



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307942-20

---

<b>Development</b>	Construct 32 units and all associated site works.
<b>Location</b>	Cloon More, Boherbee, Tralee, County Kerry.
<b>Planning Authority</b>	Kerry County Council
<b>Planning Authority Reg. Ref.</b>	20335
<b>Applicant(s)</b>	Tulfarris CG Ltd.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Tulfarris CG Ltd.
<b>Observer(s)</b>	Martha O Shea & Others Tralee Christian Centre.
<b>Date of Site Inspection</b>	19 <sup>th</sup> October 2020.
<b>Inspector</b>	Bríd Maxwell

## 1.0 Site Location and Description

- 1.1. The appeal site has a stated area of .83 hectares and is located within the townland of Boherbee to the east of Tralee Town Centre. The site comprises a long narrow plot running along a north-west to south-east axis. It is occupied to the north by a pair of semi-detached single storey dwellings and yard area to the rear with a greenfield extending to the south. The rear yard area was formerly occupied by outbuildings which have been demolished in the recent past and hardcore material has been spread over the northern part of the site.
- 1.2. The site is within a mixed urban area with Austin Stack Park GAA stadium located to the north west and Tralee Casement Railway Station and Tralee Bus Station a short distance to the northwest. There is a petrol station opposite with the Horan Shopping Centre located to the north east. There is a guest house Cluan Mor House adjacent to the eastern boundary of the site. The Christian Centre, Community Church occupies the two-storey building adjacent to the north east of the site with a number of residential uses to the east and west. Within the backlands immediately adjoining to the west is the main body of the appeal site is a new school site currently under construction. Kerry General Hospital is located to the south. The site is relatively flat along its length. On the date of my site visit I noted the grassed areas within the site to be significantly wet underfoot. Site boundaries are defined by a mix of hedging towards the northern part with walling, fencing to the eastern boundary and palisade fencing along the southern boundary.

## 2.0 Proposed Development

- 2.1. The proposal involves demolition of two no single storey dwellings and outhouses and permission for a 32-unit residential development comprising:
- 6 no three-bedroom semi-detached units
  - 3 no 2 storey terraced blocks with 2 no 3 bedroom and 2 no 2-bedroom dwellings within each terrace.
  - 2 no duplex blocks

Block A – 3 no 1 bed ground floor apartments and 3 no 3 bed maisonettes over.

Block B – 4 no 1 bed ground floor apartments and 3 no 3 bed maisonettes over.

2.2 The layout is dictated to a degree by an existing storm water drain and wayleave passing through the western part of the site, with the estate road providing for housing along the eastern and southern side of the road. Car parking is provided directly at road frontage. The layout provides for potential future connectivity to the adjacent site to the east at the northern and southern end of the site. Three main areas of public open space are provided - Area 1 (804sq.m) Area 2 (122sq.m) and Area 3 (370sq.m)

2.3 The proposal is outlined in its detail in the plans and particulars lodged with the application on 9<sup>th</sup> April 2020 and additional unsolicited additional information including an Urban Design Statement compiled by Brendan Williams Architects submitted on 28<sup>th</sup> April 2020 and Environmental Impact Assessment Preliminary Examination Report and Screening for Appropriate Assessment both submitted by Malachy Walsh and Partners submitted on 19<sup>th</sup> May 2020.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

3.1.1 By order dated 17 July 2020 Kerry County Council issued notification of the decision to refuse permission for the following reasons:

1. Having regard to:

- (a) The geometry of the R875 public road in the vicinity of the site entrance,
- (b) The proximity of the site entrance to the existing pedestrian crossing and roundabout to the west and
- (c) The impact of the traffic generated by the proposed development on the capacity of the R875 public road, particularly at peak times,

It is considered that the traffic movements that would be generated by the proposed development would endanger public safety by reason of traffic hazard

and would contribute to traffic congestion. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the location and configuration of the application site and to the adjoining undeveloped lands to the east, it is considered that the proposed development would constitute disorderly, haphazard and piecemeal development which would set an undesirable precedent for similar such development in the vicinity. The proposal would be seriously injurious to the amenities of the area and would be contrary to the proper planning and sustainable development of the area.

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

#### **3.2.1. Planning Reports**

- 3.2.1.1 Planner's report considers the principle of development to be acceptable however the proposal would constitute piecemeal uncoordinated development in the context of future development of adjoining lands to the east. Refusal recommended on grounds of traffic hazard and piecemeal development.

#### **3.2.2. Other Technical Reports**

- 3.2.2.1 Housing Estates Unit report asserts that the layout lacks a sense of place or identity. Gable wall facing the public road is visually poor. A number of questions are posed regarding traffic calming measures, green areas, lighting. In the event of permission suggested amendments are outlined.
- 3.2.2.2 County Archaeologist notes that there are no recorded monuments in the vicinity however given the scale of the proposal pre-development testing should be carried out and reported prior to any grant of permission.
- 3.2.2.3 Biodiversity Officer. Significant effect on European Sites can be screened out and appropriate assessment is not required. Tralee has a population of migratory breeding swifts (*Apus apus*) which arrive early in May breed and leave in early

August. Species is in decline globally for a variety of reasons, including due to loss of nesting habitats in urban buildings. In the event of permission condition required that developer to liaise with the biodiversity officer assessment unit prior to development with a view to incorporating swift nest boxes into the proposal. Landscaping with native species, pollinator friendly grass seed mix for green spaces. Existing hedgerows to be retained where possible.

3.2.24 Tralee Municipal District Engineer expresses major reservations regarding the proposal in relation to access. R875 is the primary access point and main artery into Tralee Town Centre from the east and currently operates at capacity for much of the day. Concerns arise regarding access considering road geometry locally, proximity to pedestrian crossing point and roundabout located to the west and the impact on the R875 in terms of capacity at peak times. Sightline to the east is obstructed by the Christian Centre. The junction is less than 50m from the yield line of Austin Stacks roundabout to the west and less than 50m from the pedestrian crossing. The immediate approach to the roundabout consists of two lanes. Right turn movements into the development are of concern on safety grounds and on capacity of the road network locally and in particularly the operation of the Austin Stack Roundabout. Concerns arise in relation to the proposals for surface water management particularly given the history of flooding in the area Attenuation of storm water is recommended and liaison with Irish Water is required. As outlined in the Tralee MD LAP 2018-2024 a new road has been identified for construction connecting the L2072 Mitchel's Road with the L-109012 Marian Park and subsequently the R875 at Clash roundabout. Construction of phase 1 of this road has commenced and when complete this road would present a more viable development opportunity for a development of this nature. Refusal recommended.

### 3.3. Prescribed Bodies

#### 3.3.1 Irish Water

Inland Fisheries Ireland. No objection. Good site management practices during site construction to prevent discharge of silt / hydrocarbon contamination . Separation of

surface water from foul effluent. Certification to confirm correct connections to foul and surface water drainage.

### 3.4. Third Party Observations

#### 3.4.1 Submissions from the following third parties

- Representatives of the Estate of Helen O Shea, Anne O Shea, Johnny O Shea, Martha O Shea. Cluan Mor House. Crosswinds, Tursillagh Tralee.
- Sarah Kingston, 10 Cul na Claishe Clash Tralee.
- Brian Wade, Beacon View, Leith East Tralee
- Lukas Kragnak, 7 Manor Close, Manor Village, Tralee
- Eileen & Tomasina Lyons, Doonimlaghbeg, Ballymac, Tralee
- Angela O Connor, 10 Fortfield, Killerisk, Tralee
- Liam and Margaret Voss, Kilfalney Currans, Farranfore
- Tralee Christian Centre, 3 Cluanmore, Bothar Bui, Tralee

Submissions raise a number of specific and common issues and are summarised as follows:

- Negative impact on privacy and tranquillity of Cluan Mor House.
- Traffic and noise pollution.
- Boundary treatment inappropriate.
- Devaluation of property.
- Overlooking
- Displacement of Vermin
- Traffic congestion
- Health and safety issues.
- Impact on adjacent community church.
- Flooding.

## 4.0 Planning History

**19/272** Adjoining lands to the west. Permission for construction of a 600 pupil post primary school with sports hall internal access, Proposed site access from the approved part 8 Ballymullen Clash Link relief road.

### **Adjoining lands to the east**

**11/307958** Refusal of permission to construct 1 no dwelling house served by connection to public sewer. Works to include construction of new access road and carparking to house and new sewer connection into existing public sewer on public road and connection of new house to existing house within site to new sewer. Refusal on grounds of piecemeal haphazard development. Development premature pending determination of a road layout for the area.

Adjacent lands to the east.

**7270/122/06** Refusal 15/9/2006 Outline permission for demolition of existing dwelling and storage sheds on the site and construction of 16 no apartments and two houses contained in 7 no two storey blocks consisting of 4 no 1 bed, 8 no 2bed and 4 no 3 bed houses with associated surface parking and site works. Refusal on grounds of substandard design and traffic hazard.

## 5.0 Policy Context

### 5.1 S28 Ministerial Guidelines.

- Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) Guidelines for Planning Authorities. Department of Environment, Heritage and Local Government, May 2009.
- Urban Design Manual A best practice Guide. May 2009.
- Design Manual for Urban Roads and Streets, DMURS
- The Planning System and Flood Risk Management (including the associated 'Technical Appendices') Dept Environment Heritage and Local Government November 2009.
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities – Department of Housing Planning and Local Government March 2018
- Urban Development and Building Height Guidelines, Department of Housing Planning and Local Government, December 2018

## 5.2 Development Plan

5.2.1 The Tralee Town Plan 2015 as varied and extended and Tralee Municipal District Local Area Plan 2018-2024 refer. The site is zoned R2 Existing Residential.

### **Section 11.4 Existing Residential/Town Centre Area/Built Up Areas (R2/M2/M4)**

It is the policy of the Local Authority to facilitate development that supports, in general, the primary land use of the surrounding built up area. Development that does not support or threatens the vitality or integrity of the primary use of these existing built up areas shall not be permitted.



*Policy Objective HP06* - Have regard to increased residential densities in appropriate locations in accordance with Sustainable Residential in Urban Areas while ensuring that the overall character of the area shall be maintained.

*Policy Objective HP22* - Ensure that residential densities reflect the density of appropriate adjoining development. Higher densities will be considered in the town centre or within close proximity to the town centre.

Urban Design Policy Objectives are outlined in Chapter 8 Built Environment and Urban Design

Policy Objective UDP02 Ensure development proposals enhance and respect the character of Tralee's built environment, its context and setting and consolidate, reinforce, and protect the town centre as a dynamic cultural, economic and social place to work, visit and live in.

Policy Objective UDP04 Acknowledge the role of urban design in the creation of place. Space and terminal vistas and ensure development proposals address this challenge.

Policy Objective UDP05 Require perimeter blocks and suitably scaled buildings with legible links with the street on the pedestrian scale in development proposals

Policy Objective UDP07 Ensure that new developments do not turn their back on public spaces and that they provide an active frontage of attractive design and scale

Policy Objective UDP08 Address the issue of safety in the public domain through urban design.

Policy Objective UDP013 Where appropriate, ensure developments comply with the Sustainable Residential Development in urban Areas and the Urban Design Manual A best practice guide, as issued by the Department of the Environment, Heritage and Local Government in 2008.

Chapter 12 sets out the development management standards for residential development.

### **8.6.3 Mitchells Regeneration**

In 2004, Tralee Town Council identified the Mitchells Boherbee area of the town as being in need of major regeneration in order to deal with the underlying physical economic and social problems that have affected the area. The masterplan includes

a number of major projects including the Gaelscoil 600 pupil, Ballymullen to Clash Inner Relief Road. The masterplan will continue to be updated in consultation with the local community and its implementation and delivery will be supported by this plan.

Within the Tralee Municipal District Local Area Plan 2018-2024 I note the mapped Mitchel's Bohereboy Regeneration Area Masterplan, September 2017 which includes a draft schematic of the lands including the appeal site. (Refer to Photographic Appendixes to the Inspector's report)

### **5.3 Natural Heritage Designations**

The site is not within a designated area. The nearest designations include:

Tralee Bay and Magharees Peninsula West to Cloghane SAC 2km.

Ballyseedy Wood SAC (1.8km)

Slieve Mish Mountains SAC 3.3km

Akeragh Banna and Barrow Harbour SAC (10km)

Lower River Shannon SAC (11km)

Castlemaine Harbour SAC (11km)

Tralee Bay Complex SPA 2km

Stacks to Mullaghareirk Mountains, West Limerick Hills, and Mount Eagle SPA 5.6km

Castlemaine Harbour SPA 12km.

### **5.4 EIA Screening**

Having regard to the nature and scale of the development there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6 The Appeal

### 6.2 Grounds of Appeal

6.1.1 The appeal is submitted by Malachy Walsh and Partners on behalf of Tulfarris CG Limited. It also includes a Traffic and Transport Assessment and Stage 1 DMURS Road Safety Audit by Malachy Walsh and Partners and a letter from Brendan Williams Architect. Grounds of appeal are summarised as follows:

- Scheme design has addressed third party concerns.
- Proposal is intended to be provide for social and affordable housing.
- Storm drain running through the site informed the site layout.
- The scheme designed as open plan without enclosed front gardens.
- Application site layout and design has been rigorously considered and designed in a thoroughly logical manner and future development on adjoining site taken into account.
- Proposal designed to connect logically to the new road to the south and east.
- Proposed development would not be seriously injurious to the amenities of the area. The proposed development will be bounded by a school to the west and a vacant site to the east and hospital land to the south,
- Applicant has no control over the adjoining lands and should not be delayed based on future development of these lands.
- Scheme has been designed in a thoroughly logical manner with the potential on the adjacent lands methodically considered.
- Malachy Walsh and Partners. Stage 1 Road Safety Audit Issues and relevant recommendations outlined.
- Traffic and Transport Assessment, Malachy Walsh, and Partners. Vehicle access is proposed on the basis of a left turn outbound only to the west. Proposed access junction visibility splays are in accordance with DMURS. The R875 would continue to operate within its urban road link capacity for the predicted 2022, 2027 and 2037 peak hour traffic volumes.

## 6.3 Planning Authority Response

6.3.1 The response of the Planning Authority is summarised as follows:

- Reiterates grounds of refusal.
- Notably traffic and transport assessment was made available to the audit team on the date the audit was finalised.
- Proposal for left turn only exit is not referenced in Road Safety Audit and is not detailed on drawing. Practicalities of this proposal of concern in terms of impact on pedestrian safety, restriction of access to traffic turning right from R875 and requirement for works outside the red line boundary.
- Section 6.17 of the Tralee Transport Study identifies Austin Stacks Park (Boherbee) roundabout as requiring redesign and realignment as a signalised junction. Once complete this junction type will not facilitate reorientation of westbound traffic to the east therefore the proposal is not suitable in the short to medium term,
- No evidence within the road safety audit that the following items have been considered.
  - Location of proposed junction within 50m of the roundabout
  - Proximity of zebra crossing
  - Inadequate sightline to the east
  - Right turning traffic exiting the development
  - Right turning traffic entering the development from the R875,
- With reference to section 5.7 8.5 and 8.8 of the Traffic and Transport Assessment, none of the existing access points to the R875 referred involve right turn manoeuvre crossing two running lanes of traffic in advance of joining the desired traffic lane.

- Stage 1 DMURS Road safety audit has failed to consider the risks associated with the development. The audit team were not in a position to consider the risk associated with the left turn only proposal as drawings outlining this proposal were not provided to them.
- The TTA findings having assumed traffic exiting the development is restricted to left turn only and relies on Austin Stacks Roundabout to reorientate traffic to the east which is not viable as the roundabout is identified for upgrading to a signalised junction.
- New road identified for construction connecting the L2072 Mitchel's Road and L10912 Marian Park and subsequently the R875 at Clash Roundabout. Construction of Phase 1 of this road has commenced and when complete would provide a more viable opportunity for development of this nature.

## **6.4 Observations**

### 6.4.1 Observations from Martha O Shea and Others, Crosswinds Tursillagh, Tralee,

- No legal right to use the private property to the east of the development as part of the application.
- Proposed development is speculative and profit based.

### 6.4.2 Tralee Christian Centre submission raises the following concerns

- Proposal represents overdevelopment out of character with the surrounding environment.
- Noise activity and disturbance.
- Traffic congestion and safety issues.
- Area is prone to serious flooding.

## **7 Assessment**

7.1 Having read the contents of the file, visited the site and surroundings and having regard to the issues raised within the grounds of appeal I consider that the matters to be addressed in this appeal can be considered under the following broad headings:

- Principle of Development Question of prematurity
- Design & layout & Density Issues
- Traffic, Flooding, Servicing and Other Matters
- Appropriate Assessment

### **7.2 Principle of Development**

7.2.1 As regards the principle of development having regard to the fully serviced nature and urban location of the site and existing residential zoning objective pertaining and in the and in light of the established settlement pattern the proposal could be viewed as infill type development and therefore would be viewed positively subject to the detailed matters and otherwise site specifics. In considering the proposal in light of the National Planning Framework which seeks to consolidate new development within the footprint of existing built up areas I consider the proposal to be acceptable in principle.

7.2.2 As regards the principle of demolition of the two existing dwellings on the site I note that the dwellings are of no particular architectural merit and I consider that the principle of demolition is acceptable. I consider that the loss of these dwelling to the streetfront is not unduly detrimental to the streetscape at this location which is characterised by a mix of building typologies and this loss is justified in terms of opening up of the currently underutilised lands to the rear.

7.2.3 As regards the matter addressed within the Council's second reason for refusal and the finding that the development would constitute disorderly piecemeal development in the context of future development on the adjoining lands to the

east, I consider that in light of the potential for alternative access and layout as suggested within the indicative Mitchel's Bohereboy Regeneration Area Masterplan 2017 as provided within the Tralee Municipal District Local Area Plan improved permeability and integration should be explored. Having considered this matter in this context I would tend to concur with the Council's Area Planner that the proposed development would compromise the future development of the adjoining lands. The advance to focussed assessment on the detailed considerations and the nature of the proposed development with particular reference to density, design and layout, and traffic impact further adds weight to this finding as set out below.

### **7.3 Design and layout and density issues,**

7.3.1 I note that the application does not include a schedule detailing the number and type of apartments and associated individual unit floor areas as required for mixed housing developments that include apartments (6.1 of the Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities, Department of Housing Planning and Local Government 2018). In terms of consideration of the residential amenity of the proposed dwelling units, I note that the floor areas of the proposed dwellings generally meet the minimum standards in terms of floor areas. As regards private open space each dwelling includes private rear garden whilst duplex blocks provide private open space in the form of terraces. I note that a number of the dwellings towards the northern end of the site do not meet the 'rule of thumb' 11metre minimum depth of rear garden to site boundary and I would concur with the expressed view of the area planner that the proximity of the proposed duplex blocks within 5m of the southern boundary also gives rise to some concern in terms of quality of semi-private open space.

7.3.2 The proposed layout provides for buildings along the eastern side along the estate road with the duplex blocks along the southern end of the site. Car parking is provided in perpendicular rows off the estate road to the front of the dwellings. In performing a qualitative assessment of the overall layout, I note a number of significant concerns. The proposal presents as a linear, unrelieved, car dominant environment with poor quality, impractical open spaces, more incidental than by design and two of which are entirely inadequately overlooked. In terms of the public

realm the proposed development presents poorly (setback and side elevation of dwelling) to the Boherbee Road. I consider that the layout is entirely inappropriate to the context and alternative layouts should be considered with a greater emphasis on context, connections, inclusivity, variety, efficiency, distinctiveness, public realm, privacy and amenity with legible links with the street on the pedestrian scale. The layout is entirely car dominant and fails to address and promote sustainable transport modes. I am of the view that in line with best practice the layout needs to evolve in the context of the overall development of the wider area and with reference to the complete set of 12 criteria which encapsulate the range of design considerations for residential development and the tried and tested principles of good urban design as set out in the Urban Design Manual Best Practice Guide, Department of Environment Heritage and Local Government 2009 and in line with the Urban Design Policy Objectives as set out in the Tralee Town Plan 2015 as extended and varied.

7.3.3 In considering the issue of density I note that the Sustainable Residential Development in Urban Areas Guidelines recommend minimum net densities of 50 units per hectare in areas which are within easy access (500m of a bus stop or 1km of a Dart station/tram stop). The proposed density is 38.5 units/ha. The National Planning Framework, National Policy Objective 3a, is to deliver at least 40% of all new homes nationally within the built-up footprint of existing settlements. A specific planning policy requirement (SPPR 1) in the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018) is to support increased building height and density in locations with good public transport accessibility, particularly town/ city cores. The Guidelines require that planning authorities explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height. The appeal site is centrally located and is within relatively short walking distance of Tralee rail and bus stations (both within 500m). Notwithstanding the constraints on the site I conclude that having regard to the national guidance in



relation to increased densities in urban/suburban areas close to town centres and public transport infrastructure that a higher density can be achieved at this location. Clearly this is envisaged within the context of the wider area.

## **7.4 Traffic, Flooding, Servicing and Other Matters**

7.4.1 A key consideration within the decision of the Planning Authority to refuse permission relates to the issue of traffic hazard. I note the reason for the Council's refusal as follows:

Having regard to:

- (d) The geometry of the R875 public road in the vicinity of the site entrance,
- (e) The proximity of the site entrance to the existing pedestrian crossing and roundabout to the west and
- (f) The impact of the traffic generated by the proposed development on the capacity of the R875 public road, particularly at peak times,

It is considered that the traffic movements that would be generated by the proposed development would endanger public safety by reason of traffic hazard and would contribute to traffic congestion. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

7.4.2 The Boherbee (Austin Stacks Park) Roundabout is three arm roundabout at the junction of the R875 and R878 John Joe Sheehy Road. Two entry lanes are provided on each of the three approaches to Boherbee roundabout with zebra controlled pedestrian crossings on the R875 with pedestrian refuge on the central traffic splitter islands. The proposed access is circa 55 metres from the roundabout. The first party within the appeal submission asserts that the proposal would operate on the basis of a left turn outbound to the west. However as noted within the report of the Tralee Municipal District Engineer no detailed drawing of this proposal is outlined and it is not assessed within the audit document. I concur with the Council that the level of detail within the application and appeal with

regard to the proposed traffic arrangement is deficient. It is also noted by the Council that the Tralee Transport Study identified the Boherbee (Austin Stacks Park) roundabout for potential future redesign and realignment as a signalised junction therefore the viability of the proposed access arrangement would need to take this into consideration. A number of other specific issues and deficiencies are raised including the location of proposed junction within 50m of the roundabout, the proximity to the zebra crossing and potential conflicts and impacts on vulnerable road users. The sightline to the east of the proposed entrance is restricted by signage and boundary wall of the adjacent property to the east and this is not addressed by the first party. The implications for right turning traffic entering the development from the R875, crossing two lanes of westbound traffic, is of further concern. Having reviewed the submitted road safety audit and traffic and transport assessment I consider that the applicant has failed to address the issues adequately and has failed to demonstrate that the proposed development would not give rise to traffic congestion and hazard. As outlined above any potential development of the site in the context of the wider lands should be assessed with a view to the potential for links to the new road connecting the L2072 Mitchel's Road and L10912 Marian Park construction of phase 1 of which has commenced.

- 7.4.3 On the issue of flooding, I note that the report of the district Engineer and a number of third-party submissions refer to a history of flooding in this area. The first party provides no information on this issue and any future application on the site should be accompanied by a flood risk assessment.
- 7.4.4 As regards servicing the submissions of Irish Water indicate that there is capacity with regard to the piped services. I note that in light of concerns raised with regard to flooding the matter of surface water attenuation and disposal would need to be detailed more comprehensively.
- 7.4.5 Regarding archaeological impact I note the recommendation of the County Archaeologist that on the basis of the scale of the development predevelopment

testing is warranted and should be carried out and reported prior to any grant of permission for development on the site. I would recommend that this should be considered by the first party in any future application.

- 7.4.6 As regards impact on established residential and other amenities I have noted the concerns raised in the submissions of the third-party observers to the appeal and submissions to the Council. I acknowledge that development on the site will give rise to noise and other disturbance impacts during the construction phase however such impacts can be appropriately mitigated through good practice construction management. Whilst the densification of residential development on the site will give rise to an altered context particularly for the immediate established adjacent residents and community facilities such change is to be expected within the urban area and the delivery of a high quality infill neighbourhood scheme would represent a planning gain for the area.

## **7.5 Appropriate Assessment**

- 7.5.1 It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any designated European Site and a Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

## **8 Recommendation**

- 8.1 Further to the above planning assessment of matters pertaining to this appeal, including consideration of the submissions of each party to the appeal and the site inspection, I conclude that it has not been demonstrated that the proposed development is appropriate in terms of its design and layout, and does not achieve an appropriate standard of urban design or density. The proposed development would constitute haphazard piecemeal development in the context of the adjoining undeveloped lands to the east and does not explore the potential access and links to the inner relief road to the south / east. In terms of the proposed access from the

R875 it has not been demonstrated that the proposed development would not endanger public safety by reason of traffic hazard. Accordingly, I recommend that permission be refused for the proposed development for the following reasons and considerations.

## **REASONS AND CONSIDERATIONS**

Having regard to the overall conditions of the proposed site access including, substandard visibility at the junction with R875, proximity to Boherbee (Austin Stacks) Roundabout and to existing pedestrian crossing facilities it is considered that the proposed development would give rise to traffic conflict and congestion and would endanger public safety by reason of traffic hazard. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

It is considered that the proposed development by reason of its design and layout, and the nature of provision of private amenity space would be contrary to the urban design policy objectives of the Tralee Town Plan 2009-2015 (as extended and varied) and the Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, Department of Environment Heritage and Local Government and the companion Urban Design Manual, A Best Practice Guide, published in May 2009. It is considered that the proposed development would result in a substandard form of development for future residents by reason of the poor quality public realm, and substandard quality of open space and in the context of overall development of the wider undeveloped lands, of which the site forms part, would not achieve an appropriate standard in terms of the creation of place and a long term sustainable neighbourhood. The proposed development would set an undesirable precedent for similar such development and would therefore be contrary to the proper planning and sustainable development of the area.

Having regard to the location and configuration of the appeal site in the context of the adjoining undeveloped lands to the east, and within the Mitchels Boherbee

Regeneration Area and to the layout and design of the proposed development the Board is not satisfied that the proposed development responds appropriately to the unique characteristics of the site context, and considers that the proposal would lead to a disjointed and piecemeal form of development. The proposal would therefore be seriously injurious to amenities of the area and would not be in accordance with the proper planning and sustainable development of the area.

The Board considers that the density of the proposed development is contrary to the provisions of the Guidelines for Planning Authorities on *Sustainable Residential Development in Urban Areas* (2009), issued to planning authorities under Section 28 of the Planning and Development Act. The site of the proposed development is on serviced land zoned for residential development within the development boundary of Tralee. Having regard to the proximity of the site to the transport infrastructure and established social and community services in the immediate vicinity it is considered that the proposed development is not at a sufficiently high density. It is considered that the density proposed would be contrary to these aforementioned Ministerial Guidelines, which indicate that net densities less than 50 dwellings per hectare should generally be discouraged in the interests of land efficiency. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

---

Bríd Maxwell  
Planning Inspector

22 November 2020