the maps accompanying the plan provide an indicative access with a line and arrow, that the written statement offers no clarity in relation to how this objective is to be implemented and carried out. The first party also highlighted in their response that they can only apply for development on the lands in their ownership and not on other lands without consent and therefore a

condition stipulating that lands to the rear of the properties on Goat Street form part of the application would not be a valid condition.

- 7.1.16. The proposed access road to the scheme has been designed to facilitate future access from development on lands to the rear of Goat Street. I note that the Planning Authority are satisfied that this addresses the specific requirements set out in Objective No: D-UD-10. Accordingly, I consider the matter has been addressed by the applicant and that it would not be necessary to attach any conditions in respect of such arrangements on the basis that it would refer to lands outside the ownership of the applicant.
- 7.1.17. Accordingly, having regard to the details set out above I consider that the requirements of Objective No: D-UD-10 have been satisfactorily addressed by the applicant.

## **7.2. Amenity space**

- 7.2.1. The grounds of appeal refer to open space provision within the proposed scheme. In relation to the provisions of the Kerry County Development Plan 2022-2028 Volume Six of the Plan includes (1) Development Management Standards & Guidelines. Section 1.5 refers to Residential Development. Section 1.5.4 refers to General Residential Development Design Standards. Section 1.5.4.4 advises that in addition to private open space, provided by the Developer, communal open space must also be provided for apartments, in accordance with the minimum standards set out in 'Sustainable Urban Housing, Design Standards for New Apartments' Section 28 Guidelines, (2020).
- 7.2.2. In relation to open space provision, it is advised in the Sustainable Residential Development and Compact Settlement – Guidelines for Planning Authorities, 2024 that apartments and duplex units shall be required to meet the private and semi-private open space requirements set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2023 (and any subsequent updates).
- 7.2.3. Section 4.10 of the Design Standards for New Apartments, Guidelines for Planning Authorities, 2023 refers to Communal Amenity Space it advises that the provision and proper future maintenance of well-designed communal amenity space will

contribute to meeting the amenity needs of residents. In particular, accessible, secure and usable outdoor space is a high priority for families with young children and for less mobile older people. The minimum required areas for public communal amenity space are set out in Appendix 1. For one-bedroom units require 5sq m, two-bedroom (3 person) units require 6sq m, two-bedroom (4 person) units require 7sq m and three-bedroom units require 9sq m.

- 7.2.4. The scheme contains 13 no. one bedroom apartment, 2 no. two bedroom (3 person) apartments, 13 no. two bedrooms (4 person) apartments and 2 no. three bedroom apartments. A total of 187sq m of communal open space is required. As illustrated on the Proposed Site Layout Plan, Drawing no: ZINBAR/20/101/ REV B three areas of communal open space are proposed to the west and north of the units. The total area proposed is 271sq m which is in excess of the 187sq m required. The area proposed to the west of the units has an area of 104sq m and is accessible and overlooked by the proposed units. I consider the design and location of the communal open space is acceptable.
- 7.2.5. In relation to private amenity space, the ground floor apartments are proposed to be served by a rear garden space to be screened at the back and sides to prevent overlooking. The upper floor apartments are proposed to be served by a balcony area which will be screened at the side to prevent overlooking to adjoining properties. The minimum required areas for private amenity space are set out in Appendix 1 of the apartment guidelines. For a one-bedroom unit 5sq m is required. A two-bedroom (3 person) unit requires 6sq m. A two-bedroom (4 person) unit requires 7sq m and a three-bedroom unit requires 9sq m.
- 7.2.6. A schedule of the proposed residential units including the unit type, the floor areas and the area of private amenity space is provided on the Proposed House Plans, Drawing No: ZINBAR/20/109. Having regard to the details of the private amenity areas provided, I note that all areas are in excess of the minimum required areas set out in Appendix 1 of the apartment guidelines.
- 7.2.7. Accordingly, I am satisfied that the private amenity space and communal amenity space is accordance with the relevant standards as detailed above.

### **7.3. Access and parking**

- 7.3.1. The grounds of appeal raised concerns in relation to the proposed vehicular access arrangements and the level of car parking proposed. The issue of loss of existing car parking along the Dingle Relief Road is also raised.

#### Vehicular access

- 7.3.2. The proposal entails the provision of a total of 30 no. dwelling units. A new vehicular access is proposed onto the Dingle Relief Road to the northern end of the site. As part of the further information request the applicant was required to submit a Stage 1/2 Road Safety Audit. The Stage 1/2 Road Safety Audit was carried out by Coakley Consulting Engineers. A number of issues were identified which required to be addressed in relation to the design of the proposed vehicular access.
- 7.3.3. The report from the Roads, Transportation and Marine Department dated 29/3/23 provided following the submission of further information raised no objections to the proposed development. The report recommendation that all of the recommendations of the Stage 1/2 Safety Audit for the proposed development be implemented and that a stage 3 Safety Audit shall be carried out at the completion of the proposed development and the recommendations acted upon.
- 7.3.4. Accordingly, having regard to the report from the Roads, Transportation and Marine Department I consider that the vehicular access arrangements are acceptable.

#### Car parking

- 7.3.5. The proposed scheme contains 30 no. residential units comprising 15 no. ground floor apartments and 15 no. apartments over two floors. In relation the proposed car parking, surface car parking is proposed to the rear of the building with one car parking space is proposed per apartment with an element of visitor parking to serve the scheme. A total of 37 no. car parking spaces are proposed which provides 1 no. visitor car parking space per 4 no. units.
- 7.3.6. Car parking standards are set out in the Kerry County Development Plan 2022-2028, Volume 6, Section 1.20.7 Car Parking Standards – car parking requirements in the town and villages in the County should be reflective of the anticipated parking demand. Table 4: Parking Requirements sets out that for lands located within town centres that 1 car parking space is provided per dwelling and apartment with no

requirement for provision of visitors. In relation to all other areas (Area 3 as defined on page 47 of the section of the Plan) it is set out that 2 no. parking spaces per dwelling and the provision of 0.5 spaces per dwelling for visitors is required with 1 car parking space per apartment. This would equate to 30 no. spaces based on the town centre requirement. Therefore, the level of proposed car parking is in excess of the development plan requirements.

7.3.7. Loss of car parking

7.3.8. The appeal submitted by the Peter and Síne Graham refers Cnoc An Cairn residential development located on the opposite side of the Dingle Relief Road to the appeal site. It is stated in the appeal that two parking spaces designated for the appellants would be removed consequent of the proposed development and other residents of Cnoc An Cairn would be affected by loss of car parking spaces.

7.3.9. In response to the matter the first party stated that the Cnoc An Cairn housing development was granted under Reg. Ref. 17/399 and the development provided for kerbside parking on both sides of the proposed relief road. They confirmed that the kerbside parking is for all residents and there is no specific parking bays dedicated to any specific residential unit within Cnoc An Cairn. It is highlighted in the appeal response that the lands including on which the Dingle relief road was constructed and on both sides of the road including the kerbside parking was at the time and currently remains in the ownership of the applicant and that it has not been acquired by the Roads Authority or any individual party. The first party submit that the level of parking provision within the scheme and along the Dingle relief road was considered satisfactory by the Planning Authority.

7.3.10. I note the points raised by the first that the lands including the area of parking bay along the Dingle Relief Road to the north-east of the site are in their ownership. The construction of the proposed scheme including the development of the vehicular access would entail the requirement for a number of existing on-street parking spaces to be removed. I would note that the majority of the existing parking along that side of the Dingle Relief Road will be retained. I would further note that the Planning Authority did not have any concerns in relation to the matter and that no condition referring to a contribution for a deficit of on-street car parking was attached to the permission.

7.3.11. In conclusion, I consider that the proposed access and parking arrangements are acceptable.

#### **7.4. Other issues**

##### Gaeltacht Area

- 7.4.1. The observation from Conradh na Gaeilge refers to the policies and objectives contained in the Kerry County Development Plan in relation to the protection of the linguistic and cultural heritage of the Gaeltacht. They advised that strong language conditions in relation to development proposals are essential for the future development and progress of the language and the language community in Dingle and West Kerry. They recommend that permission should not be granted unless language conditions are attached, and they recommend the provision of a Language Impact Statement.
- 7.4.2. Chapter 8 of the Kerry refers to County Development Plan 2022-2028 Gaeltacht Areas, Culture and Heritage. Under the provisions of the Gaeltacht Act 2012 new initiatives to plan and develop the Gaeltacht areas and use of the Irish language were introduced. The key measures include the development of Limistéir Phleanála Teanga (LPT)(Language Planning Areas) and the development of Bailte Seirbhísí Gaeltachta (BSG)(Gaeltacht Service Towns). The designation of BSGs is a recognition of the provision of services required to support Gaeltacht areas including digital and educational resources. Chorca Dhuibhne is designated as an LPT and Daingean Uí Chuis is designated as a BSG.
- 7.4.3. Section 8.13.2 of the Plan refers to Linguistic Impact Statements & Occupancy it states that Kerry County Council shall require the submission of a Linguistic Impact Statement for housing proposals for three or more houses in the Gaeltacht area in order to protect and strengthen the Irish language and cultural heritage of the Gaeltacht areas and that a Language Enurement Clause of 15 years duration shall apply to approved Gaeltacht Areas, Culture & Heritage developments, of two or more units.
- 7.4.4. Objective KCDP 8-7 sets out that it is an objective of the Council to ensure that developments of multiple residential units (2 or more) in An Ghaeltacht settlements shall be subject to linguistic and occupancy requirements in order to protect and

sustain the linguistic and cultural heritage of the Gaeltacht areas including the promotion of Irish as the community language. The linguistic impact statement shall be prepared by a person qualified in the area of language planning.

- 7.4.5. Objective KCDP 8-8 sets out that it is an objective of the Council to ensure that a minimum of 66% of Housing Developments on R1 and R4 zoned lands within the Gaeltacht areas shall be reserved for Irish Speakers. The standard of Irish required shall be determined and assessed by Kerry County Council. A language enurement Clause (LEC) will be applied for a duration of 15 years from the date of first occupancy of the unit.
- 7.4.6. In relation to these matters, I note that a language impact assessment was submitted with the application. It was proposed in the report that a minimum of 31% of the dwelling houses shall be reserved for Irish speakers.
- 7.4.7. Condition no. 5 attached by the Planning Authority to the permission granted specified that a minimum of 66% of the living units permitted shall be reserved for Irish speakers and that the restriction shall apply for a period of 15 years from the date of the order. The reason for the condition was to protect the linguistic heritage of the town.
- 7.4.8. Objective KCDP 8-7 of the development plan requires that developments of multiple residential units (2 or more) in An Ghaeltacht settlements shall be subject to linguistic and occupancy requirements. Objective KCDP 8-8 of the development plan requires a that a minimum of 66% of Housing Developments on R1 and R4 zoned lands within the Gaeltacht areas shall be reserved for Irish Speakers.
- 7.4.9. I would note that the appeal site is zoned objective 'M2' Town Centre and therefore is not zoned R1 and R4 which are specifically referred to in objective KCDP 8-8 in relation to the requirement of a minimum of 66% of units being reserved for Irish Speakers. The provisions of objective KCDP 8-7 sets out occupancy requirements be attached to developments of two or more units in order to protect and sustain the linguistic and cultural heritage of the Gaeltacht areas. Having regard to condition no. 5 as attached by the Planning Authority to the grant of permission which specified that a minimum of 66% of the living units permitted shall be reserved for Irish speakers, I would consider that it would be appropriate to attach a similarly worded condition in order to ensure that an appropriate level of housing is provided for Irish

speakers in accordance with the provisions of Objective 8-7 of the Kerry County Development Plan 2022 – 2028.

### Refuse Storage

- 7.4.10. The grounds of appeal refer to the location of the bin store. Concern is expressed that bins will be left for collection at the front doors along the Dingle Relief Road.
- 7.4.11. Section 4.8 of the Design Standards for New Apartments, Guidelines for Planning Authorities, 2023 refers to refuse storage. It advises that provision shall be made for the storage and collection of waste materials in apartment schemes and that refuse facilities shall be accessible to each apartment stair/lift core and designed.
- 7.4.12. Further guidance in respect of the design of refuse storage areas includes that sufficient communal storage area to satisfy the three-bin system for the collection of mixed dry recyclables, organic waste and residual waste and that areas must be adequately ventilated so as to minimise odours and potential nuisance from vermin/flies. It is also advised that there should be provision in the layout for sufficient access for waste collectors, proximity of, or ease of access to, waste storage areas from individual apartments, including access by disabled and that waste storage areas should not be on the public street, and should not be visible to or accessible by the general public.
- 7.4.13. The refuse storage proposals include the provision of a dedicated bounded bin storage area for each apartment. A common bin storage area is located to the rear of the building by the main entrance. This area will be easily accessible for residents and waste collection operators. The proposed access road and internal road layout has been designed to be accessible by refuse collection vehicles. Accordingly, I am satisfied with the refuse storage proposals to serve the scheme.

## **8.0 AA Screening**

### **8.1. Introduction**

- 8.1.1. I have considered the housing scheme in light of the requirements S177U of the Planning and Development Act 2000 as amended.

- 8.1.2. The nearest Natura 2000 site is the Mount Brandon SAC (site code 000375), which is located approximately 470m to the north of the appeal site. Having regard to the topography of the area there is no direct pathway between the appeal site and Mount Brandon SAC.
- 8.1.3. The proposed development comprises 30 no. dwellings. No nature conservation concerns were raised in the planning appeal.
- 8.1.4. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- The residential nature of the development
  - The distance from the nearest designated site and lack of meaningful connections
  - Standard pollution controls that would be employed regardless of proximity to a European site and effectiveness of same
- 8.1.5. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.
- 8.1.6. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.
- 8.1.7. No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

## **9.0 Recommendation**

- 9.1. I recommend that planning permission should be granted for the reasons and consideration as set out below.

## **10.0 Reasons and Considerations**

- 10.1.1. Having regard to the provisions of the Kerry County Development Plan 2022 – 2028 and the Corca Dhuibhne Electoral Area Local Area Plan 2021-2027, and in particular the M2 – Town Centre – Zoning Objective and provisions of Objective number D-

RES-3 – which seeks to ensure that future residential development is only permitted on appropriately zoned land to ensure a sustainable and compact urban form, and the provisions of Objective number D-UD-10 – which seeks to facilitate the provision of an access for the development of lands and service access to the properties on the northern side of Goat Street which the development achieves and having regard to the pattern of existing development in the area and the design, scale and layout of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 3<sup>rd</sup> day of March 2023, 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. Prior to the commencement of development the developer shall enter into Connection Agreement(s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.

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

3. The attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

**Reason:** In the interest of public health.

4.

- (a) The internal road network serving the proposed development [including turning bays, junctions, parking areas, footpaths, and kerbs] [access road to the service area] [and the underground car park] shall comply with the detailed construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads and Streets (DMURS).
- (b) Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of all locations and materials to be used shall be submitted to, and agreed in writing with the planning authority prior to the commencement of development.
- (c) All the recommendations of Stage 1/2 Safety Audit for the Proposed Development shall be implemented. Prior to commencement of development all documentation from this implementation shall be submitted to, and agreed in writing with the planning authority.
- (d) A Stage 3 Safety Audit shall be carried out at the completion of the proposed development with the recommendations acted upon.

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

- 5. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, dark brown or dark grey in colour only.

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

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

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

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

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

8. Prior to commencement of works, the developer shall submit to, and agree in writing with the planning authority, a Construction Management Plan, which shall be adhered to during construction. This plan shall provide details of intended construction practice for the development, including hours of working, noise and dust management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interest of public safety and amenity.

9.

- (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, [communal refuse/bin storage] and all areas 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 any of the residential units are made available for occupation.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

10. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed 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 of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

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

11. The landscaping scheme shown on drawing number ZINBAR/20/101 REV B, as submitted to the planning authority on the 3<sup>rd</sup> day of March, 2023 shall be carried within the first planting season following substantial completion of external construction works.

In addition to the proposals in the submitted scheme, the following shall be carried out:

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

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

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

**Reason:** In the interest of amenity and public safety.

13. All communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving the residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority.

**Reason:** In the interest of sustainable transportation.

14.

- (a) Each of the proposed dwelling units, when completed, shall be first occupied as a place of permanent residence and shall remain so occupied for a period of seven years thereafter. The initial occupants shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000, to this effect.
- (b) Within two months of the occupation of the proposed dwelling units, the initial occupants shall submit to the planning authority a written statement of confirmation for the first occupation of the dwellinghouse in accordance with paragraph (a) and the date of such occupation. This condition shall not affect the sale of the dwelling units by a mortgagee in possession or the occupation of the dwelling houses by any persons deriving title from such a sale.

**Reason:** In the interest of proper planning and development of the area.

15.

- (a) A minimum of 66 % of the residential units hereby permitted shall be restricted to use by those who can demonstrate the ability to preserve and protect the language and culture of the Gaeltacht, for a period of 15 years.
- (b) Prior to occupation of the development, the developer shall enter into a Section 47 agreement with the planning authority, to restrict the sale of units of the agreed portion of the residential elements of the development hereby permitted for the use of occupants who have an appropriate competence/fluency in Irish, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the written satisfaction of the planning authority that it has not been possible to transact each specified housing unit for use by occupants with the required competence/fluency in Irish.
- (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning authority of satisfactory documentary evidence from the developer regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the developer or any person with an interest in the land, that the Section 47 agreement has been terminated and that the

requirement of this planning condition has been discharged in respect of each specified housing unit.

The appropriate competence / fluency in Irish required to demonstrate compliance with this occupancy clause shall be akin to that required to at a minimum pass level B2 Meánleibhéal 2 in the Teastas Eorpach na Gaeilge examinations and a future occupier of each residential unit subject of this occupancy clause shall provide proof to the developer and planning authority, by way of a compliance submission, that a nominated adult residing in the respective household has completed such an examination, or similar level of examination in the Irish language, within a reasonable timeframe of purchasing / occupying the respective residential unit.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

**Reason:** To ensure that the proposed housing units are used to meet the provisions of Objective 8-7 of the Kerry County Development Plan 2022 – 2028 and that development in this area is appropriately restricted to meeting essential local need and to preserve and protect the language and culture of the Gaeltacht in the interest of the proper planning and sustainable development of the area.

16.

- (a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant residential units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

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

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

17. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the transfer of the land in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on the land in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended], unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall be referred by the planning authority or any other prospective party to the agreement, to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

18. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer

or, in default of agreement, shall be referred to An Bord Pleanála for determination.

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

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

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

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

---

Siobhan Carroll  
Planning Inspector

29<sup>th</sup> November 2024

# Form 1

## EIA Pre-Screening

|                                                                                                                                                                                                                |                                                  |                                   |                                |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|-----------------------------------|--------------------------------|
| <b>An Bord Pleanála</b><br><b>Case Reference</b>                                                                                                                                                               | ABP 316415-23                                    |                                   |                                |
| <b>Proposed Development Summary</b>                                                                                                                                                                            | 30 dwelling units and all associated site works. |                                   |                                |
| <b>Development Address</b>                                                                                                                                                                                     | Grove, Dingle, Co. Kerry.                        |                                   |                                |
| <b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b><br>(that is involving construction works, demolition, or interventions in the natural surroundings) |                                                  | <b>Yes</b>                        | ✓                              |
|                                                                                                                                                                                                                |                                                  | <b>No</b>                         |                                |
| <b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>                                                            |                                                  |                                   |                                |
| <b>Yes</b>                                                                                                                                                                                                     | ✓                                                | Class 10(b)(i), Schedule 5 Part 2 | Proceed to Q3.                 |
| <b>No</b>                                                                                                                                                                                                      |                                                  |                                   |                                |
| <b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>                                                                                                  |                                                  |                                   |                                |
| <b>Yes</b>                                                                                                                                                                                                     |                                                  |                                   | EIA Mandatory<br>EIAR required |
| <b>No</b>                                                                                                                                                                                                      | ✓                                                |                                   | Proceed to Q4                  |

| 4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]? |   |                                                                                                                                                                                                                                                             |                                           |
|-----------------------------------------------------------------------------------------------------------------------|---|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|
| Yes                                                                                                                   | ✓ | EIA is mandatory for developments comprising over 500 dwelling units or over 10 hectares in size or 2 hectares if the site is regarded as being within a business district. The proposal is significantly below this threshold being 30 no. dwelling units. | Preliminary examination required (Form 2) |

| 5. Has Schedule 7A information been submitted? |   |                                                        |
|------------------------------------------------|---|--------------------------------------------------------|
| No                                             | ✓ | Screening determination remains as above<br>(Q1 to Q4) |
| Yes                                            |   | Screening Determination required                       |

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

## Appendix 2

### Form 2

#### EIA Preliminary Examination

|                                                                                                                                                              |                                                  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|
| An Bord Pleanála Case Reference Number                                                                                                                       | ABP- 316415-23                                   |
| Proposed Development Summary                                                                                                                                 | 30 dwelling units and all associated site works. |
| Development Address                                                                                                                                          | Grove, Dingle, Co. Kerry.                        |
| The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or |                                                  |

**location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.**

**This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.**

**Characteristics of proposed development**

(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).

The development has a modest footprint, comes forward as a standalone project, does not require demolition works, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.

**Location of development**

(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).

The development is removed from sensitive natural habitats, centres of population and designated sites and landscapes of identified significance in the County Development Plan.

**Types and characteristics of potential impacts**

(Likely significant effects on environmental parameters, magnitude and spatial extent,

Having regard to the characteristics of the development and the sensitivity of its location, consider the potential for SIGNIFICANT effects, not just effects.

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                            |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <p>Having regard to the modest nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.</p> |
| <p><b>Conclusion – Having regard to:</b></p> <ul style="list-style-type: none"> <li>• the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,</li> <li>• the location of the site on lands within the development boundary of Dingle on lands zoned under the provisions of the Corca Dhuibhne Electoral Area Local Area Plan 2021-2027 and the results of the strategic environmental assessment of the Corca Dhuibhne Electoral Area Local Area Plan, undertaken in accordance with the SEA Directive (2001/42/EC).</li> <li>• the location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of residential development in the area.</li> <li>• the location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended),</li> <li>• The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),</li> </ul> <p>The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and the need for environment impact</p> |                                                                                                                                                                                                                                                                                                                                            |

**assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. See Section 5.8 of this report.**

|                                                                                                              |                                                                                         |                  |
|--------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|------------------|
|                                                                                                              |                                                                                         |                  |
| <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.                                                                    | No               |
| There is significant and realistic doubt regarding the likelihood of significant effects on the environment. | Schedule 7A Information required to enable a Screening Determination to be carried out. | No               |
| There is a real likelihood of significant effects on the environment.                                        | EIAR required.                                                                          | No               |

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

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

(only where Schedule 7A information or EIAR required)