



An  
Bord  
Pleanála

## Inspector's Report ABP 313744-22.

### Development

Retain demolition of derelict structures and full planning permission to (a) Demolish residual structures on site (b) Construct an apartment building comprising of 19 apartments including associated site works.

### Location

New Canal Road, Tralee, Co. Kerry.

### Planning Authority

Kerry County Council

### Planning Authority Reg. Ref.

211248

### Applicant

Tulfarris CG Ltd.

### Type of Application

Permission

### Planning Authority Decision

Grant permission

### Type of Appeal

Third Party

### Appellants

Laura and Graham Foster and Andrius Krusa

### Observers

(1) Mary Foster  
(2) Denis McCarty & Others

**Date of Site Inspection**

**2<sup>nd</sup> of May 2023**

**Inspector**

**Siobhan Carroll**

**DECISION QUASHED**

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**DECISION QUASHED**

## **1.0 Site Location and Description**

- 1.1.1. The appeal site has a stated area of 0.0553 hectares and is located to the southern side Tralee Town Centre. The site previously contained a single storey commercial building where formally a woodcraft business operated. That building adjoined the existing building to the north which is occupied by Windmill Glazing. The building formally on the site has been demolished and there are steel support beams along the northern site boundary which support the wall of the adjoining building.
- 1.1.2. The eastern and southern site boundaries are defined a cladding fence and there are matures conifers immediate surrounding that fencing. The western side of the site addresses New Canal Road. There is a footpath and parallel parking spaces immediately to the front of the site. The housing along the western side of New Canal Road comprises predominately two-storey semi-detached dwellings. To the north-east of the site circa 18m away at the corner of New Canal Road and James Street there is a site which is vacant.
- 1.1.3. The site is bounded to the south by the campus of the Kerry Group Headquarters. Tralee Town Park is located circa 350m to the east of the site and the Tralee Canal walk is situated 300m to the west.

## **2.0 Proposed Development**

- 2.1.1. Permission is sought to Retain demolition of derelict structures and full planning permission to (a) Demolish residual structures on site (b) Construct an apartment building comprising of 19 apartments including associated site works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission was granted by the Planning Authority subject to 13 no. conditions.

#### **3.1.1. Planning Authority Reports**

#### **3.1.2. Further information was sought. In relation to the following:**

1. The vacant Jones Woodcraft Building was demolished without the benefit of planning permission after this planning application was lodged. Therefore, the current applicant must be amended to include for retention permission to retain the demolition of the Jones Woodcraft Building.
2. Submit full details of the demolition materials removed from the site. Details are requested of the types and quantities of the materials in question along with the destination facilities for each.
3. Submit details of any additional materials which may require removal off-site, such as excavation material along with details of proposed destination facilities.
4. Provide a layout of the watermain and where it is to connect to the public main.
5. Submit a layout of the foul sewer and connection to public network.
6. Submit design and details for management and disposal of surface water from the site in order to enable assessment as part of the planning application.
7. Submit a lifecycle report as per Section 6.13 of Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2020.
8. In the unsolicited further information received on 21/12/2021, reference is made to a mutual agreement between the applicant and Kerry Group regarding boundary fencing to the east and south of the site. If the application is proposed to be amended to include for a revised treatment proposal, revised drawings showing same should be submitted.
9. The applicant was requested to address issues raised by Tralee Municipal District Roads, Transportation and Marine Department in relation to
  - Concern over the lack of carparking spaces provided for.
  - The Bandon carpark is not adequate to cater for full time residential parking.
  - There is a lack of set down spaces in this development.
  - No provision have been made for disabled parking in the proposal.



10. The proposed provision of cycle stands on the public road outside the application site is not acceptable. Submit revised proposals for the full provision of cycle stands within the application site.
11. Confirm the width of the proposed public footpath fronting the site. Submit revised proposals to ensure the provision of a minimum width of 2m for the pathway.
12. There is a lack of provision of communal open space on the site for use of the residents. Submit revised proposals to address this issue in order to comply with the standards set out in the Design Standards for New Apartment Guidelines.
13. Given, the extent of windows, proposed on the southern and eastern elevations of the apartment building and its proximity to the property boundaries, it is considered that the proposal would be injurious to the development potential of the adjoining Kerry Group lands which have the same M4 Built Up Area zoning as the application site. The applicant is invited to submit revised proposals addressing this issue.
14. The applicant is invited to respond to the concerns raised in the submission received on behalf of Windmill Glazing with regard to the impact on its southern boundary and loss of daylight.

3.1.3. Clarification of further information was sought. In relation to the following:

1. The applicant should provide full details of the demolition materials which had previously been moved off-site. In particular, details should be provided of the types and quantities in question.
2. Reference is made to the transport of waste materials off-site. The applicant should therefore provide details of the waste collection permits for the transport of the demolition material moved off-site.
3. The demolition report states that no asbestos was identified on-site. However, no details of the assessment undertaken in this regard appear to have been provided. The applicant should provide a copy of the asbestos assessment report prepared in advance of the demolition works.

3.1.4. Other Technical Reports

- 3.1.5. Tralee MD Roads – The applicant references the Sustainable Urban Housing Design Standards for New Apartments, paragraph 4.19 whereby the default policy is for car parking provisions to be minimised substantially reduced or wholly eliminated. However, it also calls for the development to be well served by public transport adjoining city cores which are highly accessible. It is clear that the guidelines are relevant to larger cities with far greater development transport systems. The applicant has not shown as required in paragraph 4.24 where car sharing clubs or non-car based modes of transport are available and or can be provided to meet the needs of residents. Tralee is not equipped with high frequency scheduled bus service. The guidance which is more appropriate for this development is that outlined in paragraph 4.22 Peripheral and/or Less Accessible Urban locations. The Tralee Town Development Plan lends to this through Table 15 which outlines that 1.25 car parking spaces must be allowed for in Parking Zone Area B for dwellings/apartments. Reducing car parking in part or wholly is on a case by case basis and in the instance of this Town, measures outlined in this application are premature and unsuitable to cater for residents of this proposed development and furthermore will set a precedence for future planning applications of a similar nature if approved.
- 3.1.6. County Archaeologist – There are no recorded monuments listed in the Record of Monuments and Places located in proximity to the proposed development site which has previously been disturbed. No mitigation is required.
- 3.1.7. Flooding and Coastal Protection Unit – In terms of flood risk the proposed development and associated Flood Risk Assessment is in compliance with the Planning guidelines for flood risk assessment and is acceptable. However, it is recommended that SUD's proposals being undertaken need to be submitted to the Planning Authority prior to any decision to grant planning permission.
- 3.1.8. Biodiversity Officer – The applicant has submitted AA screening report with the application. Water Services had requested further information in relation to water infrastructure proposed for the development which has been submitted. The AA screening report prepared by the Biodiversity Officer concluded that significant effects on European sites can be excluded. It is noted that the development will use the principles of SuD's and that what is proposed is to the satisfaction of Water Services/Irish Water.



#### 3.1.9. Prescribed Bodies

#### 3.1.10. Irish Water – No objection

### 3.2. Third Party Observations

- 3.2.1. The Planning Authority received 4 no. submissions/observations in relation to the application. The issues raised are similar to those set out in the appeal.

## 4.0 Planning History

- 4.1.1. Reg. Ref. 21/938 & ABP 312838-22 – Current application on appeal where permission sought 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 at James Street/Canal New Road/Basin view, Tralee, Co Kerry. The Planning Authority granted permission. That site is situated 20m to the north of the appeal site and it is located within a designated Opportunity Site with the appeal site.

## 5.0 Policy Context

### 5.1. Project Ireland 2040 - National Planning Framework

- 5.1.1. 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. 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'.
- 5.1.2. 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 also 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. Section 28 Ministerial Guidelines**

5.2.1. The following is a list of section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- ‘Urban Development and Building Heights’ Guidelines for Planning Authorities (2018)
- ‘Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas’ (including the associated ‘Urban Design Manual’) (2009)
- ‘Design Manual for Urban Roads and Streets’ (DMURS) (2019)
- ‘The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’) (2009)
- ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities. (2022)

## **5.3. Kerry County Development Plan 2022 – 2028**

- 5.3.1. The Tralee Town Development Plan 2009-2015 (as extended and varied) is incorporated into the Kerry County Development Plan 2022-2028.
- 5.3.2. The site is zoned Objective ‘M4’ – Built Up Area on the Tralee Town zoning map.
- 5.3.3. The site is designated as an Opportunity Site.
- 5.3.4. Section 1.5.1 of the Tralee Town Plan refers to Opportunity Sites
- 5.3.5. Objective TR41 refers to Opportunity Sites and states that – It is an objective of the Council to: Facilitate and/or require the preparation of masterplans for the Opportunity sites and the Lohercannon Area where appropriate prior to the redevelopment of opportunity sites identified in the plan to ensure their development in a cohesive and integrated manner.

5.3.6. Chapter 3 of the Kerry Development Plan refers to Core & Settlement Strategy

5.3.7. Section 3.10.1 – Principles of the Settlement Strategy

5.3.8. The main principles of the Settlement Strategy are to:

- Ensure the sustainable development of the Key towns of Tralee & Killarney to fulfil the roles identified in the Regional Spatial and Economic Strategy.
- Ensure the sustainable development of a network of towns and villages in the county to act as service and employment centres for the surrounding hinterland.
- Facilitate the provision of housing and services having regard to settlement type.
- Facilitate the sustainable future development of infrastructure to serve identified settlements.

5.3.9. Settlement Strategy – It is an objective of the Council to, KCDP 3-4 Deliver at least 30% of all new homes in the Key Towns of Tralee and Killarney within the existing built-up footprint of the settlements.

5.3.10. Section 4.2.2 refers to Brownfield Sites – A number of these development sites have been specifically identified as opportunity sites. These sites will be a key focus for the delivery of sustainable compact growth objectives. These sites are strategic in nature and scale and have been or will be subject to a regeneration plan or master plan. The sites are identified in the three town plans of Tralee, Killarney, and Listowel and in the existing and future local area plans.

5.3.11. Volume Six of the Plan includes (1) Development Management Standards & Guidelines.

5.3.12. Section 1.5 refers to Residential Development.

#### **5.4. Natural Heritage Designations**

5.4.1. Tralee Bay Complex SPA (Site Code 004188) is situated 624m to the south-west of the appeal site.

5.4.2. Tralee Bay and Magharees Peninsula West to Cloghane SAC (Site Code 002070) is located 772m to the south-west of the appeal site.

## **5.5. Environmental Impact Assessment**

- 5.5.1. The proposed development comprises 19 residential units on a 0.0553 hectare site. The development subject of this application falls within the class of development described in 10(b) Part 2, Schedule 5 of the Planning and Development Regulations, 2001, as amended. EIA is mandatory for developments comprising over 500 dwelling units or over 10 hectares in size or 2 hectares if the site is regarded as being within a business district.
- 5.5.2. The number of dwelling units proposed at 19 is well below the threshold of 500 dwelling units noted above. Whilst within the town of Tralee it is not in a business district. The site is, therefore, materially below the applicable threshold of 10 hectares.
- 5.5.3. The proposal for 19 residential units is located within the development boundary of Tralee on lands zoned Objective 'M4' – Built Up Area in the current Tralee Town Development Plan (as extended) which is incorporated into the Kerry County Development Plan 2022-2028. The site comprises a brownfield site where a former commercial premises has been demolished. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage. The proposed development will not have an adverse impact in environmental terms on surrounding land uses. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The existing wastewater treatment plant serving the town of Tralee has a plant capacity PE of 50333 and has sufficient capacity to accommodate the development. The site is not within a European site. The issues arising from the proximity/connectivity to a European Site can be adequately dealt with under the Habitats Directive. The application is accompanied by an Urban Design Assessment with a Traffic and Transport Assessment submitted with the appeal. These address the issues arising in terms of the sensitivities in the area.
- 5.5.4. Having regard to
- the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,



- the location of the site on lands within the development boundary of Tralee on lands zoned under the provisions of the Tralee Town Development Plan, 2009-2015 as extended which is incorporated into the Kerry County Development Plan 2022-2028 and the results of the strategic environmental assessment of the Tralee Town Development Plan, undertaken in accordance with the SEA Directive (2001/42/EC).
- the location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of residential development in the area.
- the location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended),
- The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003),
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report was not necessary.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A third party appeal has been submitted by Coakley O'Neill Town Planning on behalf of the appellants Laura and Graham Foster and Andrius Krusa. The issues raised are as follows.

- It is submitted that the decision of the Planning Authority was based on misguided reliance on national guidance related to the development of



apartment schemes in city locations and that this leads to a failure to fully recognise and critically assess the sites local and immediate planning context.

- The applicant put forward to the Planning Authority in their proposal that the site location is central and accessible and in accordance with the Sustainable Urban Housing: Design Standards for New Apartments Guidelines, 2020.
- SPPR 2 of the Guidelines afford the Planning Authority discretion in relation to the accommodation standards achieved in the proposed development. It is set out in the guidelines that such discretion and relaxations are subject to overall design quality.
- The applicants justified the extent of the density of the development on the site on the basis that the site is a central and/or accessible urban location.
- As set out in the guidelines – Such locations are generally suitable for small – to large scale and higher density development that may wholly comprise apartments including:
  - Sites within walking distances (i.e. up to 15 minutes or 1,000-1,500m, of principle city centres, significant employment locations, that may include hospitals and third – level institutions;
  - Site within reasonable walking distance (i.e. up to 10 minutes or 800-1,00m) to/from high capacity urban public transport stops (such as DART or Luas) and;
  - Sites within easy walking distance (i.e. up to 5 minutes or 400-500m to/from high frequency (i.e. minimum 10 minute peak hour frequency) urban bus service.
  - The range of locations outlined above is not exhaustive and will require local assessment that further considers these and other relevant planning factors.
- It is stated that the development proposal is therefore premised on the classification of the site as a central and/or accessible urban location. It is contended in the appeal that the site is not a brownfield city site in Dublin or Cork. It is located at the edge of the town of Tralee.

- It is discussed in the appeal that the site is not proximate to a city centre or a high frequency urban bus service. The Tralee People's Bus service is a local service in the town, and it operates between 8am and 6pm on an hourly basis. The Bus and Rail stations in Tralee don't provide a local service but rather intra urban service.
- The appeal sets out that the site does not meet the criteria to be considered a central/accessible location.
- The report from the Roads Section in respect of the application stated that the site is much more an 'Intermediate Urban Location' or 'Peripheral and/or less accessible urban location, as defined by the Guidelines.
- The Board will note that the subject site is an infill opportunity site. In relation to infill sites, it is highlighted that "Sustainable Residential Development in Urban Areas (2008) refers to the matter and recommends – "In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill." It is further advised "the design approach should be based on a recognition of the need to protect the amenities of directly adjoining neighbours and the general character of the area and its amenities, i.e. views, architectural quality, civic design etc.
- As set out in the guidelines there is a requirement to specifically address the nature of the receiving environment and show respect for existing development in the area.
- It is contended that the proposed development does not respond positively to its immediate environment. The density of the proposed development is significantly above that of housing in its immediate vicinity and that the design is not in keeping with the established pattern of development.
- It is submitted that the location, design and height of the proposed apartment building will lead to undue overshadowing and overlooking of the appellants properties to the detriment of their potential future redevelopment. It is acknowledged that there is potential for infill residential development within existing urban areas, however development must strike a balance between

the reasonable protection of the amenities and the privacy of adjoining businesses and dwellings.

- The proposed development directly adjoins the appellant's properties along with a separate proposal on the northern side of their properties. It is stated this will lead to a piecemeal and ad hoc redevelopment of the identified opportunity site and prejudice the future development potential of their lands.
- The appeal site as well as adjoining lands are all part of the identified small opportunity site at James Street/Basin View. Policy OSR-01 states – "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 in the Plan.
- The three sites are in separate ownership it is considered that it is entirely appropriate that the redevelopment of these lands be subject to an agreed masterplan.
- The two sites on opposite sides of the appellants properties have been brought forward for development under separate applications. Reg. Ref. 21/1248 which is the subject of this appeal comprising a scheme of 19 no. apartments over four storeys with no car parking. Reg. Ref. 21/938 which refers to a proposed scheme of 30 no. apartments over four storeys with no car parking on the site to the north of the appellants properties.
- The design rationale for the proposal relies on the former Brandon Court hotel building on James Street. It is noted that numerous references are made and drawings illustrate the relationship. It is noted that there is no mention of the appellants property immediately adjoining it.
- It is stated that the impact upon the appellants future development potential is significant as it would be severely compromised by the positioning of a four-storey apartment building directly on the boundary. The proposal will have an overbearing presence and as it is located directly south it would overshadow the appellant's property.
- This proposal along with the proposed development to the north completely compromises the future development of the appellant' site. It is submitted that

a Masterplan is required to be prepared for the opportunity site. In the absence of a Masterplan the site will be developed in an uncoordinated and ad hoc manner.

- It is submitted that the lack of car parking in the proposed scheme will negatively impact on the operation of the appellant's business which directly adjoins the site and the residents in the immediate area. The proposed development would create an undue traffic impact at this location and endanger public safety by reason of traffic hazard.
- The area is heavily trafficked. It is stated that there are already existing parking problems in the area of James Street, O'Rahilly's Villas and on Basin Road due to the number of residents seeking to use on street parking.
- The submission from Kerry Group PLC to the application referred to this matter. They stated in their submission that "the current lack of available parking in this area has resulted in instances that the Kerry Group PLC exit onto New Canal Road has been blocked by parked cars, as currently there is insufficient designated parking spaces in this area, which is a safety issue. It is a serious concern that any extra demand for parking will increase an already adverse situation without the provision of adequate parking for this proposed new development".
- The lack of parking on-site risks overspill parking in the immediate area. The suggestion by the applicants of an available reliance on sustainable modes of transport, such as walking or cycling or using the bus are impractical and unrealistic given the lack of any high frequency public transport options in the town.
- The suggestion made by the applicants to the use of public car parks in the town including Brandon car park for residential parking are unrealistic and contrary to the stated use of such car parks which are for commuters, visitors and shoppers.
- It is submitted to the Board that the absence of adequate parking for the proposed development would create increased on-street car parking in the area which would result in obstruction to the free flow of vehicular traffic and of pedestrians in the area.



- The location of the proposed pedestrian access point and bins store to the development on New Canal Road adjacent to the appellant's business is of concern to them. They highlight that their property is commercial in nature and that the existing traffic situation should be considered in the assessment of the development from a traffic and road safety perspective.
- There are 2 no. set down spaces on the public road along with a disabled parking space. They are outside the redline boundary of the site and the ownership of the applicants. Therefore, it is unclear how these spaces are to be delivered as part of the development.
- The appellants have concerns regarding the location of the proposed bin storage area which directly adjoins their property. They state that it would result in waste trucks using this area for collection which will lead to further congestion.
- It is submitted that the overall scheme including the proposed communal open space and the proposed apartments and facilities to serve them would afford an unsatisfactory standard of amenity to future occupiers. They raise concern at the location and the limited size of the communal open space. A shared garden area is proposed. The area directly adjoins the private terraces of two ground floor apartments and therefore will be directly overlooked. Residents of the building would have to exit the building via the public street and then access if from a laneway on the southern side of the building.
- In relation to the shadow study submitted with the application, the appellants consider that it does not assess the extent of overshadowing that will occur in the communal open space. They consider that the report does not address the matter of sunlight and daylight in any detail and that a full VSC analysis was not provided. Many of the proposed private amenity balconies are poorly orientated. The proximity to the public road of the balconies is noted including at ground floor level.
- The submitted shadow analysis does not fully address the requirements of the BRE in relation to amenity areas and overshadowing impact, daylight impact and sunlight impact.



- It is stated that the storage space requirements have not been met and that storage spaces that are provided are poorly located. They refer to section 3.3.1 of the Guidelines which advise, “storage should be additional to kitchen presses and bedroom furniture, but may be partly provided in these rooms. In such cases this must be in addition to minimum aggregate living/dining/kitchen or bedroom floor areas.
- It is submitted that the proposed development represents overdevelopment of the site.
- In relation to the bicycle parking it is submitted that it is substandard and inadequate.
- It is submitted that the proposal would contravene Development Plan standards regarding the quality of private open space in that it would afford an unsatisfactory standard of amenity to future occupiers of the proposed apartments.
- It is considered that the proposed unit mix is extremely poor. It is noted that it is set out in Project Ireland 2040 National Planning Framework as a core guiding principle that provides for choice in housing location, type, tenure and accommodation in responding to need. It is advised that the scale and nature of future housing provision is to be tailored to the size and type of settlement where it is planned to be located. The proposed development’s density and dwelling mix is considered inappropriate given the location of the site.
- It is requested that the Board overturn the decision of Kerry County Council and refuse permission for the reasons set out in the appeal.

## 6.2. Applicant Response

A response to the third party appeal was submitted by John Phelan Architects on behalf the applicant Tulfarris CG Ltd. The issues raised are as follows;

- The content of the appeal appears to be promoting a suburban low density car led approach to the development of this brownfield urban site.

- The approach set out in the appeal is contrary to National Policies which promote appropriate redevelopment of central sites in major urban centres like Tralee.
- Regarding the first issue raised in the appeal that “the decision of the Planning Authority is based on an erroneous reliance on National guidance related to the development of apartment schemes in city locations and that the Planning Authority did not fully recognise and critically assess the sites local and immediate planning context.”, the suggestion that sites of such significance can only be found in the major cities is completely lacking in merit and cannot be supported.
- They respond that large urban town centres such as Tralee which is a significant employment location with a third level university and university hospital Kerry and which is a regional capital mean that it is more than an appropriate location for medium to high density apartments and especially in central brownfield sites.
- The apartment guidelines definition for both “Central or Intermediate Urban locations” are fully applicable to this location. Central Urban location sites within walking distance of principal city centre or significant employment locations that may include hospitals and third level institution.
- Intermediate urban locations include sites within or close to within reasonable walking distances of principal town or suburban centres or employment locations that may include hospital and third level institutions.
- It is highlighted that Tralee is the 8<sup>th</sup> largest town in Ireland it forms part of the Tralee Killarney Hub and it is a centre for development in the South-West region.
- The site is an old brownfield site dating back to the early 1900’s when it was Tralee bus depot. It remains a central location which is inside the inner ring road and is a 3 minute cycle and an 8 minute walk from the Town Centre. The suggestion that low densities prevalent outside the ring road be applied to the site is unsustainable and untenable.

- The redevelopment of the site serves to combat climate change urban decline and sprawl. The provision of apartments in such central locations is both appropriate and sustainable. Such redevelopment must be undertaken to reasonable densities and heights to facilitate the sustainable provision of lift access to all levels around a central core.
- The second issue raised in the appeal refers to the fact that the development directly adjoins the appellants properties along with a second proposal on the northern side will lead to a piecemeal and ad hoc redevelopment of the identified opportunity site and prejudice future development potential of the appellant's lands.
- The suggestion that because the site is part of an opportunity site that it cannot be development in a coordinated and independent manner is considered unreasonable.
- The site forms a crucial corner of a major redevelopment block which includes the adjoining sites and derelict sites on opposing corners. It forms part of a corner block which could cater for up to 200 dwellings in a central urban location.
- The appeal refers to a lack of car parking and the impact upon the operation of their business and that the proposed development would create an undue impact at this location. The site is in a central location which is close to facilities, parks, amenities and significant employment. It is highlighted that sustainable forms of personal transport are available including electric bicycles and scooters. Reference is made to hire car services available and that access to bus routes in Tralee means that central urban locations such as the subject site should not require car ownership. It is stressed that the development of sustainable dense urban cores should be promoted.
- It is submitted that fewer cars provide for a safe environment.
- The appeal refers to communal open space and the residential amenity provided within the development. It is set out in the appeal that an unsatisfactory standard of amenity for future residents is provided.

- In response to this it is stated that the development meets the standards set out in the Apartment Guidelines. By virtue of its location it has access to a multitude of amenities within Tralee town centre. They highlight the proximity of Tralee town park, Tralee wetlands centre, Lee valley river walk and Blennerville Canal walk. It is therefore submitted that the residents will benefit greatly from urban living in a central location and that amenities can be accessed without a car.
- It is submitted that the proposal for a well designed attractive 19 no. unit apartment building would set a positive precedent for the area.

### 6.3. Planning Authority Response

In relation to the appeal ABP 313744-22 & Reg. Ref. 21/1248 the following comments were provided.

- In relation to overshadowing the Shadow Impact Assessment submitted with the application is noted and considered satisfactory. In addition, a higher density of development is considered desirable on an urban infill site in the interest of sustainable development and maximising development potential.
- As per the Planning report, the principle of a development at a location without car parking provision is considered acceptable, having regard to the provisions of Section 4.27 of the Sustainable Urban Housing: Design Standards for New Apartment Guidelines for Planning Authorities 2020.

### 6.4. Observations

(1) Mary Foster

- The proposed development would hinder any future development of the observers building.
- The design of the proposed building is considered monolithic. It would have an overbearing impact and would be visually obtrusive.
- The operation of the business on the adjoining premises would be negatively impacted without additional pedestrian movements to a location



which is an established commercial area where there are delivery trucks specifically with glass being delivered to and from the premises of Windmill Glazing.

- The height, design and density of the proposed development is out of character with the existing surrounding residential development.
- Concern is expressed in relation to the lack of car parking within the scheme. It is stated that New Canal Road is already at capacity in relation to car parking.
- The definition of the site as located within a "central urban area" is disputed. It is submitted that the proposed development would result in further congestion.
- The proximity of a second site where planning permission is sought for 30 no. apartments under (ABP 313838 & Reg. Ref. 21/938) is highlighted.
- The report from the Tralee MD is noted where it stated, "reducing car parking in part or wholly is on a case by case basis in the instance of this town measures outlined in this application area premature and unsuitable to cater for residents of this proposed development and furthermore will set a precedence for future applications of similar nature if approved.
- Concern is expressed at the location of the proposed bin storage area with on-street parking spaces to the front of it. The layout is considered unsuitable in respect of the collection of waste conflicting with the use of the on-street parking spaces.
- The communal open space is considered to be extremely limited in size and that the boundary wall at 2.5m would reduce daylight into the area. Access to the communal open space area is via an external walkway which is accessed outside the building.
- It is highlighted that the application description was for the demolition of the building and the construction of an apartment building containing 19 no. apartments. The demolition of the structure took place without planning



permission. It is stated there seems to have been no clear documentation supplied to clarify why the walls were removed.

- In conclusion, the proposed development is adjacent to the observer's premises, and they state that it would constitute overdevelopment of the site and would lead to traffic and parking issues in a well established residential and commercial area. It is submitted that the granting of this permission along with the separately proposed scheme on the site at the corner of New Canal Road and James Street would severely hinder any development potential of the observer's property.

## (2) Denis McCarty & Others

- The observation made by the owners of five houses which are located opposite the proposed development.
- The observation refers to the issue of overshadowing. They state that due to the orientation of their homes that they only receive direct sunlight before 1.30pm and that the rear of the houses receives little or no direct sunlight until March.
- The statement in the application of "some morning time partial shadowing" is not accepted. They submit that the details provided with the application concerning shadow analysis are flawed and inaccurate.
- In relation to solar gain, it is stated that each of their houses receive several Kw's per hour on a clear day during winter. They submit that these gains will be lost due to the shadowing caused by the proposed development.
- The proposed development would be visually intrusive and would overlook the front of their homes.
- The issues of car parking and traffic are raised. The absence of car parking including disabled car parking spaces within the scheme is of concern. The proposed use of the Brandon car park by residents is questioned.

- The access arrangements for the servicing of the proposed development are questioned. They note that the proposed development would generate deliveries, drop offs, taxis and refuse collection directly across the road from their homes.

## 6.5. Further Responses

First party response to observation from Denis McCarty & Others.

- Basin Road and New Canal Road are an essential inner ring road for Tralee. It is entirely appropriate that the urban area inside the ring road and along side its route be developed to appropriate heights.
- It is entirely appropriate that inner urban areas be developed as an urban street or block pattern to reasonable heights and densities.
- The suburban housing located on the western side of the road with a 20.8m separation between building lines allows an appropriate 27 degree sky angle for excellent light penetration into the street scape.
- The 20.8m width of New Canal Road/Lower Basin View, Basin Road provides a very acceptable 2:1 height to width ratio which can accommodate a three storey building with setback of the 4<sup>th</sup> floor.
- Any suggestion that sites at this location can only be developed at two storeys is unsustainable. The restriction of development in an inner urban zone would create a negative precedent that would be detrimental to sustainable redevelopment of an inner urban zone.
- It is submitted that the details provided by the observers in relation to overshadowing are overstated and that it fails to understand the urban context of the site.
- It is unavoidable in any urban setting to not have some impact on light and shadow. The impact of shadows from opposing street frontages in urban areas in Ireland for Low to Medium Height developments of four stories or less in streets of sufficient width such as Basin Road or New Canal Road in the context of urban planning in Irish diffuse sunlight is not considered a justifiable ground of appeal.

- The dwellings on the opposite side of the road have long rear gardens and therefore they are served by a significant private amenity areas. These rear gardens are not affected by overshadowing by the proposed development.
- The whole basis of the observation is that there is some overshadowing of the public street side of the dwellings. Due to the 20.8m width of the street it is only partial and is of limited duration. Therefore, it is stated that the impact put forward by the observers is exaggerated.
- In relation to the extent of overshadowing of the observers' properties it is stated that you must consider the properties as a whole and the solar irradiation the buildings and site receive for the rest of the day and over the year. The overall impact averaged over the year the net impact is closer to 2.5% rather than the 50% worst case scenario alleged.
- The observation ignores solar reflection from the proposed new apartments. Taking the global irradiation picture into account the impact for an urban location is not sufficient to offset the urban benefit of sustainable development.
- They reviewed the submission in relation to car parking. In response it was stated that the scheme seeks to create centrally located urban living free from cars to offset urban sprawl and unsustainable development. The proximity of the town centre amenities is highlighted as it makes the scheme a viable and attractive option for urban dwellers.
- The availability of bicycles, electric bikes, public transport, taxis, car hire make it feasible and attractive for urban dwellers. The case made in the observation overstates the impact of car ownership and again fails to understand the urban context of the site and its location.
- It is requested that the Board uphold the decision of the Planning Authority and grant permission.

## 7.0 Assessment

I consider that the issues arising in the appeal can be addressed under the following headings:

- Density, height, design and development and policy context
- Impact on residential amenity
- Traffic and car parking
- Appropriate Assessment

### 7.1. Density, height, design and development and policy context

- 7.1.1. The lands in question are located within the development boundary of Tralee on lands zoned Objective 'M4' – Built Up Area in the current Tralee Town Development Plan (as extended) which is incorporated into the Kerry County Development Plan 2022-2028. The proposal entails the retention or the demolition of the building on site which was the former Jones Woodcraft Building and the construction 19 no. residential units within a four storey building. The site has an area of 0.0553 hectares the proposed density would be equivalent to 343 units per hectare.

#### Density

- 7.1.2. The third party appeals contend that the proposed density is out of character with the surrounding area and excessive for the site. I note that the Kerry Development Plan 2022 – 2028 and also the Tralee Town Development Plan (as extended) do not provide specific densities requirements. It is advised in Section 4.3.1 of the Development Plan which refers to Sustainable Infill and Brownfield Development, that in accordance with RPO 43 Regeneration, Brownfield and Infill Development a number of sites have been identified in the town plans for potential redevelopment. An increased level of density will be permitted on these sites subject to appropriate design and integration.
- 7.1.3. National Policy Objective 35 of the National Planning Framework seeks the provision of increased residential density in settlements. Increased residential density is supported in town centre/core locations under SPPR1 of Urban Development and Building Heights, Guidelines for Planning Authorities, (2018).



- 7.1.4. The Ministerial Guidelines, Sustainable Urban Housing: Design Standards for New Apartments (2022), identify the types of locations in cities and towns that may be suitable for apartment development. Three categories of location are identified (1) Central and/or Accessible Urban Locations (2) Intermediate Urban Locations (3) Peripheral and/or Less Accessible Urban Locations.
- 7.1.5. Having regard to location of the site adjacent to core of Tralee, I would consider that the site can be identified to be an 'central and/or accessible urban locations, as per the Sustainable Urban Housing: Design Standards for New Apartments (2022). Such a location as detailed in the Guidelines, are generally suitable for larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. The policies above would be particularly applicable in highly accessible areas such as in or adjoining city cores or at a confluence of public transport systems such rail and bus stations located in close proximity.
- 7.1.6. Accordingly, in relation to the proposed density of 343 units per hectare, having regard to the National guidance in respect of density and the location of the site in a town centre context, I would consider that a higher density such as that proposed under this scheme can be considered subject to the development being acceptable in terms of all other relevant planning considerations.

#### Building Height

- 7.1.7. The appeal and observations to the appeal refer to the height of the proposed development and question whether it is appropriate to the location relative to the existing surrounding development which includes two-storey dwellings on the opposite side of Canal New Road.
- 7.1.8. The proposed building contains four storeys. The fourth storey is setback 2m from the front building line. The site context is adjacent to the town centre of Tralee. While I note that the dwellings along the western side of New Canal Road are two-storey, the apartment building at the corner of James Street and Basin circa 52m to the north of the site has four storeys and there are three storey residential properties along James Street.



- 7.1.9. The first party in response to the matter of the height of the proposed scheme stated that the 20.8m width of New Canal Road/Lower Basin View, Basin Road provides a very acceptable 2:1 height to width ratio which can accommodate a three storey building with setback of the 4th floor. The first party further submit that any suggestion that sites at this location can only be developed at two storeys is unsustainable. The restriction of development in an inner urban zone would create a negative precedent that would be detrimental to sustainable redevelopment of an inner urban zone.
- 7.1.10. In relation to the height of the proposed scheme, it is noted in the appeal that paragraph 3.1 of the Ministerial Guidelines – Urban Development and Building Height Guidelines (2018) states that “There is therefore a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility.” The subject site being immediately adjacent to the town centre of Tralee and within walking distance of the towns retailing and amenities is an entirely appropriate for a building of this height.
- 7.1.11. Accordingly, having regard to the provisions of the Ministerial Guidelines in relation to Building Heights, I would accept that the principle of an apartment building of four storeys can be considered subject to all other relevant planning considerations being satisfactorily addressed.

#### Design

- 7.1.12. The design of the building is contemporary. It includes a monoslope roof and it has a mix of elevational features including inset balconies. The fourth floor is inset by 2m at the western side of the building to the front. Having regard to the site size and context specifically the existing surrounding development which is predominately two-storey along the western side of New Canal Road it is important that the proposed apartment building will integrate with the surrounding development.
- 7.1.13. The dwellings immediately to the west with frontage onto New Canal Road would be situated over 22.8m from the fourth-storey section of the building. Accordingly, I consider that this is an adequate separation to the neighbouring dwellings to address potential overbearing impact.
- 7.1.14. I consider that there is reasonable variety to the elevational treatment of the building and the materials and colour pallet of the external finish provide a good mix of high

quality finishes. The proposed finishes include blue/grey and buff brick, with black window and door frames, glass panels and stainless steel railings to the balconies. Overall, in terms of the visual impact of the proposed scheme on the surrounding area I consider that the development has been designed well to integrate with the surrounding development.

#### Dual aspect

7.1.15. SPPR4 as detailed in the Apartments Guidelines (2022) refers to the requirement for dual aspect units within schemes. It sets out that in relation to the minimum number of dual aspect apartments that may be provided in any single apartment scheme that a minimum of 33% of dual aspect units will be required in more central and accessible urban locations, where it is necessary to achieve a quality design in response to the subject site characteristics and ensure good street frontage where appropriate in. Furthermore, for building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, planning authorities may exercise further discretion to consider dual aspect unit provision at a level lower than the 33% minimum outlined above on a case-by-case basis, but subject to the achievement of overall high design quality in other aspects.

7.1.16. In relation to the number of dual aspect units proposed I note that 84% (16 of the 19 units) have dual aspect windows and 42% (8 of the 19 units) are dual aspect apartments with dual frontages.

7.1.17. Accordingly, I consider that the provision of dual aspect units with the scheme acceptable in this instance, and it is compliant with SPPR4 of the Apartment Guidelines.

#### Private amenity space

7.1.18. As detailed in the Housing Quality Assessment report submitted with the application and contained in the section which refers to Assessment of Minimum Floor Areas and Design Standards, the proposed private open space areas to serve the residential units range from a minimum of 5sq m to 7sq m. The minimum requirements for private open space range between 4sq m to 7sq m for one and two bedroom units as per Appendix 1 of the Apartment Guidelines. Accordingly, the

apartment units are provided with either a terrace or balcony of sufficient size which is in accordance with the standards set out in the Apartment Guidelines.

#### Communal open space

7.1.19. Communal open space provision is proposed within the scheme. As detailed in the Apartment Guidelines the communal amenity space may be provided as a garden within the courtyard of a perimeter block or adjoining a linear apartment block. Designers must ensure that the heights and orientation of adjoining blocks permit adequate levels of sunlight to reach communal amenity space throughout the year. Roof gardens may also be provided but must be accessible to residents, subject to requirements such as safe access by children. As per the minimum requirements set out in Appendix 1 of the Apartment Guidelines a minimum area of 110sq m of communal amenity space would be required to serve the scheme. A grassed public open area of 85sq m is proposed to the rear, eastern side of the building. This area represents 15% of the total site area. While, I note that the area of communal open space provided within the scheme is 25sq m under the area required as per Appendix 1 of the Apartment Guidelines, having regard to the location of the site in close proximity to Tralee Town Park and Tralee Canal walk this adds significantly to the recreational amenity available to future residents and therefore, I consider that the minor shortfall in provision would be acceptable in this context. Accordingly, I consider that a satisfactory level of communal open space has been provided within the scheme.

#### Specific relevant Tralee Town Plan policy – Opportunity Site

- 7.1.20. The subject site is part of an Opportunity Site. The Opportunity Site is situated at Canal New Road and James Street. In relation to the policy context the current Tralee Town Development Plan (as extended & varied) is incorporated into the Kerry County Development Plan 2022-2028
- 7.1.21. Section 1.5.1 of the Tralee Town Plan refers to Opportunity Sites. It states that the development of the opportunity sites is of prime importance to the economic regeneration and urban fabric enhancement of the town. Section 1.5.2 refers to Other Opportunity Sites and it details that a number of small opportunity sites have been identified, the development of these site are of importance to regeneration of the urban fabric and public realm in the town. These sites include a number of

smaller brownfield sites situated off James St/Basin View, Pembroke Street, Godfrey Place (former Cameo bakery), Kelliher's Mills. The local authority will encourage the redevelopment of these sites throughout the town on a case-by-case basis.

- 7.1.22. The plan advises that the 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 three to four 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.
- 7.1.23. Objective TR 41 of the Plan states that it is an objective of the Council to facilitate and/or require the preparation of masterplans for Opportunity sites and the Lohercannon Area where appropriate prior to the redevelopment of opportunity sites identified in the plan to ensure their development in a cohesive and integrated manner.
- 7.1.24. The above details refer to the specific policy context of the site. In relation to the development context of the site, specifically in the context of the Opportunity Site it is important to note that there is a current application which is also on appeal, where permission sought 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 at James Street/Canal New Road/Basin view, Tralee, Co Kerry. I note that presently this appeal has not been decided by the Board.
- 7.1.25. The other site comprises the northern section of the overall Opportunity Site with the site subject of this appeal occupying the southern section of the overall Opportunity Site. The area between these two sites within the overall Opportunity Site is occupied by the premises of Windmill Glazing which is an operating commercial premises and the owners of which have made the subject appeals. A matter raised in the appeal is that the proposed development would be detrimental to the potential future redevelopment of this central area of the site which is presently occupied by Windmill Glazing. In relation to this concern I would acknowledge that the separate development of both the subject site and the site to north within the



Opportunity Site would serve to constrain or limit the full development potential of this central area of the Opportunity Site. Furthermore, I would highlight that the provision of masterplan/strategy for the redevelopment of entire Opportunity Site would provide the basis for ensuring the full development potential of the entire Opportunity Site can be achieved by providing an integrated design approach to the building design, pedestrian access arrangements, car parking and bicycle parking, servicing arrangements and provision of amenity space.

7.1.26. Accordingly, on the basis of the detail discussed above, I would conclude that having regard to the location of the subject site within an Opportunity Site situated at Canal New Road and James Street as designated in the Tralee Town Plan (as extended & varied) which is incorporated into the Kerry County Development Plan 2022-2028 and specifically the requirement of Objective TR41 of the Tralee Town Plan to facilitate and/or require the preparation of masterplans for Opportunity sites and the Lohercannon Area where appropriate prior to the redevelopment of opportunity sites identified in the plan to ensure their development in a cohesive and integrated manner, therefore it is necessary that the development of the subject site be in accordance with this development objective. Furthermore, having regard to the current separate application for a residential scheme of development on the site located at the corner of Canal New Road and James Street which also forms part of the overall designated Opportunity Site, it is considered that the proposed development in the absence of an overall masterplan/strategy for the redevelopment of entire Opportunity Site would represent an uncoordinated and haphazard form of development which would give rise to the piecemeal development of overall lands which would be contrary to the provisions of the statutory Development Plan, and would be contrary to the proper planning and sustainable development of the area.

## **7.2. Impact on residential amenity**

- 7.2.1. The appeal and observations refer to potential impact upon residential amenity in terms of shadowing and overlooking.
- 7.2.2. Regarding the matter of daylight and sunlight, the provisions of BS 8206-2:2008 (British Standard Light for Buildings- Code of practice for daylighting) and BRE 209 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011) are relevant in the assessment of this development. Neither document is specifically



referenced in the Tralee Town Development Plan 2009 – 2015 (as extended and varied) or the Kerry County Development Plan 2022-2028.

- 7.2.3. The Section 28 Ministerial Guidelines on Urban Development and Building Heights 2018 refer to both BS 8206-2:2008 (British Standard Light for Buildings- Code of practice for daylighting) and BRE 209 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011). The Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities refer to the BRE Guide 209 2022 Edition (June 2022). While I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 'Daylight in buildings'), which replaced the 2008 BS in May 2019 (in the UK) and the updated BRE Guide 209, (2022) I am satisfied that these documents/UK updated guidance does not have a material bearing on the outcome of the assessment.
- 7.2.4. A Shadow Impact Assessment, prepared by John Phelan, B.Arch., FRIAI, Chartered Architect was submitted as part of the planning documentation by the applicants. It is stated that the purpose of the shadow impact study is to assess the impact on existing adjoining buildings and the residences on the opposite side of New Canal Road.
- 7.2.5. In relation to the shadow study submitted with the application, the appellants considered that it did not assess the extent of overshadowing that will occur in the communal open space and that the report does not address the matter of sunlight and daylight in any detail and that a full VSC analysis was not provided. The submitted shadow analysis does not fully address the requirements of the BRE in relation to amenity areas and overshadowing impact, daylight impact and sunlight impact.
- 7.2.6. In contrast to this the Planning Authority responded to the issue of overshadowing in their appeal response, and they stated that the Shadow Impact Assessment submitted with the application is noted and considered satisfactory.
- 7.2.7. The Shadow Diagrams were provided for the following dates 8<sup>th</sup> of September, 9<sup>th</sup> of October, 15<sup>th</sup> of November and 15<sup>th</sup> of December. It indicates the shadowing from which would occur from the proposed apartment building. Having reviewed the shadowing diagrams I note that on the 8<sup>th</sup> of September some limited shadowing of the front of the opposite dwellings to the west in the early morning. After 9.55am

there would be no overshadowing of the dwellings. On the 9<sup>th</sup> of October there would be shadowing of dwellings directly opposite the site up to 11.15am. On the 15<sup>th</sup> of November there would be shadowing of the dwellings up to 11.30am. On the 15<sup>th</sup> of December there would be shadowing of the dwellings opposite the site along New Canal Road and to the north-west along the road up to 12.45pm.

7.2.8. In relation to the adjoining premises, the appellant's property, there would be limited additional shadowing in the morning period on October 9<sup>th</sup> and November 15<sup>th</sup>. On December 15<sup>th</sup> there would be additional shadowing up to 12.45pm. It is concluded in the assessment that some morning time partial shadowing of adjacent private residences would occur for part of the year only. It was highlighted that for 20% of the time in Tralee the weather is overcast with diffused light conditions. Therefore, direct sun shadows are only cast 20% of the time. The 27.5 degree sun angle available on New Canal Street side of the private residences opposite means these restrictions have a 140 degree sky angle available to them, which when coupled with the reflective quality of the proposed Apartment building means that there will be minimal loss of natural daylight over the course of the day. It was concluded in the report that the overall impact of partial shadowing is not significant enough to counter the positive urban gains.

7.2.9. The first party in response to the matter of shadowing stated that there is a separation distance of 20.8m between the building line and the proposed apartment building and neighbouring dwellings to the western side of the road and the state that this allows an appropriate 27 degree sky angle for excellent light penetration into the streetscape. The first party asserted that the details provided by the observers in relation to overshadowing are overstated and that it fails to understand the urban context of the site. They submit that it is unavoidable in any urban setting to not have some impact on light and shadow and that the impact of shadows from opposing street frontages in urban areas in Ireland for Low to Medium Height developments of four stories or less in streets having a width such as New Canal Road in the context of urban planning in Irish diffuse sunlight is not considered a justifiable ground of appeal. The first party also highlighted that the dwellings on the western side of New Canal Road are served by long rear gardens which would not be affected by overshadowing from the proposed development.

7.2.10. Having regard to the detail provided in respect of potential shadowing, I would conclude that the proposed development would result in some limited new shadowing of dwellings opposite the site to the west and north-west however the shadowing would not occur in the afternoon and evenings and given the town centre location of the property some limited additional shadowing is considered acceptable.

7.2.11. In respect of the matter of potential overshadowing of the proposed communal open space area within the scheme, I note that this was not addressed in the Shadow Impact Assessment.

#### Overlooking

7.2.12. In relation to overlooking concern was expressed in the appeal that the proposed apartment building would impact the adjoining premises to the north and that it would impact the development potential of that site. The observations, to the appeal refer to the dwellings on the opposite side of New Canal Road and consider that they would experience undue overlooking by the proposed development.

7.2.13. The closest residential properties to the site are the two-storey semi-detached dwellings and a detached dwelling situated to the west of the site on New Canal Road. The separation distance between the boundary of the site and the front of the closest residential property opposite the site is 20.8m. The proposed apartment building contains four storeys. As indicated on drawing no: 2106 PA 21 the fourth floor is setback by 2m. I would consider that the proposed separation between the front building line of the subject apartment building and the front of the existing dwellings on the opposite side of New Canal Road is satisfactory in the context of the location within the town centre.

7.2.14. Having reviewed the proposed site layout of the scheme relative to the existing surrounding properties, I consider having regard to the proposed siting of the new dwellings and the relative separation distances to the existing dwellings to the west of the site that the proposed scheme would not result in any undue overlooking of residential properties.

### **7.3. Traffic and car parking**

7.3.1. The proposal entails the provision of a total of 19 no. apartments within a four-storey building. Vehicular access into the site and on-site car parking are not proposed,

having regard to the limited site size. The site is located on the eastern side of New Canal Road within a 30km/h area. There is a loading bay immediately to the front of the site and there is a parallel parking bay along the western side of the road.

- 7.3.2. The grounds of appeal and the observations have raised concern regarding the additional vehicular traffic the scheme would generate and the absence of car parking. Concern is specifically expressed regarding the applicant's suggestion that the Brandon car park could be used for residents of the scheme to park. Concern was also raised regarding the location of the proposed bin store and the impact upon the operation of the business on the adjoining site to the north.
- 7.3.3. In response to this the first party submit that the site is in a central location close to facilities, parks, amenities and significant employment. In relation to accessibility and transport the first party highlighted the sustainable forms of personal transport which are available are suitable for a urban context including electric bicycles and scooters. They also referred to hire car services which are available and that access to bus routes in Tralee means that central urban locations such as the subject site should not require car ownership.
- 7.3.4. Under the provisions of the current Tralee Town Development Plan (as extended & varied) which is which is incorporated into the Kerry County Development Plan 2022-2028 the car parking standards are set out in Appendix 6, Section 1.20.7 Car Parking Standards – car parking requirements in the town and villages in the County should be reflective of the anticipated parking demand. Table 4 illustrates the car parking standards for different types of development. (It should be noted that a flexible approach to these standards may be applied where such a case is substantiated, there is no traffic safety issue, and it is clearly demonstrated to the Planning Authority in the interest of proper planning and development, that the standard should be adjusted to facilitate the site-specific context).
- 7.3.5. The site at New Canal Street is located within Area B on Map 2b from the Tralee Town Development Plan which refers to Parking Zones and Roads in Control of Kerry County Council. The parking requirement as per Table 15 – Car Parking Standards is 1.25 space per unit.
- 7.3.6. The first party in their submission with the application set out that the site is deemed to be a "Central and/or Accessible Urban Location that National Guidelines clearly



indicate that it is appropriate to reduce the requirement for parking provision on site to cater for increased open space i.e. higher site density. The parking requirement would be 24 no. spaces as per the Tralee Town Plan. The first party set out that this can be offset. The building previously on the site has a floor area of 535sq m and they suggested that an offset of 18 car spaces could be provided what a rate of 1 space per 30sq m being required for the previous use on the site. They highlighted the proximity of Brandon car park 200m from the appeal site. Therefore, they submitted that Central Urban location of the site warrants the reduction of parking provision on site.

- 7.3.7. In relation to the assessment of the Council regarding the matter of parking, I note that the report from the Tralee Municipal District which stated that they did not consider that the site is highly accessible and located within a town centre. They stated that the guidance which is more appropriate for this development is that outlined in paragraph 4.22 Peripheral and/or Less Accessible Urban locations of the Sustainable Urban Housing Design Standards for New Apartments. They concluded in their report that reducing car parking in part or wholly is on a case by case basis and in the instance of this Town, measures outlined in this application are premature and unsuitable to cater for residents of this proposed development and furthermore will set a precedence for future planning applications of a similar nature if approved. I note that the appeal and observations highlighted this assessment.
- 7.3.8. In contrast to the assessment of the Tralee Municipal District, the report of the Planning Officer stated that the principle of a development at this location without car parking is considered acceptable having regard to the provisions of Section 4.27 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2020.
- 7.3.9. The Sustainable Urban Housing Design Standards for New Apartments, Guidelines for Planning Authorities has been updated by a version published in December 2022. The matter of car parking is discussed under section 4.20 of the guidelines. Central and/or Accessible Urban Locations are referred to under section 4.21 which states that in larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. The policies above would be particularly

applicable in highly accessible areas such as in or adjoining city cores or at a confluence of public transport systems such rail and bus stations located in close proximity.

- 7.3.10. Section 4.29 advises that for building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, car parking provision may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality and location. I note that the report of the Planning Officer has relied upon this provision of the Guidelines to determine that the absence of car parking on site would be acceptable having regard to the site context.
- 7.3.11. Regarding the site context, I note that it is within 5-10 minutes walking distance of the town centre of Tralee and that the town itself is served by a local bus service operated by Tralee People's Bus Service. Furthermore, I note the proposals for bicycle parking both within the building for residents and to the front to serve visitors. In relation to the use of hire cars/ car clubs I note that the applicants have not provided any detailed proposals for such a service. In the absence of any car parking, it would be appropriate that future residents have some access to such services. Accordingly, should the Board decide to grant permission for the proposed development, I would recommend that a condition be attached requiring that proposals be provided for access to the use of hire cars/ car clubs.
- 7.3.12. Condition no. 5 of the permission granted by the Planning Authority required that the applicant pay € 52,000.00 in respect of the provision of car parking in the absence of car parking facilities to serve the proposed development which would require a minimum of 13 additional car spaces. Should the Board decide to grant permission for the proposed development, I would recommend that a condition be attached requiring that the payment of this sum in lieu of the provision of car parking within the scheme.
- 7.3.13. In relation to bicycle parking a bicycle storeroom is proposed within the building with 28 no. spaces provide and with a further 20 no. spaces provided in cycle racks to the front of the building. Section 12.31 of the Tralee Town Plan requires that Cycle stands are required for all developments at one quarter the rate of required car parking spaces for the development in the B and C locations. Under this standard then a minimum of 6 no. bicycle spaces would be required. The proposed bicycle

parking with a total of 48 no. spaces is well in excess of this requirement in the Town Plan.

7.3.14. The issue of traffic generation was raised in the appeal and observations. Having regard to the fact that no on-site car parking would be provided within the scheme it is reasonable to consider that future residents would be fully cognisant of this fact and that as such additional traffic and car parking would not be generated in the area by the proposed development.

7.3.15. The location of the proposed bin store and the impact upon the operation of the business on the adjoining site to the north was raised in the appeal. Having regard to the limited size of the site and frontage it is necessary to locate the proposed bin store in close proximity to the existing business premises on the adjoining site. While I note that the proposed layout would entail that refuse collections would occur there, this would only occur on a weekly basis and for a limited time. Accordingly, I do not consider that it would unduly impact upon the operation of the adjoining premises.

7.3.16. In conclusion, I am satisfied with the proposed car parking provision, bicycle parking provision and access arrangements.

#### **7.4. Appropriate Assessment**

##### Stage 1 Screening

7.4.1. The proposed development would not be located within an area covered by any European site designations and the works are not relevant to the maintenance of any such sites. The European site Tralee Bay and Magharees Peninsula West to Cloghane SAC (Site No. 002070) is located 772m to the south-west of the development site. Tralee Bay Complex SPA (Site No. 004188) is located 624m to the south-west of the development site.

7.4.2. The qualifying interests/special conservation interests of the designated sites, are summarised as follows:

<b>Tralee Bay and Magharees Peninsula West to Cloghane SAC</b>	<b>Tralee Bay Complex SPA</b>
Estuaries [1130]	Whooper Swan (Cygnus cygnus) [A038]

Mudflats and sandflats not covered by seawater at low tide	Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) [A046]
[1140]	Shelduck ( <i>Tadorna tadorna</i> ) [A048]
Coastal lagoons [1150]	Wigeon ( <i>Anas penelope</i> ) [A050]
Large shallow inlets and bays [1160] Reefs [1170]	Teal ( <i>Anas crecca</i> ) [A052]
Annual vegetation of drift lines [1210]	Mallard ( <i>Anas platyrhynchos</i> ) [A053]
Perennial vegetation of stony banks [1220]	Pintail ( <i>Anas acuta</i> ) [A054]
Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]	Scaup ( <i>Aythya marila</i> ) [A062]
Salicornia and other annuals colonising mud and sand [1310]	Oystercatcher ( <i>Haematopus ostralegus</i> ) [A130]
Atlantic salt meadows ( <i>Glauco-Puccinellietalia maritimae</i> ) [1330]	Ringed Plover ( <i>Charadrius hiaticula</i> ) [A137]
Mediterranean salt meadows ( <i>Juncetalia maritimi</i> ) [1410]	Golden Plover ( <i>Pluvialis aprinoria</i> ) [A140]
Embryonic shifting dunes [2110]	Grey Plover ( <i>Pluvialis squatarola</i> ) [A141]
Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]	
Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]	
Dunes with <i>Salix repens</i> ssp. <i>argentea</i> ( <i>Salicion arenariae</i> ) [2170]	
Humid dune slacks [2190]	
<i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils ( <i>Molinion caeruleae</i> ) [6410]	
Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, <i>Salicion albae</i> ) [91E0]	
<i>Lutra lutra</i> (Otter) [1355]	
<i>Petalophyllum ralfsii</i> (Petalwort) [1395]	



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- 7.4.3. The Conservation Objectives for Tralee Bay and Magharees Peninsula West to Cloghane SAC (Site No. 002070) are to maintain/restore the favourable condition of the qualifying habitats and species.
- 7.4.4. The Conservation Objectives for Tralee Bay Complex SPA (Site No. 004188) are to maintain/restore the favourable condition of the qualifying species as defined by a list of attributes and targets.
- 7.4.5. The subject site is a brownfield/infill site. The proposed attenuation measures would reduce variations in the runoff from the site. There is no potential, therefore, for the proposed development to alter the volume or characteristics of the flows into or from the surface water sewerage system that could conceivably have a significant effect on any Natura 2000 site. The foul effluent from the proposed development would drain to the wastewater treatment system for Tralee. The scale of the proposed development relative to the rest of the area served by that system means that the impact on the flows from that system would be negligible and would not have the potential to have any significant effect on any Natura 2000 site.
- 7.4.6. In relation to potential in cumulative/in combination, no such impacts between the proposed development and other plans or projects are envisaged.
- 7.4.7. Having regard to the site's location in an urban area, the nature and scale of the works, the separation distance between the site and the SAC and the SPA and to the characteristics of the designated sites and the qualifying interests, it is considered that the proposed development would not be likely to have a significant effect on either of the designated sites.

#### AA Screening Conclusion

- 7.4.8. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on Tralee Bay and Magharees Peninsula West to Cloghane Special Area of Conservation, European Site No. 002070, Tralee Bay Complex Special Protection Area European Site No. 004188, or any other European

site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## **8.0 Recommendation**

8.1. I recommend that planning permission refused be for the proposed development in accordance with the following reasons and considerations:

## **9.0 Reasons and Considerations**

1. Having regard to the location of the subject site within an Opportunity Site situated at Canal New Road and James Street as designated in the Tralee Town Plan (as extended & varied) which is incorporated into the Kerry County Development Plan 2022-2028 and specifically the requirement of Objective TR41 of the Tralee Town Plan to facilitate and/or require the preparation of masterplans for Opportunity sites and the Limerick Area where appropriate prior to the redevelopment of opportunity sites identified in the plan to ensure their development in a cohesive and integrated manner, therefore it is necessary that the development of the subject site be in accordance with this development objective. Furthermore, having regard to the current separate application for a residential scheme of development on the site located at the corner of Canal New Road and James Street which also forms part of the overall designated Opportunity Site, it is considered that the proposed development in the absence of an overall masterplan/strategy for the redevelopment of entire Opportunity Site would represent an uncoordinated and haphazard form of development which would give rise to the piecemeal development of overall lands which would be contrary to the provisions of the statutory Development Plan, and would be contrary to the proper planning and sustainable development of the area.

DECISION QUASHED