



An
Coimisiún
Pleanála

Commission Order
ACP-323735-25

Planning and Development Act 2000, as amended

Planning Authority: Kerry County Council

Planning Register Reference Number: 25/60640

Appeal by Joseph Kewfi and by Others against the decision made on the 17th day of September, 2025 by Kerry County Council to grant subject to conditions a permission to KPH Construction in accordance with plans and particulars lodged with the said Council.

Proposed Development: The construction of a residential development of 245 number residential units with ancillary two storey crèche, landscaping and associated site development works. The proposed development includes the demolition of an existing single-storey dwelling and associated shed and makes provision for 163 number two-storey houses, comprising 58 number semi-detached units (40 number three-bed units and 18 number four-bed units) and 105 number three-bed terraced units and 82 number own-door maisonette/apartment units over two number storeys (40 number one-bed units, 42 number two-bed units). Ancillary infrastructure development works will include wastewater infrastructure, surface water attenuation, water utility services, public lighting, bin stores, bicycle stores, three number ESB substations, and all associated site development works. Vehicular access to the development will be via one number new entrance and the reconfiguration

of an existing entrance off Clash Road (L2016). The proposed development also includes a separate pedestrian/cycle entrance off Clash Road. The proposal includes dedicated pedestrian and cycling paths traversing the site and setback provision is made along the site's frontage with Clash Road to facilitate a future cycle infrastructure network all at Clash Road, Muing East (Townland), Tralee, County Kerry.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

In coming to its decision, the Commission had regard to the following:

- (a) the location of the site within the development boundary of Tralee, designated as a 'Key Town' in the Regional Spatial and Economic Strategy for the Southern Region 2020-2032 and the Kerry County Development Plan 2022-2028 (as varied),
- (b) the residential zoning for the site and the policies and objectives for the area as set out in the Kerry County Development Plan 2022-2028 (as varied),
- (c) delivering Homes, Building Communities 2025-2030: An Action Plan on Housing Supply and Targeting Homelessness,
- (d) the provisions of Project Ireland 2040 - National Planning Framework, First Revision (April 2025), which identifies the importance of compact growth,

- (e) the provisions of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031, which supports compact sustainable growth and accelerated housing delivery integrated with enabling infrastructure,
- (f) the provisions of Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, issued by the Department of Housing, Local Government and Heritage in January 2024,
- (g) the provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in July 2025,
- (h) the provisions of the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of Environment, Community and Local Government in 2019,
- (i) the Climate Action Plan 2024 and 2025 prepared by the Government of Ireland,
- (j) the Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices), 2009,
- (k) the nature, scale and design of the proposed development,
- (l) the existing pattern of development in the area,

- (m) the availability of a wide range of physical, social and community infrastructure and services in the area,
- (n) the proposed infrastructure upgrade works that will improve the sites accessibility and connectivity,
- (o) the submissions received,
- (p) the reports from the planning authority, and
- (q) the report of the Planning Inspector.

Environmental Impact Assessment Screening:

The Commission completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening Report and other documents and drawings submitted by the applicant identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

Having regard to:

- (a) the criteria set out in Schedule 7, in particular
 - (i) the nature and scale of the proposed housing development, in an established residential area served by public infrastructure,
 - (ii) the absence of any significant environmental sensitivity in the vicinity,
 - (iii) the location of the development outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001, as amended,

- (b) the results of other relevant assessments of the effects on the environment submitted by the applicant and the results of the Strategic Environmental Assessment of the Kerry County Development Plan 2022-2028 (as varied) under the Strategic Environmental Assessment (SEA) Directive, and
- (c) the features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise have been significant effects on the environment, including those identified in the Construction and Environmental Management Plan, Ecological Impact Assessment, Appropriate Assessment Screening Report, Water Framework Directive Assessment, Drainage Impact Assessment, Preliminary Operational Waste Management Plan, and Archaeological Impact Assessment,

it considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report is not required.

Conclusions on Proper Planning and Sustainable Development:

The Commission considered that, subject to compliance with the conditions set out below, the proposed development would facilitate sustainable residential growth in accordance with the Settlement Hierarchy and Core Strategy housing target for Tralee Town, would constitute an acceptable density of development in this urban location, would not seriously injure the residential or visual amenities of the area or of properties in the vicinity, would not seriously impact the archaeological or natural heritage value of the site, would be acceptable in terms of layout, urban design, height and unit mix and would be acceptable in terms of traffic and pedestrian safety, and convenience.

The proposed development would be in accordance with the relevant provisions of the Kerry County Development Plan 2022-2028, as varied, save for quantitative standard for public open space provision (Vol. 6 Section 1.5.4.4) where a material contravention can be considered to arise.

Nevertheless, having regard to the overall design quality of the proposed residential scheme, the quality the public open space proposed in terms of its design, layout and location and the quantum and quality of communal and private open space areas proposed within the scheme, it is considered that the proposed scheme would deliver a high standard of residential amenity to future occupants that would be further supported by a variety of open space, amenity and recreational facilities available in Tralee. Therefore, in light of the above and having regard to the urgent need for housing supply to facilitate increased population growth and compact growth in accordance with the National Planning Framework First Revision (April 2025), it is considered, having regard to the provisions of 37(2)(a) of the Planning and Development Act 2000, as amended, that the proposed development would be in accordance with the proper planning and sustainable development of the area, and that a grant of permission is, therefore, warranted in this instance, notwithstanding the above. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Commission made its decision consistent with:

- the Climate Action and Low Carbon Development Act 2015, as amended; and
- the Climate Action Plan 2024 and Climate Action Plan 2025.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The period during which the development hereby permitted may be carried out shall be five years from the date of this Order.

Reason: In the interest of clarity.

3. Notwithstanding the provisions of the Planning and Development Regulations 2001, no part of the proposed 245 number residential units shall be used for the provision of overnight commercial guest accommodation without a prior grant of planning permission.

Reason: In the interests of orderly development and residential amenity.

4. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. The first phase shall include the completion of the childcare facility, together with all associated site development works, unless the developer can demonstrate to the written satisfaction of the planning authority that the childcare facility is not needed at this time.

Reason: To ensure the timely provision of services for the benefit of the occupants of the proposed dwellings.

5. The mitigation measures contained in the submitted Ecological Impact Assessment (EclA), and associated appendices shall be fully implemented.

Reason: In the interests of clarity, environmental protection and the proper planning and sustainable development of the area.

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

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

7. Proposals for an estate/street name, house/apartment 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/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

8. The Landscape and Biodiversity Plan and Boundary Treatment Plan shown on drawing number D2E-CRT-06, prepared by Down to Earth and submitted to the planning authority on the 24th day of July 2025 shall be carried out within the first planting season following substantial completion of external construction works.

Existing hedgerows and treelines to be retained shall be reinforced with additional planting sufficient to ensure dense continuous screens. A mixture of native deciduous and evergreen trees and hedge species shall be used. A plan showing the number, species and location of this additional planting shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development 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 interests of residential and visual amenity.

9. Details of the creche playground shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To allow a balance of play experiences that are beneficial to children of all abilities, at all stages of development within the community and in the interest of the safety of users of the facility and to curb the visual impact of the installation.

10. Prior to the commencement of development, the developer shall enter into connection agreements with Uisce Éireann (Irish Water) to provide for service connections to the public water supply and wastewater collection network.

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

11. 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 interests of public health and surface water management.

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, Landscape and Biodiversity Masterplan, drawing number D2E-CRT-06 submitted to the planning authority on the 24th day of July, 2025. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interests of amenity and public safety.

13. 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.

14. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays, and not at all on Sundays 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 amenities of property in the vicinity.

15. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse.
 - (b) Location of areas for construction site offices and staff facilities.
 - (c) Details of site security fencing and hoardings.
 - (d) Details of on-site car parking facilities for site workers during the course of construction.
 - (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
 - (f) Measures to obviate queuing of construction traffic on the adjoining road network.
 - (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
 - (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works.

- (i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
- (j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.
- (k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.
- (l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (m) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority.

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

16. Prior to commencement of development, a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of reducing waste and encouraging recycling

17. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing

operation of these facilities for each unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

18. (a) The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths, and kerbs, shall comply with the detailed construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads and Streets (DMURS).
- (b) 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) Details of the proposed footpath and cycling infrastructure along the L2073 at the front of the development, including associated public lighting and ancillary works, shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

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

19. All footpaths and cycleways shown to adjoining lands shall be constructed up to the boundaries to provide access to adjoining lands with no obstruction including the erection of any structure which would otherwise constitute exempted development under the Planning and

Development Regulations 2001, as amended. These areas shall be shown in a revised taking in charge drawing which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

20. (a) The recommendations of the Stage 1 Road Safety Audit submitted as part of the application shall be implemented.
- (b) On completion of the detailed design, a Stage 2 Road Safety Audit shall be undertaken, and all recommendations shall be agreed with the Tralee Area Engineer prior to commencement of development.
- (c) On substantial completion of the construction of this proposed development a Stage 3 and 4 Road Safety Audit shall also be undertaken.

Reason: In the interests of traffic safety and orderly development

21. A minimum of 174 number safe and secure bicycle parking spaces shall be provided within the site. Provision should be made for a mix of bicycle types including cargo bicycles and individual lockers. Details of the layout and marking demarcation of these spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

22. Electrical Vehicle Charging Infrastructure shall be provided, as per the particulars received by the planning authority on the 24th day of July, 2025, including the measures set out in the Electric Vehicle Charging Infrastructure Analysis Report and as per the EV Charger Installation Layout Drawing (Drawing Number 6901), as received by the planning authority on the 24th day of July 2025.

Reason: In the interests of orderly development and car parking management.

23. (a) All mitigation measures in relation to archaeology and cultural heritage as set out in the Archaeological Test Trenching and Impact Assessment Report prepared by Frank Coyne of Aegis Archaeology Limited (July 2025) shall be implemented in full.
- (b) The developer shall engage a suitably qualified (licensed eligible) archaeologist to
- (i) Oversee the archaeological excavation (licensed under the National Monuments Acts) of the fulacht fiadh/burnt mound identified during test trenching.
 - (ii) Monitor (licensed under the National Monuments Acts) all ground works within the Zone of Notification for Enclosure KE029 259, and all site clearance works, topsoil stripping, groundworks, dredging and the implementation of agreed preservation in situ/by record measures associated with the development.
- (c) Prior to the commencement of such works, the archaeologist shall consult with and forward to the Local Authority archaeologist or the National Monuments Service as appropriate a method statement for written agreement. The use of appropriate tools and/or machinery to ensure the preservation and recording of any

surviving archaeological remains shall be necessary. Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with the National Monuments Service, regarding appropriate mitigation preservation in-situ/excavation. The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer.

- (d) Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of the monitoring and any archaeological investigative work/excavation required. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation, either in situ or by record of places, caves, sites, features or other objects of archaeological interest.

- 24. (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.

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

26. (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.

- 27. 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 Coimisiún Pleanála for determination.

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

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

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

29. The developer shall pay a financial contribution to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of the upgrade of the junction between Clash Road and Racecourse Road for pedestrian and cycle movements south of the site, which benefits the proposed development. The amount of the contribution shall be agreed between

the planning authority and the developer, or, in default of such agreement, the matter shall be referred to An Coimisiún Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

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

Eamonn James Kelly

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Planning Commissioner of An Coimisiún

**Pleanála duly authorised to authenticate
the seal of the Commission.**

Dated this *21st* day of *January*, 2026