



An
Bord
Pleanála

Inspector's Report ABP-309664-21

Development	To construct 2 two-storey apartment blocks consisting of 4 apartments in each served by on-site parking, all connected to public services and also to include associated site works.
Location	Ballyvelly, Tralee, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	20/500
Applicant(s)	Eileen Mary Griffin
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party -v- Decision
Appellant(s)	Eileen Mary Griffin
Observer(s)	Tom & Caroline O'Connor Joan & Michael McMahon
Date of Site Inspection	30 th April 2021
Inspector	Hugh D. Morrison

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1.0 Site Location and Description

- 1.1. The site is located in the south-western suburbs of Tralee, 1 km from the town centre. The surrounding area is predominantly residential in character with single and two-storey, detached, semi-detached, and terraced dwelling houses featuring in nearby streets. Access to the site is off Caher Anne Road: From the east, it is via Caheranne Village and, from the west, it is via an established residential street known as Cois Li and the relatively new housing estate known as Caheranne Village.
- 1.2. The existing site is vacant and overgrown. It lies at the end of a cul-de-sac in Caheranne Village, where an existing gateway to this site is sited. The site is of regular shape and it extends over an area of 0.107 hectares. It adjoins:
- To the north, the end of the rear garden to a detached two storey dwelling house on Caher Anne Road,
 - To the east, the western boundary of the residential curtilage to a two-storey dwelling house at No. 1 Caheranne Village, the end of the said cul-de-sac, and the rear gardens to the two-storey terraced dwelling houses at Nos. 14 – 16 Caheranne Village (inclusive),
 - To the south, the northern side boundary of the rear garden to the two-storey terraced dwelling house at No. 16 Caheranne Village, and
 - To the west, the north-eastern corner of the residential curtilage to a dormer bungalow on Cois Li and the eastern boundary of the residential curtilage to a dormer bungalow on Cois Li.

The site's boundaries are denoted by walls.

2.0 Proposed Development

- 2.1. The proposal is for 2 two-storey blocks with 4 apartments in each block. These blocks would be sited in the northern and southern portions of the site with a parking area, accessed off the cul-de-sac to the east, between them in the central portion of the site.
- 2.2. The original proposal was for 4 one-bed units in the northern block and 4 two-bed units in the southern block. As amended under further information, the southern

block was reduced in size and the apartments within it were respecified as one-bed units. In conjunction with this reduction the south-eastern portion of the site would be laid out as an area of communal open space.

2.3. At the appeal stage the applicant has submitted revised versions of the original proposal and the amended one. She has adopted the following notation, accordingly:

- Option A – the original proposal,
- Option B – the amended proposal under further information,
- Option C – an improved Option B, and
- Option D – an improved Option A.

2.4. To facilitate comparison, the main features of each option are set out below.

- Option A: 4 one-bed units + 4 two-bed units, 12 car parking spaces, and retention of the existing vehicular access to the site.
- Option B: 4 one-bed units + 4 one-bed units, first floor windows omitted from the side elevations, 10 car parking spaces, introduction of communal open space, and opening-up of the existing vehicular access to the site, along with an extended public footpath to this site on the southern side of the cul-de-sac.
- Option C: 4 one-bed units + 4 one-bed units, first floor windows omitted from the side elevations, obscure glass screens introduced to exposed western sides to balconies, 8 car parking spaces, introduction of useable communal open space, increased opening-up of the site to the cul-de-sac, along with an extended public footpath to this site on the southern side of this cul-de-sac, and re-siting of the northern block in a position further to the south.
- Option D: 4 one-bed units + 4 two-bed units, first floor windows omitted from the side elevations, obscure glass screens introduced to exposed western sides to balconies, 8 car parking spaces, omission of useable communal open space, increased opening-up of the site to the cul-de-sac, along with an extended public footpath to this site on the southern side of this cul-de-sac, and re-siting of the northern block in position further to the south.

3.0 Planning Authority Decision

3.1. Decision

Following receipt of further information, permission was refused for the following reasons:

1. It is considered that the design and layout of the proposed two-storey apartment development would seriously injure the amenities of adjoining residential properties due to overlooking and overshadowing. The proposed development would, therefore, depreciate the value of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

2. It is considered that the disjointed footpath network proposed to serve the development and restricted sightlines at the vehicular entrance relative to the entrance to No. 1 Caheranne Village would not be adequate to safely cater for the pedestrian and vehicular traffic that would be generated by the proposed development. The proposed development would, therefore, endanger public safety by reason of traffic hazard and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Further information was requested with respect to the following matters:

- Pre-connection enquiry to be made with Irish Water concerning the feasibility of proposed connections to the public water mains and the public sewerage system,
Plan and longitudinal section of proposed foul sewer to be submitted, and
If pumping station needed for foul sewer, details to be submitted.
- Design of proposed stormwater attenuation system to be submitted.
- If pumping station needed for stormwater sewer, details to be submitted.
- Access arrangements to be the subject of a Road Safety Audit (RSA).
- Design of proposed entrance gate to be submitted.

- Siting of proposed light stands with respect to the site entrance to be submitted.
- The following issues with respect to the proposal to be addressed:
 - Overlooking,
 - Inadequate number of car parking spaces,
 - Functionality of communal open space in terms of accessibility, landscaping, and orientation.

3.2.2. Other Technical Reports

- Irish Water: Following receipt of further information, no objection, plus standard observations.
- Kerry County Council:
 - Water Services: Further information requested, following receipt of which no comments made.
 - Archaeology: No objection.
 - Biodiversity: Stage 1 screening concludes that Appropriate Assessment not necessary + several recommendations with respect to landscaping.
 - Housing Estates: No objection, subject to conditions.
 - Roads, Transportation & Marine: Following receipt of further information, objection raised on the grounds of unsatisfactory pedestrian facilities, restricted sightlines at the site entrance, and the risk of overspill parking.

4.0 Planning History

No recent planning history exists for the site.

5.0 Policy and Context

5.1. Development Plan

Under the Tralee Town Development Plan 2009 – 2015 (as extended) (TDP), the site is shown zoned R2, existing residential.

5.2. National Policy

- Rebuilding Ireland: National Planning Framework 2040 (NPF) & National Development Plan 2018 – 2027 (NDP)
- Sustainable Residential Development in Urban Areas Guidelines
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines

5.3. Natural Heritage Designations

- Tralee Bay and Magharees Peninsula, West to Cloghane SAC and pNHA (002070)
- Tralee Bay Complex SPA (004188)

5.4. EIA

Under Items 10(b)(i) & (iv) of Part 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2021, where more than 500 dwelling units would be constructed, the need for a mandatory EIA arises. The proposal is for the development of 8 new build dwelling units. Accordingly, it does not attract the need for a mandatory EIA. Furthermore, as this proposal would fall below the relevant thresholds, I conclude that, based on its nature, size, and location, there is no real likelihood of significant effects upon the environment and so the preparation of an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The applicant begins by summarising the planning application as originally submitted and as amended under further information. Thus, under Option A, 2 two-storey blocks of 4 apartments each were proposed, with the northern block comprising one-bed units and the southern block comprising two-bed units. Under Option B, the southern block was amended to one-storey units in order to comply with the TDP's car parking standards, i.e. 1 space per bedroom.

The applicant draws attention to Section 12.45 of the TDP, which addresses infill development and grants the Planning Authority latitude to relax standards in order to promote such development. The site is conveniently located with respect to Tralee town centre and to local bus services and so some relaxation in car parking standards would be appropriate. The advice of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines underpins further such relaxation in these circumstances. It categorises the site as central and/or accessible urban location.

Notwithstanding Option B, the applicant considers that Option D would be the optimal one as it would exhibit a good housing mix accompanied by an appropriate level of car parking provision.

The applicant's grounds of appeal are summarised below.

- Optimising infill development within existing built-up areas.

National policy promotes compact growth of existing settlements. Integral to this is the development of infill sites, which can make more intensive use of existing infrastructure, support local services and employment, encourage affordable housing provision, and sustain alternative modes of travel such as walking, cycling and public transport. The proposal is for an infill site within Tralee and, as such, it would accord with the following objectives of the Sustainable Residential Development in Urban Areas Guidelines:

- Avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours: The proposed blocks, as revised, would be laid out to minimise overlooking and, under Options C and D, first floor windows have been omitted from side elevations and additional screening has been specified for balconies.
- Conformity with existing urban form, particularly in relation to height or massing: Proposed ridge heights of 8.25m – 8.5m would compare with adjacent ridge heights of 7.1m and 8.7m.
- Compliance with plot ratio and site coverage standards: At 0.547 and 24%, respectively, the proposal would be well within the relevant TDP standards.

- Compliance with public and private open space standards: The proposal would provide the requisite private open space, i.e. 5 sqm balconies and gardens to ground floor units and, under Option C, a generous 166 sqm of public open space.
- Good internal space standards: The proposals would comply with the relevant standards set out set in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines.

- Overall design

As originally designed, the proposal envisaged that future households would comprise the elderly and young families and, as amended, it would comprise the elderly and young couples. Ground floor units would be “own door” ones and upper floor units would be served off communal stairs.

The proposed blocks would be modest in scale and they would exhibit a simple but contemporary design. External finishes, including surface finishes, would be to a high standard and open space provision would be ample.

- Scale and height

The two-storey height of the proposal would conform with the majority of existing dwelling houses in the vicinity of the site. It would thus avoid being overbearing or obtrusive.

Existing evergreen vegetation on the site leads to overshadowing that is more extensive than that which would arise under the proposal.

Although overshadowing was not raised under further information, it was cited under the first reason for refusal, and so a shadow analysis of the proposal has now been submitted. This proposal illustrates that the effect on adjoining properties of Option C would be minimal and, conversely, it would itself enjoy good lighting standards.

- Residential amenity

The Planning Authority’s critique of the amended proposal related to overlooking from balconies and first floor windows of adjoining properties and the overshadowing of the dwelling house at No.1 Caheranne Village. Under Options C and D, the northern block would be re-sited so as to align more with

this dwelling house, thereby reducing the extent of any overshadowing. Overlooking, too, has been addressed by the omission of first floor windows from side elevations and additional screening to balconies. The retention of some existing landscaping and its augmentation would also contribute to the screening of the proposed blocks. If the Board deems it to be necessary, then a condition requiring the obscure glazing of first floor windows in the rear elevations would be acceptable to the applicant.

- Traffic and parking

Under further information, access arrangements for the site were amended to take account of the recommendations of a Stage 1 RSA. Nevertheless, the Planning Authority's second reason for refusal critiques these arrangements. By way of response, the applicant now proposes to omit the proposed pillar, wall, and access gate and to re-site the existing public streetlight. Signage and road markings that would accompany these changes are shown on drawing no. BALLYVELLY/01/141.

TDP parking standards require 2 spaces per dwelling, whereas CDP parking standards reduce this standard to 1 space for one-bed dwellings. This latter standard was met by the amendments submitted under further information, which showed 8 residents' spaces and 2 visitors' spaces.

Under Options C and D, 8 spaces would be provided, including 1 mobility impaired space, along with bicycle parking spaces. This level of provision would be appropriate, given the convenient location of the site as described above.

The applicant's architect has submitted a commentary on the evolution of the proposal under the four options, which echoes many of the points raised in the above grounds of appeal.

6.2. Planning Authority Response

None

6.3. Observations

(a) Tom & Caroline O'Connor of 1 Caheranne Village

The following observations are made with respect to Options C & D:

- In reality the apartments could be occupied by any age group.
- No objection is raised in principle to the development of the site. However, any proposal should avoid serious injury to existing residents by virtue of overlooking and overshadowing.
- Reduced parking on-site would risk overspill parking on the existing housing estate, wherein there is already pressure on available parking. Reliance on sustainable modes of transport, such as walking or cycling or using the bus, is unrealistic.
- The housing crisis in Tralee needs to be seen within the context of KCC's 61-apartment scheme within 1km of the site.
- Any development of the site should reflect the building lines of the observer's dwelling house.
- Any suggestion that the proposal would be preferable to the existing trees on the site is mis-placed.
- Pedestrian facilities would entail an opening in the observer's wall to connect with a footpath that lies within their property.
- Which option is depicted in the computer-generated tour of the proposal?
- Increased traffic would be hazardous to local children at play, especially as there is a blind bend on approach to the site.
- Option D, the applicant's preference, would be over-development of the site.

(b) Joan & Michael MacMahon of Greenlawn (to the north of the site)

- As local residents, they do not oppose change, but consider that development should respect the amenities of existing residents.
- References to the retention of mature trees/shrubs appears to be misconstrued: No such vegetation lies along the northern boundary of the site.

- Option D, the applicant's preference, would be over-development of the site.
- The proposal would lead to overlooking of the observer's residential property and a consequent loss of privacy and security.
- The current proposal should be refused and a more suitable alternative for the site found.

6.4. Further Responses

None

7.0 Assessment

7.1. I have reviewed the proposal in the light of national policy, the Kerry County Development Plan 2015 – 2021 (CDP), Tralee Town Development Plan 2009 – 2015 (as extended) (TDP), the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Land use, density, and transportation,
- (ii) Visual and residential amenity,
- (iii) Housing mix and development standards,
- (iv) Traffic, access, and parking,
- (v) Water, and
- (vi) Screening for Appropriate Assessment.

(i) Land use, density, and transportation

7.2. Under the TDP, the site is zoned existing residential and so there is no, in principle, land use objection to its development for residential use.

7.3. The proposal is for an apartment development on a site that lies within the residential suburbs of south-western Tralee. This site lies close to Caher Anne Road, which is a local bus route, and it is 1km away from the town centre, which includes significant employment centres such as the Bon Secours Hospital. Under the Sustainable Urban Housing: Design standards for New Apartments Guidelines, the site lies within

the category of a central and/or accessible urban location and so it is, in principle, suitable for apartment development.

- 7.4. The proposal is for 8 apartments on a site with an area of 0.107 hectares. This proposal would exhibit a density of 74 dwellings per hectare. While this residential density would be high compared to that of existing residential densities in the surrounding area, it would accord with the advice of the aforementioned Guidelines for a central and/or accessible urban location.
- 7.5. Other indicators of density are plot ratio and site coverage. Under Options A & D, the former indicator would be 0.548 and, under Options B & C, it would be 0.492. Likewise, under Options A & D, the latter indicator would be 27.72% and, under Options B & C, it would be 24.60%. These plot ratios and site coverage indicators do not in themselves suggest that the proposal would amount to over development.
- 7.6. As already note, the site is close to a bus route, which serves Tralee town centre. Likewise, its proximity to this centre ensures that walking and cycling options would be attractive.
- 7.7. I conclude that the proposal raises no in principle issues from land use, density, and transportation perspectives.

(ii) Visual and residential amenity

- 7.8. The proposal would entail the siting of 2 two storey apartment blocks, one in the northern portion of the site and one in the southern portion, with a courtyard car park between them. These blocks would be of square/rectangular form under a double pitched roof. Their front elevations would incorporate a central projecting stairwell feature under a mono-pitched roof with ground and first floor balconies on either side. Consequently, all the balconies would overlook the courtyard car park. Different coloured render finishes would be specified for the elevations and the apartment blocks would be of contemporary appearance.
- 7.9. The scale and design of the proposal would provide elements of continuity and discontinuity with the existing, predominantly, two storey dwelling houses in the surrounding area. Thus, the proposal's two storey form under a double pitched roof would provide the former, while the contemporary appearance of their front elevations would provide the latter.

- 7.10. The ground floor apartments in the two storey blocks that comprise one-bed units would be served by front doors in their side elevations. Internally, they would be laid out so that the kitchen/dining/living space would adjoin their balconies. By contrast, the first-floor apartments in these blocks would be laid out so that this space is served by windows in their rear elevations. Consequently, their front balconies would adjoin their bedrooms.
- 7.11. Under Option C, the rear elevation of the northern block would be separated from the northern boundary to the site by 8 – 9m. The submitted plans show the retention of trees indicatively along this boundary. (Elsewhere individual existing mature trees are shown for retention). During my site visit, I was unable to confirm the presence of these trees which are shown indicatively. The said separation distances would, however, facilitate the planting of trees that could, in time, afford a measure of screening, without causing unacceptable light loss to the proposed apartments. Overlooking of the boundary from first-floor windows to the kitchen/dining/lining spaces would be eased thereby.
- 7.12. Under Option C, the rear elevation of the southern block would be separated from the southern boundary to the site by 3.5 – 4m. The applicant proposes to retain existing trees along this boundary, too. During my site visit, I was unable to confirm the presence of these trees shown indicatively. While tree planting could occur, I consider that this would be too close to the rear elevation to ensure that lighting of/outlooks from windows would be safeguarded. Overlooking of the boundary from first-floor windows to the kitchen/dining/lining spaces would affect the adjoining rear garden to No.16 Caheranne Village and consecutive adjoining rear gardens further to the south. The applicant has acknowledged this issue and she has proposed to specify obscure glazing to the windows concerned. However, I do not consider that such glazing is appropriate in windows that serve these spaces, where an outlook is reasonably to be expected.
- 7.13. Under Options C & D, the proposed two storey northern apartment block would be re-sited to a more southerly position within the site. Thus, its separation distance from the northern boundary would increase by c. 5m. The eastern gabled side elevation to this block would have a depth of 10.8m. As originally proposed, 9.5m of this side elevation would have projected beyond the rear building line of the adjacent

dwelling house to the east at No. 1 Caheranne Village. As revised, the depth of projection would be 4.5m.

- 7.14. The Planning Authority's first reason for refusal cites the overshadowing that the original siting of the northern block would have given rise to at No. 1 Caheranne Village. The revised siting is the subject of an over-shadowing and sun study, which the applicant has submitted at the appeal stage. This study depicts shadows cast by the existing trees on the site and those that would be cast under Options B and C during the Equinox. It employs relevant methodologies from the BRE's "Site Layout Planning for Daylight and Sunlight: A Good Guide to Practice (2011)."
- 7.15. The applicant's over-shadowing and sun study examines a sample of residential properties surrounding the site. No. 1 Caheranne Village is/would be the one most affected by overshadowing from the site. This residential property has a private amenity area of 132 sqm. During the Equinox, under Option C, 71 sqm of this area (or 53%) would receive more than 2 hours' worth of sun. Likewise, the applicant estimates that at 1500 hours, 80% of the said area is overshadowed by existing trees, whereas under Option C this would contract to 40%.
- 7.16. The above cited Good Practice Guide discusses trees and hedges. This Guide acknowledges that "Most tree species will cast a partial shade; for deciduous this will vary with time of year." It acknowledges too that, depending on their density, the shade cast by evergreens will be more like a building. During my site visit, I observed that there is a mix of deciduous and evergreen trees and shrubs in the northern portion of the site that in combination shade No. 1 Caheranne Village. Given this mix, I do not consider that existing shading would be directly comparable to that of the proposed northern apartment block. If this consideration is weighed against the reduction in the extent of overshadowing that would arise to the rear of the dwelling house at No. 1 Caheranne Village under Option C, then I consider that overshadowing would not lead to a significant loss of residential amenity.
- 7.17. I conclude that the proposal would be compatible with the visual amenities of the area. I conclude, too, that, while under Option C the issue of overshadowing would be allayed, unacceptable overlooking of adjacent rear gardens to the south would result from the first floor internal layout of the apartments in the southern apartment

block and the specification of windows in the rear elevation to kitchen/dining/living spaces.

(iii) Housing mix and development standards

- 7.18. The site has an area of 0.107 hectares. As originally submitted, the proposal was for 8 apartments comprising 4 two-bed units and 4 one-bed units (Options A & D) and, as revised, it would be for 8 one-bed units (Options B & C).
- 7.19. SPPR 1 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines requires that, as a safety net, no more than 50% of units in apartment schemes be one-bed ones. However, under SPPR 2 of these Guidelines, in urban infill schemes on sites of up to 0.25 hectares where up to 9 residential units are proposed, there are no restrictions on dwelling mix. Accordingly, while the housing mix exhibited by Options A & D would be preferable, the housing mix exhibited by Options B & C would not be objectionable.
- 7.20. The planning report submitted as part of the original application contains Tables 1, 2 & 3, which compare the proposed units with the minimum floor areas and standards set out in the Guidelines.
- With respect to the two-bed units, while the overall floorspace and its breakdown between daytime and night time spaces would comply with the Guidelines, the 3-person specification would require a reapportionment of space between the two proposed bedrooms, i.e. the double bedroom would need to increase from 11.4 sqm to a minimum of 13 sqm. Within the constraints of the floor plan, such increase would be at the expense of the “over-sized” single bedroom (9.8 sqm), which would need to be reduced to a minimum of 7.1 sqm, as needs be. The knock-on effects of this necessary reapportionment for the floor plan may entail a wider ranging redesign exercise.
 - With respect to the one-bed units, while the ground floor apartments would be slightly larger than the first floor ones, both sizes of one-bed units would have overall floorspaces and daytime and night time spaces which would comply with the Guidelines for a 2-person specification.

All of the proposed units would be served by at least the minimum private amenity space specified in the Guidelines in the form of balconies that would overlook the courtyard car park between the apartment blocks.

- 7.21. Qualitatively, the proposed apartment blocks would be of two-storey form and they would be orientated roughly north/south in each case. Each unit would be at least dual aspect and so lighting and ventilation would be facilitated thereby.
- 7.22. As originally submitted, the proposal would have been served by “communal open space” around the perimeters of the site. The usability of this space is open to question and so, under the revised proposal, the width of the southern apartment block was reduced on its eastern side and an area of accessible and usable communal open space was introduced (166 sqm). The perimeters of the site continue to be shown as “communal open space” and they would be the subject of boundary planting.
- 7.23. Under Paragraphs 4.10 to 4.12 of the Guidelines advice is given on communal amenity space. The applicant has stated that she envisages that future residents would include older people and so “accessible, secure and usable outdoor space” would be a priority for them. Appendix 1 sets out the minimum areas for community amenity space, i.e. 5 sqm for each one-bed unit and 6 sqm for each two-bed unit, although, on urban infill sites of up to 0.25 hectares, these standards “may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality.”
- 7.24. Under Options B & C of the proposal, the 166 sqm community open space would exceed the above cited minimum areas. It would be sited in the south-eastern corner of the site and so it would be well-lit in the morning. It would also be an accessible and secure space. Given the anticipated presence of older residents within the proposal, I consider that this community open space would be of importance and so I am not minded to accede to a relaxation in the need for its provision. Consequently, while Options A & D would be unsatisfactory in this respect, Options B & C would be satisfactory.
- 7.25. At the appeal stage, Options C & D show the re-siting of the northern apartment block in a more southerly position, with the result that the northern portion of the site would be laid out as more generous communal open space. The accessibility of this portion of the site would militate against its communal use, i.e. it would entail walking

immediately to the sides of the northern block past ground floor window and door openings. While the northern portion of the site could be sub-divided between the two ground floor units, it would be overlooked by daytime spaces in the first-floor units. Its amenity value would be curtailed thereby.

7.26. With respect to housing mix, I conclude that SPPR 2 of the relevant Guidelines permits any of the Options for the site proposed by the applicant. With respect to development standards, I conclude as follows: Whereas Options A & D of the proposal would comply with current overall quantitative standards for apartment standards, at the level of detail, the apportionment of space in the proposed two-bed units would be unsatisfactory. Likewise, insofar as these Options would exclude useable community open space, they would be unsatisfactory. Under Options C & D, the juxtaposition of the ground floor apartments and communal open space to the north would raise amenity issues, as would any allocation of this space to these apartments, due to their being overlooked by daytime spaces in the first floor apartments above.

(iv) Traffic, access, and parking

7.27. The proposal is for 8 apartments and so it would generate traffic. As discussed under the first heading of my assessment, the relative convenience of the site to Tralee town centre and bus routes that serve this town centre would mean that sustainable modes of transportation, such as walking and cycling, and the use of public transport would be options for future residents.

7.28. Under further information, the number of car parking spaces to be provided was reduced from the originally proposed 12 (Option A) to 8 (Options B, C & D). The original proposal reflected the TDP's requirement that two-bed units be served by 2 spaces and one-bed units be served by 1 space. Options B & C would continue to meet these standards, whereas Option D would reflect a relaxation, which the applicant seeks to justify in the light of advice on car parking set out in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines. One mobility impaired car parking space would be provided. The size and layout of the proposed 8-space car park would be satisfactory.

7.29. The proposal would include 8 bicycle stands. Under the aforementioned Guidelines, cycle storage facilities are envisaged as being within buildings and 1 cycle storage

space per one-bed unit for residents plus 1 cycle storage space per 2 units for visitors are cited as minimum standards of provision. If the Board is minded to grant, then this type and scale of provision could be conditioned for the site.

- 7.30. Existing and proposed access to the site would be from Caher Anne Road: From the east, it is via Caheranne Village and, from the west, it is via an established residential street known as Cois Li and the relatively new housing estate known as Caheranne Village.
- 7.31. The Planning Authority's second reason for refusal critiques the proposed alterations to the existing access to enable its re-use in conjunction with the proposed apartment development. Specifically, the disjointed footpath network and the restricted sightlines are identified as issues. The applicant has responded to this critique by proposing a more open-plan format to the access. Thus, the wall/planting to the north of the vehicular entrance would be removed as far as the public footpath around the turning head at the end of the cul-de-sac. Any obstruction of visibility with respect to the turning head/the drive-in to No. 1 Caheranne Village would thereby be removed and the opportunity to connect the existing public footpath to the on-site one would be availed of. I consider that these measures would resolve the issues identified by the Planning Authority.
- 7.32. The proposal would generate vehicular traffic, although the location of the site would allow for other modes of travel to be used, too. Eight on-site parking spaces would be a satisfactory level of provision for the site. Eight cycle stands would be unsatisfactory as twelve cycle spaces in a building would be required. The applicant's revised design for the access to the site would be satisfactory.

(v) Water

- 7.33. The proposal would be connected to the public water mains and the public foul and surface water sewers in the cul-de-sac to the east of the site comprised in Caheranne Village.
- 7.34. Under further information, the applicant made a pre-connection enquiry of Irish Water and she was advised that connections would be feasible to the public water mains and the foul water sewer without the need for any upgrades.
- 7.35. Likewise, under further information, the applicant submitted details of a surface water drainage system for the site, which would comprise an underground attenuation

storage area designed to handle 1 in 100-year storm water flows and a pumping station. The storage area/pumping station would be served by an interceptor trap and a hydro-brake, which would be set at the green field site run-off rate. Surface water would ultimately discharge to the public surface water sewer in the aforementioned cul-de-sac.

- 7.36. Under the OPW's flood maps, the site is not shown as being the subject of any identified flood risk.

(vi) Screening for Appropriate Assessment

- 7.37. The requirements of Article 6(3) of the Habitats Directive, as related to the need for Appropriate Assessment of a project under Part XAB of Section 177U of the Planning and Development Act, 2000 (as amended), are considered below.
- 7.38. **Background on the application:** A screening report for Appropriate Assessment was not submitted with this application/appeal case. However, in their assessment of the proposed development, Appropriate Assessment Screening was undertaken by Kerry County Council, as part of their planning assessment, and a finding of no likely significant effects on a European Site was determined. Therefore, Kerry County Council concluded the proposed development would not require the preparation of a Natura Impact Statement and Appropriate Assessment. I have taken account of this determination as part of my assessment.
- 7.39. **Screening for Appropriate Assessment - Test of likely significant effects:** The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.
- 7.40. The proposed site lies within a suburban environment, surrounded by housing, roads and green space in the immediate vicinity. The proposal to build 8 apartments would not be expected to generate impacts that could affect anything but the immediate area of the development site, thus having a very limited potential zone of influence on ecological receptors. There are no watercourses or other ecological features of note that would connect the site to European Sites in the wider area.

- 7.41. The proposed development site is not located within or immediately adjacent to any site designated as a European Site, comprising a Special Area of Conservation or Special Protection Area (SPA).
- 7.42. To the south of the site and lies housing on Cois Li. Beyond this housing lies an area of unmanaged green space which extends southwards to the canal that connects Tralee Marina to Tralee Bay.
- 7.43. The boundaries of the nearest European Sites are within 500m of the proposed development site. The most eastern boundary of Tralee Bay and Magharees Peninsula West to Clohane SAC (002070) encompasses the canal area within 400m of the development site. This European site is designated for coastal and marine habitats including estuaries and salt meadows among others and for otter, and the plant species Pealwort (*Petalophyllum ralfsii*). Tralee Bay Complex SPA (004188) encompasses wetlands south of the canal, within 400m of the site. This site is designated for a suite of wintering waterbirds and their wetland habitat.
- 7.44. Given the limited scale of the proposal, I do not consider it is necessary to examine the potential for significant effects on any European Sites beyond those of Tralee Bay.
- 7.45. Having examined the proposal, its location and the intervening suburban area and green space area, which provide a significant buffer to the wetlands area and areas that could influence the ecological functioning of the European sites in view of their conservation objectives, I conclude that there is no possibility of direct or indirect effects on habitats or of any disturbance of wintering water birds from the proposed development.
- 7.46. **Finding of no likely significant effect:** Having carried out Screening for Appropriate Assessment of the project, I conclude that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Site Nos. 002070 and 004188, or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.
- 7.47. This determination is based on: The relatively minor scale of the development and the distance from and lack of connections to the cited European sites.

8.0 Recommendation

That permission be refused.

9.0 Reasons and Considerations

Having regard to the Sustainable Urban Housing: Design Standards for New Apartments Guidelines, the size of bedrooms under Options A and D would be unsatisfactory and, given the likely presence of elderly households, the absence of useable communal open space would likewise be unsatisfactory. Under Option B of the proposal, overshadowing of the residential property at No. 1 Caheranne Village, especially, would be excessive and so be seriously injurious to the amenities of this property. Under Options B and C, the specification of first floor windows in the rear elevation of the southern apartment block, which would serve kitchen/dining/living spaces, would lead to excessive overlooking of the rear gardens to dwelling houses to the south of the site and so be seriously injurious to the amenities of these properties. Furthermore, the communal open space specified for the area to the north of the rear elevation of the northern apartment block would militate against the establishment of a satisfactory standard of amenity for residents of the apartments comprised in this block. The proposal would thus be contrary to the proper planning and sustainable development of the area.

Hugh D. Morrison
Planning Inspector

26th July 2021