



An  
Bord  
Pleanála

## Inspector's Report ABP 311256-21

---

<b>Development</b>	Demolition of shed and construct new access road and bridge.
<b>Location</b>	Manor West and Camp, Tralee, Co. Kerry.
<b>Planning Authority</b>	Kerry County Council
<b>Planning Authority Reg. Ref.</b>	20/988
<b>Applicant</b>	Ashman Development Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	3 <sup>rd</sup> Party v. Grant
<b>Appellant</b>	1. Marie Coffey 2. Tommy Moynihan
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	20/10/21
<b>Inspector</b>	Pauline Fitzpatrick

## 1.0 Introduction

This is the 2<sup>nd</sup> application and appeal for an access road and bridge at this site. File ref. PL08.247425 (15/1173) refers on which permission was refused. Subsequent to the said appeal permission was granted under ref. ABP-305310-19 for 4 no. retail warehouse units and garden centre and extension of existing access road serving the Manor West Retail Park on lands immediately to the north/north-east of the current appeal site.

## 2.0 Site Location and Description

- 2.1. The proposed development site extends from the boundary of the site to which permission ABP 305310-19 refers, to the existing N70 / N22 roundabout junction (known locally as the 'Rose Roundabout') on the Tralee by-pass at Camp. The site is approx. 2.2km southeast of the town centre on the periphery of the built-up area. The lands immediately to the north and east are undeveloped and comprise of disturbed ground but have the benefit of permission under re. ABP 305310-18 for retail warehousing. The lands to the north of same again comprise of the Manor West Retail Park, which encompasses a variety of convenience and comparison retail units in addition to retail warehousing and a car showroom, with access to same presently available via either the N21 National Road to the north or the Killerisk Road to the west.
- 2.2. The appeal site, itself, has a stated site area of 0.562 hectares, follows an approximate north-south alignment, and is presently in use as an informal access track serving the adjacent lands. It terminates at a gated compound to the south in which there is a storage shed. Beyond the aforementioned compound is the River Lee which lies between it and the Tralee by-pass whilst the Ballynabrennagh River flows southwards to the immediate east of the application site.

### 3.0 Proposed Development

- 3.1. The application was lodged with the planning authority on **19/10/20** with further plans and details received **04/06/21** following a further information request dated 10/12/20 with revised public notices submitted 25/06/21.
- 3.2. The proposed development entails the construction of a new access road approx. 180 metres in length between the existing N70 / N22 roundabout junction on the Tralee by-pass and an internal service roadway permitted under ref. ABP 305310-10 (18/1062) to serve an extension of the Manor West Retail Park. The proposed access road will also provide access to and facilitate the development of the zoned industrial/enterprise/employment lands to the east of the proposed access road.
- 3.3. The proposed link road will have a carriageway width of 7m and will also provide for a 2m footpath along the eastern side of same. It will require a clear span bridge over the River Lee.
- 3.4. The works will entail the relocation of the existing agricultural access onto the N22/N70 roundabout and demolition of the shed.
- 3.5. The application is accompanied by:
  - Planning Statement
  - Stage 1 Road Safety Audit
  - Traffic and Transport Assessment (amended by way of FI)
  - Flood Risk Assessment
  - Construction and Environmental Management Plan
  - Ecological Impact Statement
  - Natura Impact Statement
  - Consent from Director of Corporate Services, Kerry County Council to lodge the application.

## 4.0 Planning Authority Decision

### 4.1. Decision

Grant permission for the above described development subject to 9 conditions. Of note:

Condition 3: All approach signage to the N22/N70 roundabout to be upgraded to incorporate the new access road.

Condition 4: The proposed agricultural gate to the south-west of the proposed bridge to be set back at least 12 metres from the edge of the proposed link road. Revised plan to be submitted.

Condition 5: Developer to provide underpass to accommodate proposed Ballymullen to Ballyseedy greenway. Revised design to be submitted with a minimum head height of 2.4 metres.

Condition 6: Archaeological monitoring.

Condition 9: (a) All mitigation measures contained in the NIS, EclA and Road and Bridge Construction Method Statement to be implemented in full.

(b) Additional measures for the protection and enhancement of the River Lee and Ballynabrennagh Stream received 04/06/21 to be implemented to satisfaction of the County Council and IFI.

### 4.2. Planning Authority Reports

#### 4.2.1. Planning Reports

The 1<sup>st</sup> Planner's report dated **09/12/20** notes -

- The proposed road is located along the eastern edge of the parcel of land zoned parks/recreational. The road would not encroach to any significant degree on the parks/recreational zoned land and would not compromise the use of the land for recreational and amenity purposes.
- The proposal would enable access to lands zoned C2.1 industrial/enterprise/employment in the LAP.

- The reasons for refusal on the previous application have been broadly addressed as there are now objectives in relation to the proposal in the town plan and LAP, whilst an NIS has been submitted with the application.

A request for further information recommended on issues raised in internal council and prescribed bodies reports summarised below.

The **2<sup>nd</sup> Planner's** report dated **17/08/21** notes:

- The Traffic and Transport Assessment report demonstrates that the proposal will not cause excessive vehicle queuing and will not impact negatively on the national road network in the area.
- Concerns in relation to how the proposal would accommodate the CFRAMS Flood Risk Management Plan for Tralee have been addressed. It includes a proposal to increase flood storage compensation volume.
- The need to raise the height of the underpass can be addressed by way of condition. The conditions recommended by the Capital Infrastructure Unit requiring the applicant to make lands available for the construction of the Ballymullen to Ballyseedy Greenway and a special contribution towards same are neither necessary nor reasonable.

A grant of permission subject to conditions recommended.

#### 4.2.2. Other Technical Reports

**1<sup>st</sup> Flooding and Coastal Protection Unit** report dated **16/11/20** recommends further information on how the development will impact on proposed CFRAM works on the rivers, allowance for overall loss of existing flood plain storage arising from the said works and development of adjoining site, confirmation that section 50 licence is still valid and treatment of Ballyseedy Amenity Trail. The **2<sup>nd</sup> report** dated **22/06/21** following FI has no objection subject to conditions. A **3<sup>rd</sup> report** dated **24/06/21** states that he is satisfied that the new bridge is designed to accommodate in excess of the 1% AEP MRFS and the designed freeboard allowance will allow for any loss of flood plain storage resulting from the progression of the proposed measures detailed in the Tralee CFRAM scheme.

**1<sup>st</sup> Kerry National Roads Office** report dated **20/11/20** has concerns as to how the agricultural entrance is to be modified and potential for queues to develop on the by-

pass. It should be demonstrated that the predicted queue length for peak traffic on the link road does not reach the roundabout during the peak period. The **2<sup>nd</sup> report** dated **16/08/21** following FI recommends the recessing of the agricultural access 12 metres from the edge of the proposed link road so as to mitigate the risk of collision.

**Fire Authority** has no objection.

**1<sup>st</sup> Environment Section's** report dated **04/12/20** details conditions to be attached should permission be granted.

**1<sup>st</sup> Biodiversity Officer's** report dated **09/12/20** recommends further information on planting regime, impact of planting on flood storage compensation area, management of the watercourses during construction and operational phases and details necessary to complete appropriate assessment. The **2<sup>nd</sup> report** dated **16/08/21** following FI considers that adverse effects on European Sites can be excluded. She notes that IFI would not object to a grant of permission subject to conditions. The bridging of the River Lee is acceptable and is not likely to have a significant impact on the watercourse at construction stage further to the mitigation proposed in the CEMP/NIS/EcIA. Notwithstanding the loss of annexed woodland habitat the proposal will have an acceptable impact on the ecological environment that can be mitigated as detailed.

**County Archaeologist** in a report dated **06/11/20** notes the proximity of a recorded monument, the 20 metre buffer to be maintained to same and archaeological monitoring of all ground works.

**Capital Infrastructure Unit** in an email dated **06/08/21** notes that the proposed route of the Ballymullen to Ballyseedy Greenway intersects with the proposed road. The proposed underpass to accommodate same does not meet the desirable minimum headroom requirements as prescribed in the TII publication - Rural Cycleway Design (Offline). It's alteration should be requested or conditions attached amending the vertical alignment of the road and/or location of underpass to satisfy these requirements. The amended proposal should have regard to potential flooding. Conditions to be attached should permission be granted are detailed including applicant to provide lands for the construction of the greenway and payment of special contribution of €196,000.

#### 4.3. Prescribed Bodies

**1<sup>st</sup> report** from **Transport Infrastructure Ireland** dated **20/11/20** considers the proposal to be at variance with official policy. Insufficient data has been submitted to demonstrate that the proposal will not have a detrimental impact on the capacity, safety or operational efficiency of the national road network and the plans do not adequately outline how the existing agricultural access will be incorporated in the proposed scheme in compliance with prevailing design standards. The **2<sup>nd</sup> report** dated **16/07/21** advises that the Authority's position remains as set out in its earlier correspondence.

**Environmental Health Officer, HSE** recommends conditions should permission be granted.

**Department of Agriculture, Food and the Marine** has no observations.

#### 4.4. Third Party Observations

Objections to the proposal received by the planning authority are on file for the Board's information. The issues raised are comparable to those in the 3<sup>rd</sup> Party appeals summarised in section 6 below. Development potential of adjoining lands, access to same and potential knock-on impact of alterations to the watercourses also raised.

### 5.0 Planning History

**PL08.247425 (15/1173)** – permission refused for new access road from N70/N22 roundabout to connect to the Manor Retail Park internal road. The two reasons can be summarised as follows:

1. Contravention of national policy to preserve the level of service and carrying capacity of the national road network and lack of support in local development plan policy.
2. In the absence of a NIS the Board was not satisfied that the proposed development, in combination with other plans or projects, would not be likely to have a significant effect on European sites. The Board was therefore precluded from giving further consideration to the granting of permission.

**ABP-305310-19** – permission granted for 4 retail warehouse units, 1 garden centre and 330 on-grade car parking spaces on lands immediately to the north and west of the appeal site. It includes an extension of the Manor Retail Park internal road southwards.

## **6.0 Policy Context**

### **6.1. Development Plan**

#### **6.1.1. Tralee Town Development Plan 2009-2015 (as extended)**

The site is within an area zoned for recreational purposes. The lands immediately to the north are zoned built up area/mixed use with the lands to the north-east zoned industrial/enterprise/employment.

Objective RDPO8 - Refer applications for developments accessing national routes to the National Roads Authority for their recommendations. Development proposals shall be assessed in accordance with the National Roads Authority's Policy Statement on Development Management and Access to National Roads, 2006 and the National Roads Authority's Traffic and Transport Assessment Guidelines, 2007. Applicants will be required to comply with the recommendations of the National Roads Authority.

Objective RDPO9 - Require all developments that have potential trip generation that could adversely affect the performance of the national road network, to be accompanied by a Transport Assessment in accordance with the provisions of the NRA Traffic and Transport Assessment Guidelines, 2007 and Road Safety Audits in accordance with the National Roads Authority's Policy Statement on Development Management and Access to National Roads, 2006. Assessments and audits shall include an assessment of the cumulative impact with neighbouring developments on the road network.

Objective RDPO13 - Have regard to the provisions of the Spatial Planning and National Roads Guidelines for Planning Authorities.

Objective RDPO14 - Maximise the beneficial return on investment in transport infrastructure by protecting the carrying capacity of all routes in the interest of value for money and public safety.



Objective TTS-08 – facilitate the sustainable development of an access road to Manor Retail Park from the Tralee By-Pass at Camp cross subject to consultation and agreement with Transport Infrastructure Ireland in accordance with section 2.7, Spatial Planning and National Roads Guidelines (DoECLG 2012).

#### 6.1.2. **Tralee Municipal District LAP 2018**

Objective TR-RI-10 – facilitate the development of an access road to Manor Retail Park from the Tralee By-pass at Camp Cross, subject to consultation and agreement with Transport Infrastructure Ireland in accordance with section 2.7 Spatial Planning and National Roads Guidelines (DoECLG 2012).

#### 6.2. **Natural Heritage Designations**

The nearest designated site is Ballyseedy Wood SAC (site code 002112) c. 500 metres to the south-east

### 7.0 **The Appeal**

#### 7.1. **Grounds of Appeal**

##### 7.1.1. **Marie Coffey**

The submission by Ger O’Keefe Consulting Engineers Ltd. on her behalf can be summarised as follows:

- The appellant is the owner and occupier of adjoining lands accessed via an existing agricultural entrance off the N22/N70 roundabout.
- The existing access is directly onto the roundabout. The appellant has not been contacted nor her permission sought to alter same.
- The plans and particulars lodged with the application showed the entrance being retained and recessed back 8 metres. The requirements of condition 4 attached to the decision requiring the entrance to be set back at least 12 metres from the edge of the proposed link road is unacceptable.

- There is no reference to the makeup/condition of the access, extent of the recessed gateway, boundary fences, kerb lines or finishes to the road access to the lands.
- The agricultural entrance will be directly opposite a ghost island. Although access to the site from the southern side will be possible, egress out will be almost impossible. It will create a traffic hazard for slow moving vehicles entering and exiting and will create a traffic hazard for road users going northwards onto the proposed estate road.
- The access should be provided directly onto the roundabout so as to have a safe means of access and egress to and from the lands.
- TII Guidelines do not exclude a 5<sup>th</sup> arm on a roundabout.
- Confirmation required that the Flood Risk Management Plan and the proposed development would not give rise to flooding of her lands.

#### 7.1.2. **Tommy Moynihan**

The submission by DFOD Project Management Consulting Engineers on behalf of the appellant can be summarised as follows:

- TII in submissions on the application stated that there was insufficient data submitted to demonstrate that the proposal would not adversely impact on the operation and safety of the national road network.
- The traffic assessment cannot be considered an accurate reflection of the effect of the road on the N22/N70 roundabout.
- Inadequate consideration given to the internal Manor Retail Park traffic flows or movements.
- The road will create a rat run between the R875 and R919 entrances and the N22/N70 roundabout.
- It will upset the free flow of the Tralee by-pass and adversely impact its efficiency and safety.
- The application fails to address the agricultural entrance.

- The planning authority did not consult the OPW. The existence of an old licence is not sufficient to have the support of the OPW.
- Areas both north and south of the by-pass have flooded in the past.
- The location of the bridge at the confluence of the Lee and Ballynabrennagh Rivers is inappropriate. It will produce contraflows and will result in significant flooding.
- The increase in development and associated surfaced areas will result in increases in discharges to the rivers.
- It is not definite that the access road will be high enough to form a flood barrier.
- The greenway which is an objective of the development plan should not be compromised.

The appeals were circulated to the other 3<sup>rd</sup> parties.

A response was received from DFOD Project Management Consulting Engineers on behalf of Tony Moynihan stating that the appeal on behalf of Ms. Coffey reinforces TII's position and why the proposal should be refused.

## 7.2. Applicant Response

The two submissions by McCutcheon Halley on behalf of the applicant in response to the two 3<sup>rd</sup> party appeals can be summarised as follows:

### 7.2.1. *Agricultural Entrance*

- The proposed agricultural gate to the south-west of the proposed bridge is on publicly owned lands. The appellant's lands are located over 100 metres from the existing Camp roundabout when measured along the gravel pathway (approx.80 metres straight line distance). Condition 4 does not result in any physical change to the appellant's landholding.
- Kerry County Council as owners of the land and gated entrance to which condition 4 relates, are entitled to make changes to the entrance especially when the changes are in the interests of traffic safety.

- The revised arrangement provides dropped kerbs and tactile paving and will also facilitate a direct access link to the existing shared pedestrian/cycle lane along the by-pass without any conflict between traffic using the agricultural entrance and the shared pedestrian/cycle lane facility.
- The revised arrangement has been verified based on the requirements of Section 6.7 of TII publication DN-GEO-03060.
- The appellant has not given any valid reason to support the argument that the gated access to her agricultural land via publicly owned land should be directly onto the existing roundabout other than this is the existing arrangement.

### 7.2.2. **Access Road**

- The proposed access is supported by local development plan policy, is planned and will result in significant benefits for the wider area including access to lands zoned for strategic employment use.
- The provision of the link road is an important component of the overall Tralee by-pass infrastructure and is fully consistent with the strategic objectives for the town and DoECLG guidance.
- The Spatial Planning and National Roads Guidelines 2012 recognise that in certain circumstances additional junctions or enhancements to junctions on national roads may be necessary to service development needs. Section 2.7 of the Guidelines referred to in the relevant objectives in the Tralee Town Development Plan and Tralee Municipal District LAP indicate that the National Roads Authority will support such enhancement as long as certain criteria are satisfied. The proposal meets the criteria as follows:
  - Tralee is a population and employment hub. The proposed road/bridge link to the N70/N22 will strengthen the town's roads infrastructure and employment base by providing the main access to the strategic industrial/enterprise/employment zoned lands. It would not give rise to undesirable precedent for further traffic generating development at or in the vicinity of the proposal.

- The LAP and the Town Development Plan are consistent with the NPF and regional strategy.
  - The undeveloped zoned lands to the east of the proposed access road are wholly dependent on the proposed access road/bridge.
  - The proposal is the only access option.
  - The Traffic and Transport Assessment shows that the additional traffic loading can be satisfactorily accommodated at the junction. It outlines the likely traffic demand and associated measures to manage same.
  - The design complies with the NRA Design Manual for Roads and Bridges.
  - The applicant will be funding and delivering the proposed access road and bridge.
- The proposal was subject to a robust Traffic and Transport Assessment Report and Road Safety Audit which clearly demonstrate that the development will not give rise to any adverse traffic impacts in the area.
  - The proposal would provide a significant reduction in peak hour traffic volumes on the existing local urban road network and will not have a significant negative impact on the N70, N21 and the N22/N70 roundabouts.
  - The TTA concluded that the Tralee by-pass would continue to operate well within capacity and that the development would not have any negative impacts on the safety and operational efficiency of the national road network within the vicinity.
  - TII did not object to or appeal the Council's decision.

### 7.2.3. **Flood Risk**

- A Flood Risk Assessment was undertaken. It included a justification test. A hydraulic model was used to determine the predicted 1% AEP flood level for the mid-range future climate scenario. This level was used to determine the volume of flood plain storage loss incurred by the development. This loss was then mitigated by providing compensation storage within the application site.

- It was comprehensively demonstrated that the proposal will not increase the flood risk outside the confines of the site.

### 7.3. **Planning Authority Response**

None received.

### 7.4. **Further Responses**

The agent for the applicant's response to the appeal by Marie Coffey was circulated for comment.

The response from Ger O'Keefe Consulting Engineers Ltd. on Marie Coffey's behalf can be summarised as follows:

- There is no proposal to improve sight lines for the egress out of the Coffey property either to the north or south. There should be a proper, curved access road giving adequate sight lines so that it improves safety of the access/egress. A suitable access with designed curves should be included, identified by kerb lines.
- The incorporation of broken lines could be altered at a later stage by the Road Authority if the road became a public road.
- The drawing submitted as part of further information and sent to them by correspondence from the Board dated 13/1/21 should form part of the decision and be conditioned. It is not the safest option. The safest option is the present access onto the roundabout.
- There is no technical basis prohibiting a 5 arm roundabout. There are numerous such roundabouts on dual carriageways and grade separated junctions on new road schemes. Departures from standards are frequently allowed and form an integral part of the design process. It is accepted that a 5 arm roundabout would require a departure from standard as set out in the TII Design Guidance.

### 7.5. **Observations**

None

## 7.6. Section 131 Notices

As the Board was of the view that the proposal might affect a recorded monument and might have significant effects in relation to nature conservation, certain prescribed bodies were invited to make a submission/observation on the appeal.

No responses received.

## 8.0 Assessment

I consider that the issues arising in the case can be assessed under the following headings:

- Planning History and Policy Context
- Access and Traffic
- Flood Risk
- Appropriate Assessment

### 8.1. Planning History and Policy Context

- 8.1.1. Permission was previously sought for a new road between the N70/N22 roundabout on the Tralee by-pass and the internal service roadway within the Manor West Retail Park equating to a length of approx. 330 metres. The purpose of the road was so as to allow for an alternative access to the Manor West Retail Park and also to allow for the opening up of the remainder of the lands within the applicant's ownership for future development for offices.
- 8.1.2. The planning authority's grant of permission was overturned on appeal in March 2017. The two reasons for refusal cited contravention of national policy with respect to the protection of the national road network, lack of support for the proposal in local development plan policy and, in the absence of a NIS, lack of evidence that the proposed development, in combination with other plans or projects, would not be likely to have a significant effect on European sites.
- 8.1.3. In December 2019 the Board granted permission under ref. ABP-305310-19 for 4 retail warehouse units, garden centre and 330 on-grade car parking spaces on lands immediately to the north/north-west of the appeal site. The permitted development

provides for an extension of the Manor Retail Park internal road southwards. Construction has not yet commenced on the permitted development.

- 8.1.4. As a consequence of the above permission the road subject of this current appeal is approx. 180 metres in length. The purpose of the road is as cited in the previous application, namely to allow for access to the remaining zoned lands in the applicant's ownership to the east designated for industrial//enterprise/employment uses and to provide more direct access to the existing and permitted Manor West (Gateway) Retail Park.
- 8.1.5. Consequent to the previous refusal and in addressing the 1<sup>st</sup> reason for refusal the Tralee Town Development Plan 2009-2015 (as extended), by way of variation no.5 adopted in 2018, now includes a stated objective ( TTS-08) which seeks to “facilitate the sustainable development of an access road to Manor Retail Park from the Tralee By-Pass at Camp Cross subject to consultation and agreement with Transport Infrastructure Ireland in accordance with section 2.7 of the Spatial Planning and National Roads Guidelines (DoECLG 2012)”. This objective is repeated in the Tralee Municipal District LAP 2018 under objective R-RI-10 with an arrow on the accompanying map delineating an indicative access.
- 8.1.6. As per section 2.7 of the Guidelines on Spatial Planning and National Roads, 2012 additional junctions or enhancements to junctions in certain circumstances may be necessary to service development needs of national and strategic importance, or in cases where a proposed development is demonstrated by the planning authority to be more appropriately located proximate to such junctions. Criteria which is to be met in full is detailed, on foot of which the TII would support such capacity enhancements. I note that Table 1 of the applicant's response to the appeals sets out how it considers the proposal complies with the stipulated criteria with regard had to the function of Tralee as a population and employment hub and the fact that the industrial/enterprise/employment zoned lands included in the Tralee Municipal District LAP are dependent on the proposed access. The application is also accompanied by a Traffic and Transport Assessment so as to demonstrate that the additional traffic loading can be accommodated.
- 8.1.7. I did not identify any detail in the documentation accompanying the application which corroborates the assertion that the proposed access is the only way by which the



lands can be accessed or that the existing entrances to the retail park from the north and west do not have the capacity to provide for the anticipated traffic generation. I also note from the Traffic and Transport Assessment that the proposed access would provide an additional, more direct access to the existing Manor West Retail Park and its permitted expansion to the north of the appeal site. Approx. 20% of the park's traffic will use the new access, How such provision accommodating retail development is of national and strategic importance as required by section 2.7 has not been substantiated.

8.1.8. Whilst it would appear that the policy vacuum which was noted in the 1<sup>st</sup> reason for refusal on the previous appeal has been addressed, the agreement of Transport Infrastructure Ireland, which is explicitly referenced as being a prerequisite to the realisation of the objective, appears to remain outstanding. In being advised of the application and the further information submission TII in correspondence to the planning authority considers that the proposal is at variance with official policy in relation to the control of development on/affecting national roads on the grounds and that insufficient data has been provided to demonstrate that the proposal will not have a detrimental impact on the capacity, safety or operational efficiency of the road. The fact that TII did not appeal the planning authority's decision does not negate its concerns as expressed at application stage nor can be construed as to its acceptability of the proposal. I note that the appeal submission on behalf of Tommy Moynihan notes the TII's concerns and is of the opinion that the proposal will upset the free flow of the Tralee by-pass thereby adversely impacting its efficiency and safety.

8.1.9. On the basis of the foregoing I note that:

- the proposal entails the development of an additional junction onto a national road where the 100kph speed limit applies.
- the proposal has not been subject to the agreement with Transport Infrastructure Ireland as required by the relevant development plan objectives and, in failing to do so, thereby materially contravenes the provisions of the said objectives.

8.1.10. In view of the overarching national policy to protect the capacity and safety of the national road network I consider that a high bar is required to be set to allow for

consideration of an additional junction at such a location notwithstanding the development plan objectives. In my opinion this has not been met. It is for the TII to assess a proposal's suitability against the criteria as set out in section 2.7. In the absence of the necessary agreement from TII as to the acceptability of the proposed access onto the national road network I consider that the proposal would contravene national policy to preserve the level of service and carrying capacity of the national road network and to protect public investment in the network. It would also materially contravene objective RDP014 of the Tralee Town Development Plan 2015, as extended, which restates the said national policy.

## **8.2. Access and Traffic**

- 8.2.1. The application is accompanied by a Traffic and Transport Assessment which was amended by way of further information. Notwithstanding the issues raised in the Inspector's report on the previous appeal due cognisance does not appear to have been taken of the lands covered by the industrial/enterprise/employment zoning not within the applicant's ownership and which could reasonably be expected to use the new access arrangements. I also note that the extent of proposed development on the applicant's lands taken into consideration in this instance is lower than that previously considered, with the floorspace of the retail warehousing permitted under ref. ABP 305310 given as 7245 sq.m. which is almost half that previously proposed at 13,202 sq.m. The anticipated 10,000 sq.m. of offices on the lands to the east is the same as that previously proposed. Whilst consideration is given to the existing Manor West Retail Park which has a floor area in the region of 28,700m<sup>2</sup> the potential for the route to be used as a through route (or rat run as suggested by the agent for Mr. Moynihan) has not been addressed and which was raised as a potential concern in the Inspector's report on the previous appeal.
- 8.2.2. It is envisaged that the proposed southern access would be used to access the existing and permitted Manor West (Gateway) Park development by trips generated on the N22 and N70; a majority proportion of trips generated on the N21 and N69 and a proportion of trips generated on the N86. This would equate to a diversion of c.19% of the total August Friday evening peak hour vehicle trips generated by the retail park.

- 8.2.3. The proposed southern access would increase traffic volumes at the access roundabout by approx. 26% in the opening year of 2021. The assessment concludes that the existing 2+2 lane Tralee by-pass Road would continue to operate well within its TII AADT rural road link capacity of 20,000 vehicles with the highest predicted AADT volume/capacity ratio of 67% in 2036 with the proposed southern access and future Manor West Gateway Park business offices in place. The N22/N70 roundabout with and without the proposed southern access and future Manor West Gateway Park business offices in place would operate well within practical capacity without significant queuing and delays for the predicted 2021, 2026 and 2036 August Friday evening peak traffic volumes. The proposed N22/N70/Southern Access Roundabout junction would operate with a highest RFC of 0.555 and highest delays per vehicle of 0.11 minutes in 2036. This compares to a highest RFC of 0.478 and highest delays per vehicle of 0.08 minutes without the proposed development.
- 8.2.4. From the details provided the development would not have a significant adverse impact on the surrounding network however I would query whether the assessment presents the worst case scenario with allowance made for the potential development of all lands which would be accommodated by the access and assessment of the potential use or otherwise of the road as a connection between the Tralee By-Pass to the south and the R875 to the north.

### ***Agricultural Access***

- 8.2.5. There is an existing agricultural gate with gravel access onto The Camp roundabout positioned on publicly owned lands which provides access to Ms. Coffey's lands. Her landholding is setback over 100 metres from the existing Camp roundabout when measured along the gravel pathway or approx.80 metres in a straight line distance. The development as proposed entails the relocation of the entrance so that it would be onto the proposed access road. By way of condition 4 the planning authority requires the entrance to be set back 12 metres from the edge the road. Ms. Coffey is seeking to retain the access arrangements onto the roundabout by way of a 5<sup>th</sup> arm.
- 8.2.6. The access arrangements as originally proposed and subsequently amended by condition 4 does not result in any physical change to the appellant's landholding. I

would concur with the view that Kerry County Council as owners of the land are entitled to make changes to the entrance especially when the changes are in the interests of traffic safety.

### **Interface with Proposed Ballymullen-Ballyseedy Greenway**

8.2.7. As per the amended plans submitted by way of further information an underpass for to serve the Ballymullen to Ballyseedy greenway is provided. The Board is advised that condition 5 attached to the planning authority's decision to grant permission requires amendments to the underpass so that a minimum head height of 2.4 metres be provided.

### **8.3. Flood Risk**

8.3.1. The matter of flood risk was subject of assessment in the Inspector's report on the previous appeal. The southern section of the site, in the vicinity of the confluence of the two watercourses, is within Flood Zone A with the area in the vicinity of the existing yard and building within Flood Zone B.

8.3.2. The current application is accompanied by a Flood Risk Assessment with further details provided by way of additional information as to how the proposal will accommodate the preferred option of embankments along the watercourses proposed in the CRFAMS Flood Risk Management Plan for Tralee.

8.3.3. The provision of the access road requires the construction of a new bridge over the River Lee immediately to the west of its confluence with the Ballynabrennagh River. The highest point of the proposed access road is 7.74mOD just north of the bridge decreasing to 6.785mOD at the edge of the N22/N70. There will be a reduction in flood plain storage by 210m<sup>3</sup> arising from the raising of the ground levels. As per the details provided in the further information response this is to be compensated by the lowering of 640 m<sup>2</sup> of the site by a depth of 0.42 metres on the west side of the proposed road adjacent to the Lee River. This increases the volume from 210m<sup>3</sup> to 270m<sup>3</sup>, an increase of 28%. The excavated area is to be linked to the River Lee by a channel immediately downstream of the bridge so that the storage area can fill and empty as the flood level rises and recedes. This will ensure that the works will not have an impact on flooding elsewhere. This storage area will become redundant once the food embankments proposed in the CFRAMS are constructed.

- 8.3.4. As part of the site is within Flood Zone A the assessment contains a Justification test as outlined in Box 5.1 of the Flood Risk Management Guidelines with the development considered to be less vulnerable.
- 8.3.5. I consider that sufficient detail has been provided to support the conclusion that the proposed development would not be subject to flooding nor will give rise to the risk of flooding elsewhere.

#### **8.4. Appropriate Assessment**

- 8.4.1. In response to the 2<sup>nd</sup> reason for refusal on the previous appeal a NIS has been prepared and accompanies the application. The application is also accompanied by an Ecological Impact Statement. A Native Woodland Establishment Plan was submitted by way of further information.

#### **Compliance with Articles 6(3) of the EU Habitats Directive**

- 8.4.2. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.
- 8.4.3. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and, therefore, is subject to the provisions of Article 6(3).
- 8.4.4. The application is accompanied by a Natura Impact Statement (NIS) prepared by Kelleher Ecology Services Ltd. It contains a description of the proposed development, the project site and the surrounding area. It outlines the methodology used for assessing potential impacts on the habitats and species within the European Sites that have the potential to be affected by the proposed development. It predicts the potential impacts for the sites and their conservation objectives, it

suggests mitigation measures, assesses in-combination effects with other plans and projects and it identifies any residual effects on the European sites and their conservation objectives.

- 8.4.5. Having reviewed the documents and submissions I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development alone, or in combination with other plans and projects on European sites.

#### ***Need for Stage 1 AA Screening***

- 8.4.6. The project is not directly connected with or necessary to the management of a European Site and, therefore, it needs to be determined if the development is likely to have significant effects on a European site(s). 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 in view of the conservation objectives of those sites.

#### ***Brief Description of the Development***

- 8.4.7. The applicant provides a description of the project in Section 2.3 of the NIS. The development is also summarised in Section 2 of this Report. In summary, the proposed development entails the demolition of an existing shed and the construction of a new access road and bridge from the existing roundabout at Camp to connect with the existing Manor Retail Park internal road and all associated ancillary development. Riparian zone wet woodland will be permanently removed with a c.600m<sup>2</sup> flood plain storage compensation area (increased from the 500m<sup>2</sup> originally proposed) to compensate for the loss of 210m<sup>3</sup> existing flood plain storage in the vicinity of the northern bank of the Lee river where an embankment will be constructed to facilitate the proposed bridge crossing.
- 8.4.8. The ecology team undertook site visits in May 2020. The site is relatively flat comprising largely of disturbed ground. The site encompasses the intersection of the Lee River and Ballynabrennagh Stream. The Lee River discharges to Tralee Bay c. 3.2 km downstream of the site. Annex I wet woodland habitat listed under the EU Habitats Directive Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* was recorded by the watercourses. Otter was confirmed just upstream of the site in

the Lee River. The non-native invasive species of Himalayan Balsam and Buddliea were recorded within the site.

*Zone of Influence and Potential for Impacts*

Figure 2.1 of the NIS shows the Natura 2000 sites within 15 km of the site. I note that the site is not within or immediately adjacent to a Natura 2000 site.

**Summary of European Sites within the possible Zone of Influence**

<b>European Site</b>	<b>Distance</b>
Ballyseedy Wood SAC (site code 002112)	0.46 km to south-east
Slieve Mish Mountains SAC (site code 002185)	1.85km to south-west
Tralee Bay and Magharees Peninsula, West to Cloghane SAC (site code 002020)	2.72 km to west
Tralee Bay Complex SPA (site code 004188)	2.80 km to west
Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (site code 004161)	6.23km to north-east
Castlemaine Harbour SAC (site code 00343)	10.74km to south-west
Akeragh, Banna and Barrow Harbour SAC (site code 00332)	11 km to north-west
Lower River Shannon SAC (site code 002165)	11km to north
Castlemaine Harbour SPA (site code 0040290)	12km to south-west

8.4.9. Section 3.1 of the NIS identifies potential impacts associated with the proposed development taking account of its characteristics in terms of its location and the nature and scale of works proposed, examines whether there are any European sites within the zone of influence, and assesses whether there is potential for a significant effect or effects on any European sites, either alone or in combination with other plans or projects. The site is not located in a Natura 2000 site and, as such, the potential for direct impacts can be excluded. Having regard to the source-pathway-receptor model the potential for indirect impacts arising due to surface water runoff, waste-water discharge, disturbance/displacement and the spread of

invasive plant species needs to be considered. The NIS identifies the need to consider the potential for impacts arising from flooding.

8.4.10. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

*Construction Phase:*

- Surface water run-off from the site that contains silt, sediments and/or other pollutants impacting water quality in downstream Natura 2000 sites.
- Disturbance and displacement of qualifying species due to disturbance associated with construction activities and increased human activity during the construction.
- Indirect habitat loss or deterioration.
- The potential for the spread of invasive species that would result in habitat loss or damage in downstream locations including Natura 2000 sites.

*Operational Phase:*

- Surface water run-off from the site that contains silt, sediments and/or other pollutants impacting water quality in downstream Natura 2000 sites.
- Disturbance and displacement of qualifying species (due to increased human activity in the area).

*Submissions and Observations*

8.4.11. The 3<sup>rd</sup> Party appeal raises concerns regarding the impact of the proposal on flooding.

*Consideration of Impacts*

8.4.12. The development site is not located in or immediately adjacent to a European site. In determining the extent of potential effects of the development, the source-pathway-receptor model of impact was used.

- Alluvial forests with *Alnus glutinosa* and *Fraxinun excelsior* present on the site is independent of that at Ballyseedy Wood SAC c. 460 metres to the south-



east. The SAC is not ecologically dependent on the habitat on the site. Impact on the SAC can be screened out.

- There is a hydrological connection to Tralee Bay and Magharees Peninsula, West to Cloghan SAC and Tralee Bay Complex SAC c. 2.7km to the west. Indirect effects arising from impacts on water quality during the construction and operational phases cannot be ruled out.
- Otter which is a qualifying interest of the Tralee Bay and Magharees Peninsula, West to Cloghan SAC was noted in the immediate vicinity of the site. The watercourses at the site are considered to be of ecological value for otter in relation to commuting, resting and foraging opportunities.
- Site survey has identified the invasive species of Buddleia (medium risk) Himalayan Balsam (high risk) within the site. The potential for the spread of invasive species that would result in habitat loss or damage in downstream locations including Natura 2000 sites is also raised in the NIS. The watercourses could act as a conduit for the spread of these species into the designated site associated with Tralee Bay. Therefore, the potential for habitat loss or damage within the SAC and SPA due to the spread of invasive species cannot be screened out.
- The site does not support habitats of ex-situ ecological value for qualifying interest species of the SPA. The site is not used by any qualifying species or any other waterbirds for foraging / roosting. Due to the separation distance, combined with intervening development the potential for significant impacts on birds that are qualifying species of the SPA due to disturbance / displacement effects can be screened out.
- The loss of 210m<sup>3</sup> of flood plain storage is to be offset by the installation of a 640 m<sup>2</sup> flood plain storage compensation area. The proposed new road and bridge will not be subject to flooding and will not increase flood risk outside the site. Impacts on European Sites can be screened out.
- There is no hydrological link to any other European Site within 15km radius namely Slieve Mish Mountains SAC (site code 002185), Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (site code 004161), Castlemaine Harbour SAC and SPA (site codes 00343 and

004029), Akeragh, Bann and Barrow Harbour SAC (site code 00332) and Lower River Shannon (site code 002165).

#### *Mitigation Measures*

- 8.4.13. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

#### **Screening Determination**

- 8.4.14. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) could have a significant effect on European Site nos. 002070 and 004188 in view of the sites' Conservation Objectives and Appropriate Assessment (and submission of a NIS) is therefore required.

#### **The Natura Impact Statement**

- 8.4.15. The NIS examines and assesses potential adverse effects of the proposed development on 1 no. designated European Site.
- 8.4.16. The NIS is stated as having been informed by best practice guidance for such assessments, a desktop and literature study, including NPWS databases, the synopses, Natura 2000 Data Forms and conservation objectives and EPA mapping, and surveys.
- 8.4.17. Section 4 of the NIS contains an assessment of the potential impacts of the proposed development on the identified European Sites. and in combination effects with Section 4.4 setting out a series of mitigation measures.
- 8.4.18. The NIS concluded that there will be no significant effects to the integrity of the designated sites.
- 8.4.19. Having reviewed the NIS, all supporting documentation and submissions, I am satisfied that the information allows for a complete assessment of any adverse effects of the proposed development on the conservation objectives of the abovementioned European sites alone, or in combination with other plans and projects.

*Appropriate Assessment of Implications of the Proposed Development.*

8.4.20. The following is an assessment of the implications of the project on the relevant conservation objectives of the European site using the best available scientific knowledge in the field (NIS). All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are examined and assessed. I have relied on the following guidance:

- DoEHLG (2009). Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities. Department of the Environment, Heritage and Local Government, National Parks and Wildlife Service. Dublin
- EC (2002) Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC
- EC (2018) Managing Natura 2000 sites. The provisions of Article 6 of the Habitats Directive 92/43/EEC.

*Relevant European sites:*

- Tralee Bay and Magharees Peninsula, West to Cloghane SAC
- Tralee Bay Complex SPA

8.4.21. A description of the sites, their qualifying/conservation interests and conservation objectives are set out in the NIS and summarised in the Tables below. I have also examined the Natura 2000 data form and the conservation objectives supporting documents for the site available through the NPWS website ([www.npws.ie](http://www.npws.ie)).

<b>Tralee Bay and Magharees Peninsula, West to Cloghane SAC</b> c. 2.8km overland and 3.4 km via hydrologic connection to the west of the proposed development.	
<b>Conservation Objectives and Qualifying Interests</b>	<b>Potential Impacts</b>
CO – To maintain (M) or restore (R) the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.	<u>Direct Effects:</u> No direct effects due to separation distance.

<p>Estuaries (M)</p> <p>Mudflats and sandflats not covered by seawater at low tide (M)</p> <p>Coastal lagoons (R)</p> <p>Large shallow inlets and bays (M)</p> <p>Reefs (M)</p> <p>Annual vegetation of drift lines (R)</p> <p>Perennial vegetation of stony banks (M)</p> <p>Salicornia and other annuals colonising mud and sand (M)</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) (M)</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) (M)</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) (R)</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) (R)</p> <p>Dunes with <i>Salix repens</i> ssp. <i>argentea</i> (<i>Salicion arenariae</i>) (M)</p> <p>Humid dune slacks (R)</p> <p><i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) (M)</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) (R)</p> <p>Otter (R)</p> <p>Petalwort (R)</p>	<p><u>Indirect Effects:</u></p> <p>All habitats and species potentially impacted from changes in water quality. Potential for indirect effects from construction and operational phase surface water discharge. Disturbance/ displacement of species from construction and operational activities. Spread of invasive species.</p>
--	--

**Tralee Bay Complex SPA** c. 2.8km overland and 3.4 km via hydrologic connection to the west of the proposed development.

**Conservation Objectives and Conservation Interests**

**Potential Impacts**

- Whooper Swan (M)
- Light-bellied Brent Goose (M)
- Shelduck (M)
- Wigeon (M)
- Teal ((M)
- Mallard (M)
- Pintail (M)
- Scaup (M)
- Oystercatcher (M)
- Ringed Plover (M)
- Golden Plover (M)
- Grey Plover (R)
- Lapwing (M)
- Sanderling (M)
- Dunlin (M)
- Black-tailed Godwit (M)
- Bar-tailed Godwit (M)
- Curlew (M)
- Redshank (M)
- Turnstone (M)
- Black-headed Gull (M)
- Common Gull (M)

Direct Effects:  
 No direct effects due to separation distance.

Indirect Effects:  
 All species potentially impacted from changes in water quality  
 Potential for indirect effects from construction and operational phase surface water discharge.  
 Spread of invasive species.

*Aspects of the Proposed Development*

8.4.22. The main aspects of the proposed development that could adversely affect the conservation objectives of the European site include the release of sediment and other pollutants to surface water during the construction and operational phases as the site is hydrologically linked to the SAC and SPA via the two water courses within the site boundaries. Disturbance/displacement of qualifying interests and spread of invasive species are also of relevance.

8.4.23. Section 4.2 of the NIS details mitigation measures to be employed. The mitigation measures include:

*Construction Phase:*

- Containment bund to be excavated immediately downstream of the piling rig set up for the bridge construction to stop silty water in the excavation entering the stream. Excavation to be kept dry at all times. Discharge from the excavation via a settlement tank prior to discharge to the stream. Regular monitoring of discharge prior to entering stream.
- A layer of blinding concrete to be placed to provide a clean, level working surface on which to construct the reinforced concrete base slab.
- Concrete to be delivered ready-mixed.
- Best practice measures to be incorporated including siting and storage of fuel, oils, hydraulic fluids etc., availability of spill kits, wheel wash facilities.
- The mixing of mortar where needed will be carried out at small scale within designated bunded areas.
- No interference with the watercourses, their banks or bankside vegetation.
- Save to facilitate construction of the bridge, buffer zones to the watercourses to be put in place inside of which all construction activities and mechanical works are excluded.
- Storage of material to be at least 20 metres from the watercourses.

- Installation of silt fences. Silt fences to be checked twice daily.
- Total suspended solid levels in also discharge shall be in compliance with the Quality of Salmonid Water Regulations (SI293:1988).
- Preparation of Emergency Operating Plan.
- Retention of ecologist to oversee works
- Area where existing topography is directing rainfall runoff towards either watercourse from the excavated area will be blocked with a temporary berm of soil.
- Construction during hours of darkness to be kept to a minimum to minimise disturbance to otter.
- Lighting scheme to be designed to minimise light spillage to retained/new wildlife corridors. No light spillage to occur in relation to Lee River and Ballynabrennagh Stream and associated riparian zones.
- Appropriate measures to manage, control/eradicate invasive species in accordance with current guidelines with preparation of a site specific management plan.

#### *Operational Phase*

- Two surface water outfalls discharging to the Lee River will avoid instream works in line with current guidelines.
- All storm water discharge to be directed through hydrocarbon interceptors.
- Storm drainage system to be cleaned appropriately and inspected prior to being fully commissioned. System with associated hydrocarbon interceptors and silt collection will be cleaned and maintained on an on-going basis.
- Water sampling of receiving water up and down stream of proposed outfall to be undertaken before commencement of construction and for 6 months on completion of development.
- Lighting scheme to be designed to minimise light spillage to retained/new wildlife corridors. No light spillage to occur in relation to Lee River and Ballynabrennagh Stream and associated riparian zones.

- Mammal resistant fencing to be installed in association with the bridge crossing.
- New native wet woodland habitat planting to be undertaken within the proposed new flood storage compensation area adjoining the Lee River as well as along section of the western bank of Ballynabrennagh Stream. A Wet Woodland Habitat Management Plan to be drawn up

8.4.24. I am satisfied that the measures outlined fully address any potential impacts on the designated sites arising from the proposed development.

8.4.25. In terms of possible in-combination effects, plans, programmes and existing and proposed developments were considered. I do not consider that there are any specific in-combination effects that arise from other plans or projects. Regard is had to the permitted retail warehouse development granted under ref. PL08.305310 and the proposed Ballymullen to Ballyseedy amenity trail.

8.4.26. This complete assessment allows for clear, precise and definitive conclusions to be reached in terms of adverse effects on the integrity of European sites.

8.4.27. Following the appropriate assessment and the consideration of mitigation measures, I am able to ascertain with confidence that the project would not adversely affect the integrity of Tralee Bay and Magharees Peninsula, West to Cloghane SAC and Tralee Bay Complex SPA in view of the conservation objectives of the sites. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

**Appropriate Assessment Conclusion:**

8.4.28. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.

8.4.29. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on Tralee Bay and Magharees Peninsula, West to Cloghane SAC (site code 00207) and Tralee Bay Complex SPA (site code 004188). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of the sites in light of their conservation objectives.



- 8.4.30. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European sites, or any other European site, in view of the sites' Conservation Objectives.
- 8.4.31. This conclusion is based on a complete assessment of all aspects of the proposed project including proposed mitigation measures and there is no reasonable scientific doubt as to the absence of adverse effects.

## 9.0 Recommendation

Having regard to the foregoing I recommend that permission for the above described development be refused for the following reasons and considerations.

## 10.0 Reasons and Considerations

The Board is not satisfied on the basis of the information submitted and having regard to the publication 'Spatial Planning and National Roads, Guidelines for Planning Authorities' 2012, that the proposed development would not contravene national policy to preserve the level of service and carrying capacity of the national road network and to protect public investment in the network. Furthermore, in the absence of evidence of agreement with Transport Infrastructure Ireland the proposed development contravenes materially objective TTS-08 of the Tralee Town Development Plan 2009 -2015 as extended and Objective TR-RI0-10 of the Tralee Municipal District LAP 2018 and would be contrary to the proper planning and sustainable development of the area.

---

**Pauline Fitzpatrick**  
**Senior Planning Inspector**

**January, 2022**