



An
Bord
Pleanála

Inspector's Report ABP-312838-22.

Development

Permission to demolish/delete single storey structure and to construct a 4 storey residential development consisting of 20 no. One bedroom apartments, 13 no. Two bedroom apartments, a basement storage area and all associated site works and services.

Location

James Street / Canal New Road /
Basin View, Tralee, Co Kerry.

Planning Authority

Kerry County Council.

Planning Authority Reg. Ref.

21/938.

Applicant(s)

Ned O'Shea & Sons Construction
(Tralee Ltd.).

Type of Application

Permission.

Planning Authority Decision

Grant.

Type of Appeal

Third Party

Appellant(s)

Laura & Graham Foster

Observer(s)

1. Denis McCarthy & Others
2. Mary Foster

Date of Site Inspection

24/06/2022.

Inspector

A. Considine.

DECISION QUASHED

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1.0 Site Location and Description

- 1.1. The subject site is located within the town of Tralee, approximately 500m to the south-west of the town centre. The site occupies a prominent corner position with James Street to the north, and Canal New Road to the west. There is hoarding along the sites boundary and there is a single storey structure present with bound James Street. To the south of the site, and fronting onto New Canal Road, there were three commercial buildings, but one has been demolished, and the large surface carparking area associated with the Kerry Group business is located to the rear of these buildings. The Kerry Group lands also include a former 3 storey apartment building which lies immediately to the east of the subject proposed site.
- 1.2. To the west of the site, this area of Tralee comprises a residential area with a large sports ground area across the road from the subject site. The Kerins O'Rahilly's GAA Club also lies in very close proximity to the subject site and the Park of Tralee, a large public green space, lies within 200m to the east of the site. The wider area also includes a number of uses including hotels and shops as well as other businesses, including the 4 storey Brandon Court development to the north. The existing buildings to the north of James Street are three storeys in height while the commercial units to the south comprise commercial buildings which rise to approximately double height.
- 1.3. The site the subject of this appeal, has a stated area of 0.12ha and is currently occupied by an existing building which has a stated floor area of 72m². It was inaccessible on the date of my site inspection, but there appears to be some dumping of material occurring. The site is bound to the east and south by high walls. The site has been developed in the past and is largely concreted, and therefore is currently brownfield in nature.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices, to demolish derelict single storey structure and to construct a 4-storey residential development consisting of 20 no.

One bedroom apartments, 10 no. Two bedroom apartments, a basement storage area and all associated site works and services, all at James Street / Canal New Road / Basin View, Tralee, Co Kerry.

2.1. The application included a number of supporting documents including as follows:

- Plans, particulars and completed planning application form.
- Design Statement

2.2. Unsolicited further information relating to drainage and water services layout plan, was submitted on the 26th of August 2021.

2.3. Following the request for further information, the applicant submitted proposals to address the issues raised by the PAs request. The response included the following:

- Revised Design Statement
- Building Lifecycle Report
- Shadow Impact Assessment
- Part V Proposal – including a Part V Statement of Understanding agreed with Kerry Co. Co.
- Appropriate Assessment Screening
- Water Services Report

2.3.1. The further information also amended the scheme to provide for a greater mix of one and two bedroom units with the revised proposal now providing for 20 no. 1 bedroom units and 10 no. 2 bedroom units. The amended proposal also provided for revisions to the basement area to provide for the storage of bulky items. 55 bicycle parking spaces are now proposed within two areas including 35 internal spaces accessed from the entrance lobby and 20 spaces in the basement area. These are in addition to 10 external visitor bicycle parking spaces proposed.

2.3.2. The response to the FI request was deemed significant and revised public notices were provided.

2.3.3. The applicant submitted unsolicited further information on two occasions following the submission of the response to the FI request as follows:

- 19th January 2022: The submission seeks to address the issues raised in two third-party objections.
- 24th January 2022: The submission seeks to address the issues raised in a third, third-party objection.

The above submissions were not considered significant, warranting readvertising.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority, following the submission of the response to the FI request, decided to grant planning permission for the proposed development subject to 13 conditions.

3.1.1. Planning Reports

Planning Officers Report:

The initial Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, third party submission, planning history and the Tralee Town Development Plan policies and objectives. The report notes that a pre-planning meeting was not held to discuss the proposed development. The report also includes a section on EIA and AA.

The Planning Report considers the proposed development under a number of headings and notes that the principle of the development is open for consideration given the M4 zoning afforded to the site. While no visual impacts are noted as a concern, the PO considers that the use of red brick is excessive.

It is noted that no car parking is proposed to serve the apartments and it is considered that this is acceptable in terms of the provisions of the Sustainable Urban Housing guidelines. The report notes, however, that the bicycle parking provision

does not meet the minimum requirements and is therefore unsatisfactory. Further information is required in this regard.

In terms of services, there are no objections noted with regard to water, soil, effluent disposal or surface water disposal. The report does note that there is a concern regarding potential flooding of the site and that a precautionary approach should be taken. A specific flood risk assessment is required.

With regard to the apartment units, a number of issues of non-compliance with the Sustainable Urban Housing: Design Standards for New Apartment Guidelines in terms of minimum widths of living/dining rooms and lack of bulk storage. It is also considered that a development of one-bedroomed apartments only is not desirable and that a greater mix should be provided.

Finally, it is recommended that a shadow impact assessment be carried out to consider the likely impact on adjacent properties.

Further information was required in relation to the above issues.

Following the submission of the response to the Final Request, the planning officers report noted the response to the request issues, as well as the internal technical reports in relation to same. The final report accepts the response to the issues raised and concludes that proposed development is acceptable. In terms of development contribution, a parking levy is applied. The report recommends that permission be granted for the proposed development, subject to 13 conditions. The SEP noted and endorsed the planning officers report.

This Planning Report formed the basis of the Planning Authority's decision to grant planning permission.

3.1.2. Other Technical Reports

Building Control Officer: No objection subject to the applicant being advised regarding Building Control Regulations and the need to obtain a Fire Safety Certificate and Disability Access Certificate.

Biodiversity Officer: The report notes the proximity of the site to the Tralee Bay and Magharees Peninsula West to Cloghane cSAV and Tralee Bay Complex SPA. AA Screening required.

Following the submission of the response to the FI request, the Biodiversity Officer prepared an AA Screening Report. The report concludes that mitigation measures are not required, that the development can be screened out and that AA is not required.

Roads, Transport & Marine Tralee MD: The report notes concern regarding the car free strategy proposed by the applicant. The Tralee Town Development Plan requires a minimum of 1.25 car parking spaces per unit. While the applicant cites Section 4.27 of the Sustainable Urban Housing Guidelines for this approach, they have failed to adequately support this view when considering Sections 4.23 and 4.24 of the same document.

The set-down parking space is provided adjacent to the western boundary of the development and is a space which is currently designated Pay and Display.

Due to the proximity of balconies to the public road, details of the offset of the balconies from the edge of the carriageway are required.

Public lighting proposals required.

Water Services: The report notes no objection.

Flooding & Coastal Protection Unit: Following the submission of the FRA in response to the FI request, the SEE of the Flooding & Coastal Protection Unit submitted a report advising satisfaction that the proposal complies with the requirements of the development management justification test outlined in the Planning System and Flood Risk Management Guidelines. Conditions recommended for inclusion in a grant of permission.

Estates: Notes that the development won't be taken in charge. Conditions recommended in relation to planning bond and site development works.

Archaeologist Report: There are no recorded monuments located in proximity to the proposed development site which has previously been disturbed. No mitigation required.

3.1.3. Prescribed Bodies

Irish Water: No objection subject to conditions.

3.1.4. Third Party Submissions

3 third party submission are noted in terms of the planning application submitted. The issues raised are summarised as follows:

- The proposed provision of 100% one-bed units does not comply with the guidelines of the Local Area Development Plan.
- Parking is required under the County Development Plan.
- The height and scale of the development on a small site.
- Issues with dual aspect figures and it is noted that there are no dual aspect units.
- Adequacy of storage provision questioned.
- Heating systems not defined.
- Issues raised in terms of bin storage area and waste management.
- Bicycle storage issues and lack of car parking. There is no public transport system in Tralee.
- Distance of site from services.
- Impact of lack of car parking on existing businesses.
- Issues raised in relation to the amenities of the proposed units.
- Roads and traffic issues.

- Overlooking of existing neighbouring properties.
- Inadequate open space proposed.
- SUDs design should be submitted.
- Shadow impacts associated with the development on adjacent properties.

All three objections request that permission be refused.

Following the submission of the response to the FI request, three further objections are noted on the PAs files. These objections are from the original three objectors.

The issues raised are summarised as follows:

- Access to basement facilities questioned.
- Car parking should be provided.
- Inadequate communal open space.
- Reference to an application for similar development adjacent to the subject site in terms of roads, traffic and parking issues. Issues raised in the referenced application should apply here.
- Lack of car parking in the town has influenced the movement of local businesses from the town to the Manor West area.
- Issues raised with the lack of detail in the drawings in terms of adjacent development.
- The proposal is an overdevelopment of the site and does not meet planning criteria of the Sustainable Urban Housing Design Standards.
- Shadow / sunlight / daylight concerns.
- The site is zoned for mixed use, and not just residential.
- No details re the possibility of PV panels or location of heating systems submitted.

- Recent works to the road, including installation of traffic lights and pedestrian crossing, have significantly reduced the value of homes and adversely affected the quality of residents' lives.
- Existing businesses stand to lose whatever parking is available.
- The Brandon car park is located 200m from the site and gets very busy with overflow from the car park impacting Basin View. None of the fears regarding parking are allayed by the revised proposal.
- Impacts in terms of the loss of sunlight have not been adequately addressed.

4.0 Planning History

The following is the relevant planning history pertaining to the subject site:

PA ref 03/306549: Permission granted to demolish existing structures and construct a four-storey development, including attic accommodation, comprised of 2 commercial (shop/office) units at ground floor and 9 apartments on three floors, together with ancillary site works.

PA ref 05/307113: Permission granted to demolish existing structures and construct a four-storey 31 no. apartment residential development over semi-basement car parking, together with ancillary site works.

PA ref 08/307743: Permission refused to retain complete four-storey development including attic accommodation, comprised of 2 commercial (shop/office) units at ground floor level and 9 apartments on three floors, together with ancillary site works. The reason for refusal was stated as follows:

Having regard to the lack of semi-private or communal open space to serve the proposed development, it is considered that the proposed development would be injurious to the amenity of future occupiers of the development and would constitute substandard development and would set an undesirable precedent for similar such development.

The proposed development would be contrary to Ministerial guidelines and the Tralee Town Council Development Plan 2009-2015 in relation to apartment development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

PA ref 10/307871: Permission granted to retain works granted under PDA 6549/101/03, and to construct a four-storey development, comprising of 2 office units at ground floor level and 5 apartments with ancillary accommodation, on three floors, together with all site works.

5.0 Policy and Context

5.1. National Planning Framework – Project Ireland 2040, DoHP&LG 2018

- 5.1.1. The National Planning Framework – Project Ireland 2040 is a high-level strategic plan for shaping the future growth and development of Ireland to 2040. A key objective of the Framework is to ensure balanced regional growth, the promotion of compact development and the prevention of urban sprawl. It is a target of the NPF that 40% of all new housing is to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites with the remaining houses to be delivered at the edge of settlements and in rural areas.
- 5.1.2. The NPF includes a Chapter, No. 6 entitled 'People, Homes and Communities'. It sets out that place is intrinsic to achieving good quality of life. A number of key policy objectives are noted as follows:
- National Policy Objective 33 seeks to “prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location”.
 - National Policy Objective 35 seeks “to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights”.

5.1.3. National Planning Objective 13 provides that “in urban areas, planning and related standards, including, in particular, height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected”.

5.2. **Sustainable Residential Development in Urban areas, Guidelines (DOE/PLG 2009):**

5.2.1. These statutory guidelines update and revise the 1999 Guidelines for Planning Authorities on Residential. The objective is to produce high quality – and crucially – sustainable developments:

- quality homes and neighbourhoods,
- places where people actually want to live, to work and to raise families, and
- places that work – and will continue to work - and not just for us, but for our children and for our children's children.

5.2.2. The guidelines promote the principle of higher densities in urban areas as indicated in the preceding guidelines and it remains Government policy to promote sustainable patterns of urban settlement, particularly higher residential densities in locations which are, or will be, served by public transport under the *Transport 21* programme.

5.2.3. Section 5.6 of the guidelines suggest that there should be no upper limit on the number dwellings permitted that may be provided within any town or city centre site, subject to the following safeguards:

- compliance with the policies and standards of public and private open space adopted by development plans;
- avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours;

- good internal space standards of development;
- conformity with any vision of the urban form of the town or city as expressed in development plans, particularly in relation to height or massing;
- recognition of the desirability of preserving protected buildings and their settings and of preserving or enhancing the character or appearance of an Architectural Conservation Area; and
- compliance with plot ratio and site coverage standards adopted in development plans.

5.2.4. Chapter 5 of the guidelines deals with Cities and Larger Towns and notes that where there is good planning, good management, and the necessary social infrastructure, higher density housing has proven capable of supporting sustainable and inclusive communities. In general, increased densities should be encouraged on residentially zoned lands and particularly in the following locations:

- City and town centres
- Brownfield sites (within city or town centres)
- Public transport corridors

5.2.5. Section 5.7 deals with Brownfield lands and notes that where significant sites exist and, in particular, are close to existing or future public transport corridors, the opportunity for their re-development to higher densities, subject to the safeguards expressed above or in accordance with local area plans, should be promoted, as should the potential for car-free developments at these locations.

5.3. **Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities, (DoHPLG, 2020):**

5.3.1. These statutory guidelines update and revise the 2015 Sustainable Urban Housing: Design Standards for New Apartments Guidelines, and the 2018 Guidelines in relation to Shared Accommodation schemes. The objective is to build on the content of the 2015 apartment guidance and to update previous guidance in the context of

greater evidence and knowledge of current and likely future housing demand in Ireland taking account of the Housing Agency National Statement on Housing Demand and Supply, the Government's action programme on housing and homelessness Rebuilding Ireland and Project Ireland 2040 and the National Planning Framework, published since the 2015 guidelines. Aspects of previous apartment guidance have been amended and new areas addressed in order to:

- Enable a mix of apartment types that better reflects contemporary household formation and housing demand patterns and trends, particularly in urban areas;
- Make better provision for building refurbishment and small-scale urban infill schemes;
- Address the emerging 'build to rent' and 'shared accommodation' sectors; and
- Remove requirements for car-parking in certain circumstances where there are better mobility solutions and to reduce costs.

5.3.2. The guidelines identify specific planning policy requirements in terms of apartments and Development Plans dealing with the mix of unit sizes, while Chapter 3 deals with Apartment Design Standards, including studio apartments, orientation of buildings and dual aspect ratios, storage provision, private amenity spaces and security considerations. Chapter 4 deals with communal facilities, including car and bicycle parking.

5.3.3. The primary aim of these guidelines is to promote sustainable urban housing, by ensuring that the design and layout of new apartments will provide satisfactory accommodation for a variety of household types and sizes – including families with children – over the medium to long term. These guidelines provide recommended minimum standards for:

- floor areas for different types of apartments,
- storage spaces,
- sizes for apartment balconies / patios, and

- room dimensions for certain rooms.

The appendix of the guidelines provides guidance in terms of recommended minimum floor areas and standards.

5.4. Urban Development and Building Heights Guidelines for Planning Authorities December 2018.

- 5.4.1. The guidelines encourage a more proactive and flexible approach in securing compact urban growth through a combination of both facilitating increased densities and heights, while also mindful of the quality of development and balancing the amenity and environmental considerations. Building height is identified as an important mechanism to delivering such compact urban growth and Specific Planning Policy Requirements (SPPRs) of the building height guidelines take precedence over any conflicting policies and objectives of the Dublin City Development Plan.

5.5. Design Manual for Urban Roads and Streets (DEMURS), DoTTS, March 2013

- 5.5.1. In terms of the design of the proposed development, including the entrance and access to the site, it is a requirement that they be considered against the Design Manual for Urban Roads and Streets (DEMURS), DoTTS, March 2013. This Manual replaces DMRB in respect of all urban roads and streets and it does not differentiate between public and private urban streets, where a 60kph speed limit or less applies. The implementation of DEMURS is obligatory and divergence from same requires written consent from relevant sanctioning authority (NRA, NTA or DTT&S). The Manual seeks to address street design within urban areas (ie. cities, towns and villages) and it sets out an integrated design approach.

5.6. Tralee Municipal District Local Area Plan 2018-2024

- 5.6.1. The Tralee MD LAP sets out the local planning framework for the area with the exception of Tralee town. The Tralee Town Development Plan 2009-2015 (as extended) will continue to apply to the area formerly administered by the Tralee

Town Council. It is indicated that this Town Development Plan will remain in force until after the adoption of the new County Development Plan. The Board will note that the Kerry County Development Plan 2015 is currently under review and the preparation of the new Kerry County Development Plan 2022-2028 is currently underway.

- 5.6.2. Tralee is identified, with Ardfert, as the leading settlements within the MD and the strategy for the MD is dependent on the growth of these settlements through creating employment opportunities and attracting people to live in the settlements, thereby strengthening their urban structure and creating a demand to support local services. With regard to residential development, it is an objective of the Council, R-RES-01 refers, to facilitate the development of residential units within each settlement boundary in accordance with the core strategy.

5.7. Tralee Town Development Plan 2015 as varied and extended

- 5.7.1. The subject site is zoned M4 Built Up Area in addition to being identified as an Opportunity Site. Chapter 11 of the Tralee TDP deals with zoning policy and objectives and I note that the subject site is located within an area zoned Mixed Use (Town Centres / Core Retail Area) (M1 - M5). Section 11.4 of the Plan deals with Existing Residential / Town Centre Area / Built Up Areas (R2/M2/M4) and the following is relevant:

It is the policy of the Local Authority to facilitate development that supports in general the primary land use of the surrounding existing built up area.

Development that does not support or threatens the vitality or integrity of the primary use of these existing built-up areas shall not be permitted.

Within the development boundary of the town, in areas that are not subject to specific zoning objectives, proposals for development will be considered in relation to the following:

- The objectives of this and any other statutory plan;
- The character of the surrounding area; and

- Other planning and sustainable development considerations considered relevant to the proposal or its surroundings.

5.7.2. In addition to the above, the following policy objectives are considered relevant:

- Housing Policy Objectives (Chapter 7):
 - Policy Objective HP06 - Have regard to increased residential densities in appropriate locations in accordance with Sustainable Residential in Urban Areas while ensuring that the overall character of the area shall be maintained.
 - Policy Objective HP22 - Ensure that residential densities reflect the density of appropriate adjoining development. Higher densities will be considered in the town centre or within close proximity to the town centre.
- Urban Design Policy Objectives (Chapter 8)
 - Policy Objective UDP02
 - Policy Objective UDP04
 - Policy Objective UDP05
 - Policy Objective UDP07
 - Policy Objective UDP08
 - Policy Objective UDP013
- Development Management Guidelines (Chapter 12) and in particular, Section 12.5 which deals with Residential Development Guidelines.

5.7.3. In addition to the above, I note the provisions of Variation No. 5 to the Tralee Town Development Plan, and that the subject site is identified as an Opportunity Site. The following sections are considered relevant;

- 3.2.2 Brownfield Development:

There will be a greater policy emphasis placed on renewing and developing existing built-up areas rather than continual expansion and sprawl of the town out into the countryside, with a target of at least 30% of new housing to be

delivered within the existing built-up areas on infill and/or brownfield sites. This is making better use of under-utilised land, including 'infill' and 'brownfield' and publicly owned sites together with higher housing and jobs densities, better serviced by existing facilities and public transport.

- **3.8.2 Brownfield/ small Opportunity Sites:**

A number of small opportunity sites have been identified, the development of these are of prime importance to the economic and residential regeneration of the town. These sites include a number of smaller brownfield sites situated off James St/Basin View, Pembroke Street, Godfrey Place (former James bakery), Kelliher's Mills. The local authority will encourage the redevelopment of these sites throughout the town on a case-by-case basis.

Development potential:

Desirable re-development of these sites includes a mix of residential units, tourist related services, small scale tourist accommodation, small scale office development. New buildings shall generally be two or three storey, simple and consistent in design with the traditional streetscape. Sensitive contemporary design is open to consideration. A design brief will be required of any proposal demonstrating the rationale for the proposed design chosen by the developer.

5.8. Natural Heritage Designations

- 5.8.1. The site is not located within any designated site. The closest Natura 2000 site is the Tralee Bay SPA (Site Code: 004188) which is located approximately 0.7km to the south-west of the site. The Tralee Bay and Magharees Peninsula, West to Cloghane SAC (Site Code: 002070) lies approximately 0.8km to the south-west of the site. The Akeragh, Banna and Barrow Harbour SAC (Site Code: 000332) lies approximately 8.8km to the north-west of the site.
- 5.8.2. Ballyseedy Wood SAC (Site Code: 002112) lies approximately 3km to the south-east of the site while the Slieve Mish Mountains SAC (Site Code: 002185) lies approximately 3km to the south. The Stack's to Mullaghareirk Mountains, West

Limerick Hills and Mount Eagle SPA (Site Code: 004161) lies approximately 6.6km to the north-east.

- 5.8.3. The Castlemaine Harbour SAC (Site Code: 000343) lies 11.1km and the Castlemaine Harbour SPA (Site Code: 004029) 12.3km to the south, the Lower River Shannon SAC (Site Code: 002165) is located approximately 12.6km to the east of the site and Magharee Islands SAC (Site Code: 002261) approximately 14.8km to the north-west.

5.9. EIA Screening

- 5.9.1. The application was submitted to the Board after the 1st September 2018 and therefore after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018.
- 5.9.2. Item (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:
- Construction of more than 500 dwelling units
 - Urban development which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere.
- (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)
- 5.9.3. The proposed development comprises the demolition of an existing single storey structure and the construction of a 4 storey block of 30 apartments on a site of 0.12ha. The site is located on zoned lands within the settlement boundary of the town of Tralee and on a brownfield site. The site is located immediately adjacent to a mix of uses including existing residential developments to the north and west, with commercial development also located in close proximity, and as such, might be described as 'other parts of a built-up area' rather than a 'business district'. High Street, Bridge Street and The Mall, the primary commercial area of the town of

Tralee, lie within 300 and 600m of the subject site. As such, I am satisfied that the site area is substantially below the 10ha threshold for 'other parts of a built-up area'. It is therefore considered that the development does not fall within the above classes of development and does not require mandatory EIA.

5.9.4. In accordance with section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

5.9.5. Having regard to:

- (a) the nature and scale of the development,
- (b) the location of the site within the development boundaries of Tralee,
- (c) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

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

6.0 The Appeal

6.1. Grounds of Appeal

This is a joint third-party appeal against the decision of the Planning Authority to grant planning permission for the proposed development. The appellants are Laura & Graham Foster of Windmill Glazing and Andrius Krusa of A&D Garage.

6.1.1. The grounds of appeal reflect those issues submitted during the PAs assessment of the proposed development and are summarised as follows:

- The PAs decision is based on an erroneous and misguided reliance on national guidance related to the development of apartment schemes in city locations leading to a failure to fully recognise and critically assess the site's local and immediate planning context.
- The proposed development directly adjoining the appellants properties, along with a separate proposal on the southern side of their properties, will lead to a piecemeal and ad hoc redevelopment of the identified opportunity site and prejudice, in a fundamental way, the future development potential of the appellants' land.
- The lack of car parking in the proposed development will impact unduly and negatively upon the operation of the appellants businesses directly adjoining the subject development site and residents in the immediate area. As a result, the proposed development would create an undue traffic impact at this location and endanger public safety by reason of traffic hazard.
- The overall scheme, including the proposed communal open space provision, proposed residential apartments and facilities to serve same would afford an unsatisfactory standard of amenity for future occupiers.

The appeal request that the Board refuse permission for the development.

6.2. Planning Authority Response

None.

6.3. First Party Response to Third Party Appeal

6.3.1. The first party submitted a response to the third-party appeal. The response is summarised as follows:

- The appellants statement that infers national guidance is intended for city locations only is inaccurate and contradictory. The guidelines apply to all housing developments that include apartments that may be available for sale.
- The site is located in a central urban location.
- It would be inappropriate to design a new residential scheme based on the scale, height and form of the existing industrial buildings.
- There is a clear planning history on the application site and part of the application site demonstrating that, regardless of the opportunity site designation.
- The zoning matrix shows that residential development is open for consideration.
- A pre-planning meeting took place in June 2019 to discuss the principle of developing residential and social housing.
- Submitted photographs of demolition relates to a different site, not connected to or associated with the applicant.
- Storage has been provided in accordance with the requirements of the Apartment guidelines.

It is requested that permission be granted.

6.4. Observations

There are 2 observers noted in relation to the subject appeal from Denis McCarthy & Others and Mary Foster. Both observations support the third party appeals and request that permission be refused on grounds relating to:

- Veracity of the applicants claims in terms of shadow impact tested and found that the claims of 'some partial shading' to be significantly inaccurate.
- The scale of the building is imposing and intrusive and residents who live across the road from the development will be overlooked.
- Parking issues restated.
- Impact on existing businesses.
- Roads and traffic issues arising from the proposed development.
- The development will hinder any future development of existing building adjacent to the site. All south facing windows face directly into the adjacent premises.
- The development will have an overbearing impact, would be visually obtrusive, would overlook and seriously injure adjacent properties.
- Brownfield lands must be balanced with respect for the receiving environment of established properties. Houses across the road are 2 storey in height.
- The Tralee Town Development Plan states that buildings shall generally be two or three storey, simple and consistent in design with the traditional streetscape.
- The development will lead to congestion in the area of the observers' business.
- The development fails to provide adequate car parking.
- Location of bin storage immediately adjacent to observers' property will give rise to traffic congestion, and a risk of odour and rodents.
- Notes recent refusal of permission for the construction of a 3 storey 18 apartment development in a residential area of Tralee which included 11 car parking spaces on the grounds of overdevelopment, lack of usable communal space, inadequate provision for off street parking, traffic congestion and ad hoc car parking.

7.0 Planning Assessment

7.1. Introduction

- 7.1.1. Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development
2. Compliance with National Guidelines & Standards
3. Density
4. Layout & Design, Unit Mix & Typology
5. Visual Impacts and Residential Amenity
6. Roads & Traffic Issues
7. Water Services
8. Other Issues

7.2. Principle of the development

- 7.2.1. The proposed development seeks the demolition of an existing derelict single storey structure and the construction of a 4-storey residential development consisting of 20 no. One bedroom apartments, 10 no. Two bedroom apartments, a basement storage area and all associated site works and services, all at James Street / Canal New Road / Basin View, Tralee, Co Kerry. The Board will note that the original proposal for the site was amended following a request for further information, which provided for an improved mix of residential units as well as some design amendments. The scheme proposes no on-site car parking and 55 bicycle parking spaces, 35 of which will be located internally.

7.2.2. This area of Tralee includes a variety of uses including commercial, residential and recreational. The site lies within 300- 500m of the town centre and occupies a prominent corner position with James Street to the north, and Canal New Road to the west. Existing buildings in the vicinity comprise 2 storey residential to the west and three and four story buildings to the north. To the south, there are two commercial units which are double height.

7.2.3. The Board will note that the site is located within the settlement boundaries of the town of Tralee on lands zoned M4 Built Up Area. The Tralee Town Development Plan 2015 as varied and extended also identifies the subject site as an Opportunity Site. Section 11.4 of the Plan deals with Existing Residential / Town Centre Area / Built Up Areas (R2/M2/M4) and the following is relevant:

It is the policy of the Local Authority to facilitate development that supports in general the primary land use of the surrounding existing built up area.

Development that does not support or threatens the vitality or integrity of the primary use of these existing built-up areas shall not be permitted.

Residential is a permissible use under the subject zoning.

7.2.4. Variation No. 5 to the Tralee Town Development Plan, and that the subject site is identified as an Opportunity Site. There are a number of sections which are considered relevant, notably Section 3.2.2 which relates to Brownfield Development which sets a target of at least 30% of new housing to be delivered within the existing built-up areas on infill and/or brownfield sites, and Section 3.8.2 which relates to Brownfield/ small Opportunity Sites. The Variation to the Town Development Plan sets out the development potential for opportunity sites seeking the desirable redevelopment of the sites to include a mix of residential units, tourist related services, small scale tourist accommodation and small-scale office development. The Plan further provides that 'new buildings shall generally be two or three storey, simple and consistent in design with the traditional streetscape. Sensitive contemporary design is open to consideration. A design brief will be required of any proposal demonstrating the rationale for the proposed design chosen by the developer'.

- 7.2.5. The Board will also note the provisions of Objective OSR-01 which states that it is the policy of the Council to facilitate and/or require the preparation of masterplans where appropriate prior to the redevelopment of opportunity sites identified within the plan. I note that there is a recent appeal to the Board which relates to the southern end of the Opportunity Site whereby permission is also sought for an apartment development (ABP-313744-22 refers). The third-party appellants, who own the central section of the Opportunity Site, has raised concerns regarding the potential impact on their property in terms of the ongoing business operations and the future development potential of their property.
- 7.2.6. Having regard to the location of the subject site, on serviced lands zoned for development purposes, which include residential use, together with the proximity to public transport, retail, community and social facilities, it is reasonable to conclude that in principle, the development of the site for residential purposes is acceptable. The principle, however, is subject to all other planning considerations including issues relating to roads and traffic, visual and residential amenities, water services and other considerations which I will address further below. In the first instance however, I would be concerned that a grant of planning permission on part of this Opportunity Site, having regard to the second appeal currently with the Board, would significantly affect the development potential of the central section of the site.
- 7.2.7. As such, and having regard to the provisions of Objective OSR-01 of the Tralee Town Development Plan 2015, I consider that in the absence of an agreed overall layout plan for these and adjacent lands within the identified Opportunity Site (which would determine the need for and co-ordinate the provision of an appropriate range and scale of development) the proposed development would represent a piecemeal approach to the sustainable development of the area and would, thereby, conflict with the stated policies of the planning authority. Accordingly, it is considered that the proposed development would be contrary to the proper planning and sustainable development of the area.
- 7.2.8. Should the Board not agree, I propose to continue my assessment of the proposed development.

7.3. Compliance with National Guidelines & Standards:

- 7.3.1. Having regard to the location of the subject site within the settlement boundary of the town of Tralee and within 500m of the town centre, together with the brownfield nature of the site and the planning history of site, I am generally satisfied that the principle of a residential development can be considered acceptable and in accordance with the general thrust of national policy. The subject site has a stated area of 0.12ha and proposes to provide 30 residential units on the site, following the amendment to the scheme as part of the response to the further information request, as follows:

Unit Type	Proposed	% Of Units
1 bed	20	66.7
2 bed (4 person)	10	33.3
Total	30	100

- 7.3.2. The objective of the Sustainable Residential Development in Urban Areas 2009 Guidelines, and its companion design manual, is to produce high quality, and crucially, sustainable developments and communities through the reduction, as far as possible, of the need to travel, particularly by private car, and promoting the efficient use of land. The Guidelines, together with the companion design manual, sets out a series of 12 criteria which should be employed in the assessment of planning applications and appeals.
- 7.3.3. The Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities suggest that in areas close to public transport corridors, minimum densities of 50 units per hectare should be applied subject to a number of safeguards. The density proposed in the amended proposed development is approximately 250 units per hectare, down from the originally proposed 291 units per hectare. In terms of compliance with the local policy requirements, the Board will note that the Tralee Town Development Plan 2009-2015 (as extended & varied) makes no specific references to residential densities, rather requires that the appropriate density for applications be considered by the PA on a case-by-case

basis and will be based on the density of the surrounding development and proximity to the town centre. The Plan further states that the quality of the design of the scheme will also heavily influence the decision.

The Sustainable Urban Housing: Design Standards for New Apartments, DoHPLG December 2020

- 7.3.4. The 2018 guidelines update the guidelines from 2015 in the context of greater evidence and knowledge of current and likely future housing demand in Ireland, taking account of the Housing Agency National Statement on Housing Demand and Supply, the Government's action programme on housing and homelessness, Rebuilding Ireland and Project Ireland 2040 and the National Planning Framework, published since the 2015 guidelines, and specific policy objectives contained in these guidelines take precedence over policies and objectives of development plans. The aims of the guidelines are to enable a mix of apartment types, make better provisions for building refurbishment and small-scale urban infill schemes, address the emerging 'build to rent' and 'shared accommodation' sectors and to remove requirements for car-parking in certain circumstances.
- 7.3.5. The 2020 Guidelines update the 2018 Guidelines, and in terms of the subject appeal, are the appropriate guidelines. Chapter 3 of the Guidelines provide for Apartment Design Standards, and I proposed to consider the proposed development against these requirements as follows:

a) *Apartment floor area:*

The Guidelines, Specific Planning Policy Requirement 3, require that the minimum floor areas be applied to apartment developments. The Board will note that there are 18 no. unit types proposed within the scheme, providing for the following floor areas:

No of Unit Type	Minimum overall F/A	Proposed F/A	Total F/A
20 x One bedroom	45.0m ²	1 x 47m ² 2 x 49.2m ² 1 x 49.5m ² 1 x 50.3m ² 4 x 51m ²	1,065m ²

		1 x 51.3m ² 2 x 52.4m ² 2 x 53.1m ² 2 x 54.8m ² 1 x 56.6m ² 1 x 60.7m ² 2 x 63.3m ²	
10 x Two bedrooms (4 persons)	73.0m ²	1 x 74.6m ² 3 x 74.9m ² 1 x 77.6m ² 2 x 78.7m ² 1 x 79.7m ² 2 x 87.4m ²	788.8m ²
30 units in Total			1,353.8m²

The development proposes 30 x 1 and 2 bedroom apartments. All apartments proposed achieve the minimum floor area required by the guidelines.

The guidelines also provide for the following minimum requirements in terms of the living / dining and kitchen room areas:

Minimum aggregate floor areas for living/dining/kitchen rooms

Minimum widths for the main living/dining rooms Apartment type	Width of living / dining room	Aggregate floor area of living / dining / kitchen area*
One bedroom	3.3 m	23.0m ²
Two bedrooms (4 person)	3.6 m	30.0m ²

* Combined Living / Dining / Bedspace also includes circulation.

The Board will note that there is an error in the accommodation schedule submitted following the request for further information with regard to unit no. 27. The schedule indicates a combined area of 23.5m², but the plans indicate an area of 31.25m². In terms of the above, I am satisfied that the proposed development adequately accords with the guideline requirements.

b) Safeguarding Higher Standards

It is a requirement that 'the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of

10% (any studio apartments must be included in the total but are not calculable as units that exceed the minimum by at least 10%)’.

Having regard to the floor areas of the units proposed, the Board will note that 17 of the 1 bed units exceed the minimum floor area of 45m² by 10% which comprises the majority of the total apartments in the scheme. I also note that 2 of the 2 bed units exceed the minimum floor area of 73m² by 10%. As such, the scheme complies with the 2020 Apartment Guideline requirements

c) *Dual aspect ratios:*

This issue relates to the availability of daylighting and orientation of living spaces in order to maximise the amenity of occupants of the apartments. The proposed development provides for 30 apartments in a single block which will rise to between 3 and 4 storeys. Of the proposed 30 units, 12 are noted as having a dual aspect. Given the location of the subject site, together with its brownfield nature, the Guidelines require, SPPR 4 refers, that at least 33% of units are dual aspect and, in this regard, the proposed development complies with the 2020 Apartment Guidelines with 40% of the 30 units proposed being dual aspect. Of the 18 single aspect units, 4 have a southern aspect, 7 westerly and 7 have a single northern aspect. All apartments are afforded private amenity spaces in the form of small balconies which meet the recommended 1.5m minimum depth required in the Guidelines. Overall, I am generally satisfied that this is acceptable.

d) *Floor to Ceiling Height:*

It is a specific policy requirement, SPPR 5, that ground level apartment floor to ceiling heights shall be a minimum of 2.7m, and 3m should be considered for multi-storey buildings. The sections submitted with the planning documents and appeal indicate that a floor to ceiling height of 2.7m at ground floor level, and 2.4m across the upper floors. This is considered acceptable.

e) *Lift & Stair Cores:*

The proposed development includes two stair cores within the building. A lift area is also proposed to serve the development in proximity to the main stair core to the west of the building and adjacent to the main entrance. Having regard to the scale of the proposed development, I am satisfied that the proposed stairs and lift arrangement is acceptable.

f) *Internal Storage:*

The proposed development provides for storage within all apartments. Minimum storage requirements are indicated in the guidelines, and it is noted that said storage 'should be additional to kitchen presses and bedroom furniture but may be provided in these rooms. A hot press or boiler space will not count as general storage and no individual storage room within an apartment shall exceed 3.5m².'

The Guidelines also advise that storage for bulky items outside the individual units should also be provided, apart from bicycle parking requirements. The Board will note that the development proposes external storage facilities to serve the development. The minimum storage space requirements are identified as follows:

Minimum storage space requirements

One bedroom	3 sq m
Two bedrooms (4 person)	6 sq m

In the context of the proposed development, the Board will note that the submitted drawings indicate that storage is provided within each apartment, with additional storage facilities also provided remotely at basement level. I note that the internal storage provisions appear to generally accord with the requirements of the guidelines.

g) *Private Amenity Space:*

It is a specific planning policy requirement that private amenity space shall be provided in the form of gardens or patios/terraces for ground floor apartments

and balconies at upper levels. The guidelines require the following minimum floor area for private amenity space:

Minimum floor area for private amenity space

One bedroom	5 sq m
Two bedrooms (4 person)	7 sq m

All apartments are provided with balconies or terraces, all of which appear to achieve the recommended area and 1.5m minimum depth required in the Guidelines. All private open spaces adjoin and have a functional relationship with the main living areas of the apartments and primarily have a southern, western, or eastern aspect, other than the 7 units identified as having a single northern aspect.

h) Security Considerations

The Guidelines require that apartment design should provide occupants and their visitors with a sense of safety and security by maximising natural surveillance of streets, open spaces, play areas and any surface bicycle or car parking. Entrance points should be clearly indicated, well lit, and overlooked by adjoining dwellings. Particular attention should be given to the security of ground floor apartments and access to internal and external communal areas.

The Board will note that the main entrance to the apartment building is located on the western elevation, and on to Canal New Road. There is a further gated access proposed to the north of the site onto James Street. I am generally satisfied that the access to the building and matters of security are acceptable.

- 7.3.6. Chapter 4 of the Guidelines seeks to deal with communal facilities in apartments and deals with access & services, communal facilities and refuse storage as well as communal amenity space, children's play, bicycle parking and storage and car parking.

- 7.3.7. In terms of the provision of refuse storage, the Board will note that a bin storage area to service the apartments is proposed within the ground floor area at the at the south-western corner of the proposed building. The refuse area proposed covers approximately 31m² and the plans submitted suggest that a 3-bin system will be provided using large sized wheelie bins to serve the development.
- 7.3.8. The bin store area includes a set of double doors which will open onto Canal New Road with access for residents via an access gate from the communal space located to the south of the building. I am generally satisfied that the proposed bin storage provision is acceptable and that any impact associated with waste collection can be considered as being reasonable at this urban location. The period of impact associated with bin collection is short, and likely only once a week and I also note that there are other properties and developments in the immediate vicinity of the site which also require refuse collection. The level of impact associated with the proposed development in this regard is considered minimal and acceptable.
- 7.3.9. In relation to communal amenity spaces, the development proposes 2 landscaped areas, 1 to the north of the building, and fronting onto James Street of approximately 136m² and an area to the south of proposed building of approximately 84m². In the context of the proposed development, I would note that the open space area proposed within the scheme occupies approximately 18% of the site area. I am generally satisfied that the proposed development is acceptable in terms of the provision of communal amenity space.
- 7.3.10. The Board will note that no car parking is provided for within the proposed development. The Guidelines promote the location of apartments which have access to public transport and other sustainable transport modes. Where it is appropriate to reduce car parking provisions, high quality cycle parking and storage facilities should be provided. The guidelines require that 1 cycle storage space per bedroom is applied. The proposed development therefore requires 40 bicycle parking spaces for residents. In addition, there is a requirement for 15 visitor bicycle parking spaces to serve the development. The Board will note that the scheme proposes to provide internal parking for 35 bicycles at ground floor level with an additional 20 secure spaces proposed at basement level, separate from the bulky storage units proposed.

In addition, 10 external bicycle parking spaces are to be provided adjacent to the pedestrian entrance on James Street to the north of the building. I am satisfied that the development adequately provides for bicycle parking.

- 7.3.11. In terms of car parking, the Guidelines notes that the quantum or requirement for car parking will vary in terms of the location of the site. Section 4.19 suggest that the car parking provision can be minimised, substantially reduced, or wholly eliminated in certain circumstances. Such policies are applicable in highly accessible areas in or adjoining city cores or at a confluence of public transport systems. In addition, the Board will note the provisions of Section 4.27 of the Guidelines which relate to urban infill schemes on sites of up to 0.25ha, noting that car parking provision may be relaxed in part or whole, on a case-by-case basis. Where it is sought to eliminate or reduce car parking provision, it is necessary to ensure the provision of an appropriate drop off, service, visitor parking and parking for the mobility impaired. I would note that the guidelines clearly suggest that these locations are central and/or accessible urban locations which are 'most likely to be in cities, especially in or adjacent to city centres or centrally located employment locations.' The subject site is considered to be located within a central and/or accessible urban location.
- 7.3.12. Having regard to the proximity of the site to existing public parking, together with its location within walking distance to existing public transport services including the bus and train station, as well as the town centre, I am satisfied that the site is an appropriate and accessible location for the proposed residential development, with a reduced car parking provision. This approach is in accordance with the national guidelines

Conclusion:

- 7.3.13. In terms of the principle of the proposed development, I am generally satisfied that the principle of the development is acceptable in terms of compliance with the local policy context other than with respects to the preparation of a master plan for the wider Opportunity Site. In addition, I am satisfied that the proposed development complies with the general thrust of the Sustainable Urban Housing: Design

Standards for New Apartments, DoHPLG December 2018. In this regard, the following is relevant:

- I am satisfied that the building has been designed to provide appropriate access to the building.
- In terms of community facilities, having regard to the minimal scale of the development, I am satisfied that such facilities are unnecessary.
- With regard to communal amenity space, I am satisfied that the proposed ground floor amenity areas are acceptable.
- In terms of bicycle parking and storage, I am satisfied that the proposed development is acceptable.
- The proposed development does not propose car parking spaces within the scheme. The guidelines facilitate the reduction in the provision of car parking spaces, or the elimination of such provision in certain circumstances. Given the location of the site, and the proximity of the site to shops and services as well as public transport, I am satisfied that no on-site parking may be appropriate to serve the proposed development.
- A communal refuse storage area is proposed at ground floor level, which is accessible to all future residents.

7.4. Density:

- 7.4.1. The subject site is located approximately 300-500m to the south-west of the town centre on lands zoned M4 'Built Up Area'. The site comprises a prominent corner site which is currently brownfield in nature and is identified as an opportunity site in the Tralee Town Development Plan, 2015 as varied and extended. In terms of density, the Town Plan does not stipulate, rather advises, at Section 3.2.4, that the 'Council will facilitate the redevelopment of backland/vacant/derelict sites and will encourage the construction of well-designed high-density apartments or residential units subject to the adequate provision of amenity space and refuse storage'. In addition, as an identified Opportunity Site, Section 3.8.2 of the Plan is relevant whereby it is stated

that the development of these sites 'are of prime importance to the economic and residential regeneration of the town'. As such, the principle of the proposed development is considered appropriate and acceptable.

7.4.2. I would note that the Plan continues, that 'Desirable re-development of these sites includes a mix of residential units, tourist related services, small scale tourist accommodation, small scale office development. New buildings shall generally be two or three storey, simple and consistent in design with the traditional streetscape. Sensitive contemporary design is open to consideration. A design brief will be required of any proposal demonstrating the rationale for the proposed design chosen by the developer.'

7.4.3. The development before the Board proposes 30 residential units on a site covering 0.12ha which would result in a density of 250 units/ha. In terms of the above, I am satisfied that a high-density development can be accommodated on the subject site and is support by the local policy context.

7.4.4. The site is considered to be located within the town centre and is a brownfield site, as detailed in Section 5.7 of the Sustainable Residential development in Urban Areas Guidelines for Planning Authorities (2009). In this context, I consider that the proposed density of 250 units/ha to be acceptable at this location within the town of Tralee. I am generally satisfied that the proposed development accords with the principles of the national policy and I am satisfied that the development as proposed responds appropriately to the character, scale and setting of this area of the town.

7.5. **Layout & Design, Unit Mix & Typology:**

7.5.1. The proposed development site comprises a corner, brownfield site with frontage onto James Street to the North and Canal New Road to the west. The buildings to the north of James Road rise to three storeys and four storeys on the corner. The design of the building will rise to approximately 13.2m in height over ground level, and is comparable in terms of the existing building, Brandon Court, to the north-west. The existing development in the immediate vicinity of the site comprises terraced and semi-detached houses to the north and west, as well as double height

commercial buildings to the south. There is a 3-storey former apartment development (now part of the Kerry Group lands / property) to the east of the site.

7.5.2. The proposed development provides for the construction of a single apartment block which will front onto both James Street and Canal New Road, with pedestrian access provided for on both streets. Communal amenity spaces are proposed at two locations, including one along the boundary of James Street, and a second communal space proposed to the south of the proposed building. While I would acknowledge the somewhat restricted nature of the communal open spaces proposed, in particular with regard to active recreation, I would note that there is a large area of open space located in very close proximity to the subject site to the north-west.

7.5.3. Chapter 5 of the Sustainable Residential Development in Urban Areas, 2009 deals with Cities and Larger Towns, and sets out the design safeguards to ensure the provision of high-quality residential environments and the efficient use of serviced lands. Detailed advice on the criteria to be considered in the design and assessment of higher density residential development is provided in the Department's companion design manual to the guidelines and include the following:

- acceptable building heights;
- avoidance of overlooking and overshadowing;
- provision of adequate private and public open space, including landscaping where appropriate and safe play spaces;
- adequate internal space standards in apartments;
- suitable parking provision close to dwellings; and
- provision of ancillary facilities, including childcare.

7.5.4. In the context of the above, I would acknowledge that the proposed height of the building seeks to reflect that of the adjacent Brandon Court building, which I consider to be acceptable. In addition, I am generally satisfied regarding the proposals for open space, the accommodation provided within the apartments and car parking proposals. I do not consider that the development is of a scale which requires the

provision of childcare facilities. I will address matters relating to overlooking and overshadowing further in this report, and while I note the third-party concerns with regard to the proposed development, I am generally satisfied that the overall design approach is acceptable, and I have no objections in principle.

- 7.5.5. I note the pallet of materials to be employed at the site and I am satisfied to conclude that the development if permitted as proposed (amended proposals submitted following the request for further information), would contribute positively to the surroundings of the site and would not represent a significant visual impact in this urban landscape.
- 7.5.6. In terms of unit mix and typology, the development, as permitted, proposed apartments only as follows:

Unit Type	Proposed	% Of Units
1 bed	20	66.7
2 bed (4 person)	20	33.3
Total	30	100

The Board will note that the proposed development seeks to construct only one type of residential unit, all being apartments. I also note the existing residential development in the immediate vicinity of the subject site includes a range of densities including semi-detached houses and terraced houses. There are further apartment developments to the south-west of the subject site.

- 7.5.7. In addition to the above, I note the planning history of the site whereby permission was previously granted for mixed use developments including apartment. I am satisfied that apartments are an appropriate form of housing which can contribute to addressing the existing housing shortage in the country and can appropriately increase residential density on suitably zoned and serviced lands.
- 7.5.8. Given the location of the subject site in close proximity to the town centre and associated amenities, including shops, schools, sports grounds, as well as public transport, I am satisfied that the nature of the proposed development presents an appropriate residential form to serve the needs of the wider community in terms of

housing mix and typologies. I further note the provisions of the 2018 Urban Development and Building Height Guidelines for Planning Authorities in addressing the need for more 1 and 2 bedroom units in line with wider demographic and household formation trends, while at the same time providing for the larger 3, 4 or more bedroom homes across a variety of building typology and tenure options, enabling households to meet changing accommodation requirements over longer periods of time without necessitating relocation.

- 7.5.9. While I acknowledge the limited housing type/mix proposed in the current scheme, given the wide choice of housing types available in the area, I am satisfied that the principle of the proposed development is acceptable, and in compliance with the relevant ministerial guidelines and the Urban Design Manual. I consider that the mix as proposed is acceptable and in accordance with the provisions of both national and local policy.

7.6. Visual Impacts & Residential Amenity

- 7.6.1. The Urban Development and Building Height Guidelines for Planning Authorities (Dec 2018), builds on the wider national policy objective to provide more compact forms of urban development as outlined in the National Planning Framework. Increased building heights is identified as having a critical role in addressing the delivery of more compact growth in urban areas, particularly cities and larger towns. Specific Planning Policy Requirements (SPPRs) of the height guidelines take precedence over any conflicting policies, and objectives of the Kerry County Development Plan and the Tralee Town Development Plan 2015.
- 7.6.2. In support of the proposed development, the applicant submitted contextual elevations and a number of photomontages as part of the design assessment, to depict the development as proposed. The design provides for a mix of grey coloured brick and a smooth plaster finish is acceptable. Having regard to the context of the subject site in the town of Tralee, I am satisfied that the four-storey building, with the third floor set back, is acceptable and appropriate to this corner site. I have no objections in principle to the overall design of the proposed apartment block, or

indeed the proposed height. Overall, I consider that the development provides an appropriate transition in scale and has due regard to the nature of the surrounding morphology, without appearing over dominant, overbearing, or incongruous in this streetscape.

Overlooking

- 7.6.3. The Board will note that third-party have raised concerns in terms of the potential for overlooking associated with the proposed development on residential properties in the vicinity. In particular, concern is raised with regard to the houses located to the west side of Canal New Road. In this regard, I estimate that the front boundary walls of the two storey houses lie approximately 17m from the boundary of the subject site, across the road. In terms of the actual houses themselves, I estimate that the subject site is approximately 21m. Given this separation distance, I am satisfied that there is minimal potential for overlooking of existing adjacent properties. In terms of the houses to the north of James Street, I would accept that the main private amenity spaces lie to the rear of the houses. Therefore, there will be little or no potential for overlooking of the private amenity spaces associated with these three storey terraced houses.
- 7.6.4. While I acknowledge the issues raised by the third-parties, I do not consider it appropriate to consider a refusal of permission of the scheme on the grounds of overlooking.

Daylight/Sunlight/Overshadowing

- 7.6.5. Section 3.2 of the Urban Development and Building Height Guidelines (2018), in terms of the at scale of the site/building, states as follows:
- The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.
 - Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE 'Site Layout

Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'.

- Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution.

7.6.6. In addition to the Building Height Guidelines, the Sustainable Urban Housing Design Standards for New Apartments Guidelines 2020 also require of Section 6.6, that planning authorities' should have regard to quantitative performance approaches to daylight provision outlined in guides like the BRE guide 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting' when undertaken by development proposers which offer the capability to satisfy minimum standards of daylight provision. Where an applicant cannot fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, which planning authorities should apply their discretion in accepting taking account of its assessment of specifics.

The applicants' shadow impact assessment, submitted following the request for further information, sets out the details of redesign elements which are identified as mitigation measures in terms of the impact of shadowing of properties to the north and west. The report sets out an analysis of sunlight availability and monthly rain days and shadow diagrams are presented in terms of the potential impact on James Street and Canal New Road. In addition, the report includes section drawings through both James Street and Canal New Road as a reference in terms of the angle of shadow.

Sunlight to Amenity Spaces / Overshadowing

- 7.6.7. With regard to sunlight to amenity spaces, Section 3.3.17 of the BRE guidance document provides that for a space to appear adequately sunlit throughout the year, at least half of the garden or amenity area should receive at least 2 hours of sunlight on the 21st of March. The analysis shows that some morning time partial shading will occur at the front of Nos 1,2 and 3 Canal New Road for parts of the year, and some afternoon / evening impacts on the front of properties on James Street. There is no impact noted in terms of existing private rear gardens. I am generally satisfied that given the separation distance between the existing houses to the west of Canal New Road, together with the narrow nature of James Street to the north, the amenity spaces of existing houses are unlikely to be significantly impacted by the proposed development.
- 7.6.8. Having regard to the provisions of national and local policies and objectives with regard to urban development including increased densities, together with the constraints associated by the subject site in terms of its position in the context of existing residential development, and my assessment with regard to the impact that arises in respect of the impact to sunlight to and overshadowing of existing amenity spaces, I consider that the potential for undue impacts on the amenities of the neighbouring residential properties can be reasonably discounted and that the discretion offered by Section 3.2 of the Sustainable Urban Development and Building Height Guidelines and Section 6.6 of the Sustainable Urban Housing Design Standards for New Apartments Guidelines (2020) is such that, a refusal of permission is not warranted with regard to Sunlight to Amenity Spaces / Overshadowing of existing properties.
- 7.6.9. With regard to the proposed development, the north facing balconies associated with the proposed development are unlikely to achieve a significant amount of sunlight/daylight during the middle of the day but having regard to the separation distance between the proposed building and the adjacent development to the east, there is potential for the balconies to achieve morning light throughout the year. I would acknowledge that the proposed south facing communal amenity space will

likely be fully compliant in the context of the BRE Guidelines. I have no objections in this regard.

Loss of Light within Existing Homes

7.6.10. The BRE guidance for daylight and sunlight is intended to advise on site layout to provide good natural lighting within a new development, safeguarding daylight and sunlight within existing buildings nearby and protecting daylight of adjoining properties. Section 2 of the document deals with Light from the Sky and Section 2.2 of the guidelines set out the criteria for considering the impact of new development on existing buildings. The guidance in this regard is intended for rooms in adjoining dwellings where daylight is required, including living rooms, kitchens, and bedrooms, and include as follows:

- Consideration of the separation distance – if it is three or more times its height, the loss of light will be small.
- Consideration of the angle to the horizontal subtended by the new development at the level of the centre of the lowest window – if the angle is less than 25° it is unlikely to have a substantial effect on the diffuse skylight in existing buildings.
- Consideration of the Vertical Sky Component (VSC) - If VSC is >27% then enough skylight should still be reaching the window of the existing building. Any reduction below this level should be kept to a minimum.
- If the VSC is both less than 27% and less than 0.8 of its former value, occupants of the existing building will notice the reduction in the amount of skylight.

The Guidelines suggest that the above considerations need to be applied sensibly and flexibly.

7.6.11. In the context of the above, the Board will note that I have employed all the relevant Guidance documents in order to present a rational assessment of the proposed development, identifying potential impacts arising and consideration on the reasonableness or otherwise of identified potential impacts. My assessment is based

on the identified national and local policies which support the increase in density of development within urban areas centre on appropriately zoned and serviced lands and the need to provide new homes while considering the potential impacts on existing residents.

7.6.12. As indicated above, given the separation distance between the proposed building and the houses to the west and north, I am satisfied that there is likely to be little impact in terms of overshadowing of existing adjacent private amenity spaces. Given that these amenity spaces are generally located to the rear of the existing houses, there is unlikely to be any impact in terms of internal daylighting of existing properties.

7.6.13. Overall, I am generally satisfied that the proposed development is acceptable in terms of daylight / sunlight and overshadowing impacts.

Conclusion

7.6.14. Having regard to the nature and scale of the proposed development I consider that the development, if permitted is unlikely to have a negative impact on the existing residential amenities of the area by reason of overbearing and overlooking.

7.7. Roads & Traffic Issues

7.7.1. In terms of roads and traffic issues, I note that the Tralee MD Area Engineer raised concerns in relation to the proposed development in terms of the car free strategy proposed. The report considers that the applicant has failed to adequately support the view when considering Sections 4.23 and 4.24 of the Sustainable Urban Housing Guidelines. The Board will note that the proposed development does not propose any on-site car parking for the development with the applicant noting the proximity of on-street parking and a car park within 3 to 4 minutes walk of the site.

7.7.2. In terms of the provision of car parking, I am generally satisfied that the proposed development location benefits from good proximity to existing public parking, as well as proximity to the town centre. I note national policy in this regard, and in particular Objective 13 of the National Planning Framework, which allows for a 'range of tolerance' for car parking standards in urban areas in order to achieve stated

outcomes, provided public safety is not compromised and the environment is suitably protected. In addition, Section 4.19 of the Apartment Guidelines suggests that the car parking provision can be minimised, substantially reduced, or wholly eliminated in certain circumstances. Overall, I am generally satisfied that the proposed lack of parking provision can be considered acceptable.

- 7.7.3. The Board will also note that the proposed apartment scheme proposes adequate bicycle parking to serve both the future residents and visitors. Overall, I am generally satisfied that the proposed development is acceptable in terms of roads and traffic safety.

7.8. Water Services & Flooding

Water Services:

- 7.8.1. The applicant submitted Water Services Design Statement with the response to the planning authority's further information request. The design statement sets out the detail of the existing sewers and drains in the vicinity of the site and notes that there is an existing combined sewer located on James Street. The Board will note that Irish Water have advised that the proposed connection to the Irish Water Network in Tralee can be facilitated.
- 7.8.2. In terms of foul water management, the development will be served by a new network of 150mm diameter foul drains which will connect to the existing sewer at a proposed manhole formed on the existing lines on James Street. The conservative estimated wastewater loading from the development is 13.38m³/day.
- 7.8.3. In terms of surface water management, the Board will note that the system proposed has not to have been designed in accordance with the principles of the Greater Dublin Strategic Drainage Study and the storage to be provided within the system is based on the allowable outflow rate for the site, the design storm flow rate and the discharge rate from the site is based on a greenfield development. The attenuation storage requirement for the wake of the development is calculated at 102.2m³ which will consist of a storage requirement of:

- 9.86m³ for a 1-year return storm event,
- An additional 11.01m³ for a 30-year return storm event, and
- An additional 81.14m³ for a 11-year return storm event.

The required storage is to be provided in the form of Aqua Cells or equivalent.

7.8.4. In terms of potable water supply, the development will be served by a new 50mm diameter connection from the public water supply. The internal watermain will be 25mm diameter polyethylene.

7.8.5. Having regard to the information available to me, I am generally satisfied that the applicant has adequately addressed the matter of water services for the proposed development. As such, I have no objections to the proposed development in this regard.

Flooding:

7.8.6. The Board will note that the applicant submitted a site-specific Flood Risk Assessment in support of the proposed development following a request for further information. The report sets out the objectives of the FRA and the methodology employed in its preparation.

7.8.7. The subject site is identified as being located approximately 200m to the north of the River Lee and 150m north of Tralee Ship Canal. Section 2 of the report notes the previous flooding events while Section 3 of the report presents the Initial Flood Risk Assessment (Stage 2). The subject site is noted as lying within an area which is identified as being susceptible to fluvial flood risk, with several records of flooding recorded in the vicinity of the site and in particular on James Street. The OPW flood Maps indicate the site will be partly within Flood Zone A and therefore, residential development requires the justification test due to the highly vulnerable proposed use.

7.8.8. Section 4 of the report submitted sets out the detailed FRA (Stage 3) and notes that the CFRAM Flood Extents maps predict the area in the vicinity of the site (James Street) will flood in the 1 to 100 year return period. The dominant flow path is expected to be from east to west on James Street with the primary source of flooding from the overspill from the Prince's Street culvert, which transports the Big River

through the centre of Tralee. The flood extents do not extend on to Canal New Road as the levels in this area rise from +2.6m AOD at the eastern corner of the site up to +3.9m on the south-western corner of the site.

7.8.9. The site is noted to be located partly within flood zones A, B and C. The submitted FRA identifies a number of mitigation measures including as follows:

- The Finished Floor Levels of the proposed apartment building will be set above the 1% AEP Mid-Range Future Scenario (MRFS) flood level with appropriate freeboard.
- The proposed access off Canal New Street will have a FFL of +4.1m which is above the future fluvial flooding scenario at this location (+3.4 + 0.3m)
- The entrance off James Street is to be kept as far west as possible with a ffl of +3.1m. This level requires the provision of flood defences at the gated entrance, which will be protected to +0.8, 3.9AOD. This will be integrated into the wall structure and will be designed for this level of water.
- The internal basement will be protected to a minimum level of +3.74m plus a 300mm freeboard.
- Existing flow paths will be maintained
- SUDs system will be designed for the site.

7.8.10. I accept that the development has been designed in order not to increase flood risk. In terms of the justification test criteria of the FRM Guidelines, the following is relevant:

1. The subject lands have been zoned or otherwise designated for the particular use or form of development in an operational plan, which has been adopted or varied taking account of these guidelines:

The subject site is located within the town of Tralee on lands zoned for development. The site is identified as part of an Opportunity Site and can connect to public services in the town. The site can also be described as a brownfield site. As such, I am satisfied that the subject site can reasonably be considered to be appropriately designated for use proposed.

2. The development has been subject to an appropriate flood risk assessment that demonstrates:
- (i) The development proposal will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk;
 - (ii) The development proposal includes measures to minimise flood risk to people, property, the economy and the environment as far as reasonably possible;
 - (iii) The development proposed includes measures to ensure that residual risks to the area and/or development can be managed to an acceptable level as regards the adequacy of existing flood protection measures or the design, implementation and funding of any future flood risk management and provisions for emergency services access;
and
 - (iv) The development proposed addresses the above in a manner that is also compatible with the achievement of wider planning objectives in relation to development of good urban design and vibrant and active streetscapes.

7.8.11. In terms of a consideration of part 2 of the JT Criteria, I would accept that the FRA, has presented mitigation measures which, if adhered to, will minimise flood risk to people, the subject development site, adjacent properties as well as the economy and environment, and that the development will not have a negative impact in this regard. As such, I am satisfied that the development, if permitted, will not exacerbate or add to flooding risk in the area.

7.8.12. In addition to the above and following the submission of the FRA in response to the FI request, the SEE of the Flooding & Coastal Protection Unit submitted a report advising satisfaction that the proposal complies with the requirements of the development management justification test outlined in the Planning System and Flood Risk Management Guidelines. I am satisfied that the proposed development is acceptable in this regard.

7.9. Other Issues

7.9.1. Part V

The proposed development seeks to construct 30 residential units on a site covering 0.12ha on a serviced site in the town of Tralee, Co. Kerry. The development will connect to public services. The development is subject to requirements of Part V of the Planning and Development Act 2000, as amended and the Board will note that the applicant has submitted a proposal in this regard. A Statement of Understanding has been accepted by the PA. A condition relating to Part V should be included in any grant of planning permission.

7.9.2. Development Contribution

The subject development is liable to pay development contribution, and a condition to this effect should be included in any grant of planning permission. Should the Board be minded to grant permission for the development as proposed, I recommend that the conditions included in the Kerry County Council decision relating to contributions be included.

7.10. Planning Assessment Conclusion

7.10.1. I am generally satisfied that the principle of the proposed apartment development can be considered acceptable at this location with Tralee Town.

7.10.2. I have, however, raised concerns in terms of the impact a grant of permission on part of this Opportunity Site would have on the development potential of the central section of the site. As such, and having regard to the provisions of Objective OSR-01 of the Tralee Town Development Plan 2015, I consider that in the absence of an agreed overall layout plan for these and adjacent lands within the identified Opportunity Site (which would determine the need for and co-ordinate the provision of an appropriate range and scale of development) the proposed development would represent a piecemeal approach to the sustainable development of the area and would, thereby, conflict with the stated policies of the planning authority. Accordingly,

it is considered that the proposed development would be contrary to the proper planning and sustainable development of the area.

8.0 Appropriate Assessment

8.1. Introduction:

8.1.1. The site is not located within any designated site. The closest Natura 2000 site is the Tralee Bay Complex SPA (Site Code: 004188) which is located approximately 0.7km to the south-west of the site. The Tralee Bay and Magharees Peninsula, West to Cloghane SAC (Site Code: 002070) lies approximately 0.8km to the south-west of the site.

8.1.2. In addition to the above, the following Natura 2000 sites lie within 15km of the site:

- The Akeragh, Banna and Barrow Harbour SAC (Site Code: 000332) - 8.8km to the north-west of the site.
- Ballyseedy Wood SAC (Site Code: 002112) - 3km to the south-east
- Slieve Mish Mountains SAC (Site Code: 002185) - 3km to the south
- Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code: 004161) - 6.6km to the north-east.
- Castlemaine Harbour SAC (Site Code: 000343) - 11.1km to the south
- Castlemaine Harbour SPA (Site Code: 004029) - 12.3km to the south
- Lower River Shannon SAC (Site Code: 002165) - 12.6km to the east
- Magharee Islands SAC (Site Code: 002261) – 14.8km to the north-west

8.1.3. The EU Habitats Directive 92/43/EEC provides legal protection for habitats and species of European importance through the establishment of a network of designated conservation areas collectively referred to as Natura 2000 (or 'European') sites.

8.1.4. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken for any plan or programme not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site in view of its conservation objectives. The proposed development is not directly connected with or necessary to the management of a European site. In accordance with these requirements the Board, as the competent authority, prior to granting a consent must be satisfied that the proposal individually or in combination with other plans or projects, is either not likely to have a significant effect on any European Site or adversely affect the integrity of such a site, in view of the site(s) conservation objectives.

8.1.5. Guidance on Appropriate Assessment is provided by the EU and the NFWs in the following documents:

- Assessment of plans and projects significantly affecting Natura 2000 sites – methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (EC, 2001).
- Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (DoEHLG), 2009.

Both documents provide guidance on Screening for Appropriate Assessment and the process of Appropriate Assessment itself.

8.2. AA Screening Report

8.2.1. The application was accompanied by an Appropriate Assessment Screening Report, dated December 2021 and prepared by MWP Engineering and Environmental Consultants. This report assesses whether effects to the Natura 2000 network are likely to occur as a result of the project. The report sets out the methodology employed and provides a description of the project proposed as well as including a description of the existing habitats present on the site. The report also identifies other projects / plans / activities in the area.

- 8.2.2. The AA Screening Report submits that the zone of influence extends to 15km from the boundary of the development. The report identifies the ten relevant Natura 2000 site within the identified zone of influence as those described above in Section 8.1.2 of this report. The Report presents details of the relevant Natura 2000 sites, including details of the qualifying interests and conservation objectives. Section 4.6 identifies potential impacts while an Assessment of Significance of Potential Impacts is presented in Section 4.7 of the submitted AA Screening document, page 24.
- 8.2.3. The Stage 1 Screening concludes that the following SAC or SPA sites within the zone of influence of the project will not be impacted by the proposed development due to their distance and by reason of a lack of a source receptor pathway identified:
- Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code: 004161) - 6.6km to the north-east.
 - The Akeragh, Banna and Barrow Harbour SAC (Site Code: 000332) - 8.8km to the north-west of the site.
 - Castlemaine Harbour SAC (Site Code: 000243) - 11.1km to the south
 - Lower River Shannon SAC (Site Code: 002165) - 12.6km to the east
 - Castlemaine Harbour SPA (Site Code: 004029) - 12.3km to the south
 - Magharee Islands SAC (Site Code: 002261) – 14.8km to the north-west
- 8.2.4. The submitted AA Screening report considered the following four Natura 2000 sites, based on a number of indicators including water quality, habitat loss / alteration, habitat or species fragmentation and disturbance and/or displacement of species:
- Tralee Bay Complex SPA (Site Code: 004188)
 - The Tralee Bay and Magharees Peninsula, West to Cloghane SAC (Site Code: 002070)
 - Ballyseedy Wood SAC (Site Code: 002112)
 - Slieve Mish Mountains SAC (Site Code: 002185)

8.2.5. Ultimately, the submitted AA Screening Report concludes that there are no plans or projects which are likely to act cumulatively with the current proposal which could result in significant effects to Natura 2000 sites, and that the identified Natura 2000 sites are not likely to be significantly affected by the proposed works and can therefore be screened out for Appropriate Assessment.

8.3. Consultations

8.3.1. With regard to consultations, the Board will note that no third-party concerns were raised with the Planning Authority with regard to AA. The Councils Biodiversity Officer also considered the content of the submitted AA Screening Report and agreed that mitigation measures were not required, and that the development can be screened out for the purposes of AA.

8.4. Screening for Appropriate Assessment

8.4.1. The purpose of AA screening, is to determine whether appropriate assessment is necessary by examining:

- a) whether a plan or project can be excluded from AA requirements because it is directly connected with or necessary to the management of the site, and
- b) the likely effects of a project or plan, either alone or in combination with other projects or plans, on a Natura 2000 site in view of its conservation objectives and considering whether these effects will be significant.

8.4.2. The applicant prepared an Appropriate Assessment Screening Report in support of the subject application. The site is not located within any designated site. The closest Natura 2000 site is the Tralee Bay Complex SPA (Site Code: 004188) which is located approximately 0.7km to the south-west of the site. The Tralee Bay and Magaarees Peninsula, West to Cloghane SAC (Site Code: 002070) lies approximately 0.8km to the south-west of the site. In terms of AA, the Board will note that the development is not directly connected or necessary to the management of a European Site. There are 10 Natura 2000 Sites occurring within a 15km radius of the site as described above.

- 8.4.3. Having regard to the information available, I would generally concur with the conclusion of the applicants AA Screening Report in terms of the need for Stage 2 AA. The subject site lies within the urban area of Tralee, within the identified development boundaries of the town and in close proximity to the urban centre. The proposed development will comprise the demolition of an existing detached single storey structure and the construction of an apartment scheme in 1 block. The development will connect to public services and is not located within any designated site. Being a brownfield site, the site does not appear to contain any of the habitats or species associated with any Natura 2000 site.
- 8.4.4. In terms of an assessment of potential significant effects of the proposed development on qualifying features of Natura 2000 sites in the vicinity of the site, having regard to the relevant conservation objectives, I would note that in order for an effect to occur, there must be a pathway between the source (the development site) and the receptor (designated sites). As the proposed development site lies outside the boundaries of the European Sites, no direct effects are anticipated.
- 8.4.5. In terms of indirect effects, and with regard to the consideration of a number of key indications to assess potential effects, the following is relevant:
- **Habitat loss / alteration / fragmentation:** The subject site lies at a remove of some 0.7km from the boundary of any designated site. As such, there shall be no direct or indirect loss / alteration or fragmentation of protected habitats within any Natura 2000 site.
 - **Disturbance and / or displacement of species:** The site lies within the settlement boundaries of the town of Tralee, which includes a number of residential developments to the north and west of the site, as well as commercial development to the south and east. No qualifying species or habitats of interest, for which the closest designated sites are so designated, occur at the site. As the subject site is not located within or immediately adjacent to any Natura 2000 site and having regard to the nature of the construction works proposed, there is little or no potential for disturbance or

displacement impacts to land based species or habitats for which the identified Natura 2000 site have been designated.

- **Water Quality:** The proposed development relates to the construction of a residential scheme on lands within the settlement boundary of Tralee. The development will connect to existing public water services. Having regard to the scale of the proposed development together with the availability of capacity within the public water services network, I am generally satisfied that the principle of the proposed development is acceptable and that if permitted, is unlikely to impact on the overall water quality of any Natura 2000 site in proximity to the site due to connection to public services or during the operational phase of the development.

The development site is not bound on any side by a water course / drainage ditch. It is proposed that surface water arising from the development will discharge to the existing storm water network in Tralee, and I note no objections from Kerry County Council Engineering Departments in this regard.

- 8.4.6. I am generally satisfied that the potential for likely significant effects on the qualifying interests of the identified Natura 2000 sites can be excluded given the distance to the sites, the nature and scale of the development and the lack of a hydrological connection.

8.5. In Combination / Cumulative Effects

- 8.5.1. Given the nature of the proposed development, being the construction of a residential scheme, I consider that any potential for in-combination effects on water quality in Tralee Bay and associated Natura 2000 sites can be excluded. In addition, I would note that all other projects within the wider area which may influence conditions in Tralee Bay via rivers and other surface water features are also subject to AA.

8.6. Conclusion on Stage 1 Screening:

I have considered the NPWS website, aerial and satellite imagery, the scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Qualifying Interests, the separation distances and I have had regard to the source-pathway-receptor model between the proposed works and the European Sites. It is reasonable to conclude that on the basis of the information available, that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the European Sites identified within the zone of influence of the subject site. As such, and in view of these sites' Conservation Objectives a Stage 2 Appropriate Assessment is not required for these sites.

9.0 Recommendation

I recommend that permission for the proposed development be refused for the following stated reason.

10.0 Reasons and Considerations

1. The proposed development site comprises part of a wider site identified as an Opportunity Site in the Tralee Town Development Plan 2015 as extended and varied. The development of these small opportunity sites is noted in the Plan to be of prime importance to the economic and residential regeneration of the town. Objective OSR-01 states that it is the policy of the Council to facilitate and/or require the preparation of masterplans where appropriate prior to the redevelopment of opportunity sites identified within the plan.

Having regard to the location of the subject site to the north of an identified Opportunity Site, which has a number of owners, together with the concurrent application for residential development on the southern area of the Opportunity Site, to the nature of the central section of the overall Opportunity Site adjoining the subject appeal site, and the provisions of Objective OSR-

01, the Board considers that in the absence of an agreed overall layout plan for these and adjacent lands within the identified Opportunity Site (which would determine the need for and co-ordinate the provision of an appropriate range and scale of development) the proposed development would represent a piecemeal approach to the sustainable development of the area and would, thereby, conflict with the stated policies of the planning authority.

Accordingly, it is considered that the proposed development would be contrary to the proper planning and sustainable development of the area.

A. Considine
Planning Inspector
12th August 2022

DECISION QUASHED

DECISION QUASHED