



An
Bord
Pleanála

Inspector's Report ABP 314710-22.

Development	Demolish existing 4 no. houses and construction of 18 no. houses and 12 no. apartments. Associated site development works.
Location	Ballymullen Road/Clonbeg, Tralee, Co. Kerry.
Planning Authority	Kerry County Council.
Planning Authority Reg. Ref.	22/17.
Applicants	Paddy Sugrue and Edward Kelliher.
Type of Application	Permission.
Planning Authority Decision	Grant permission.
Type of Appeal	Third Party
Appellant	James Collins.
Observers	None
Date of Site Inspection	2nd May 2023
Inspector	Siobhan Carroll

Contents

1.0 Site Location and Description.....	5
2.0 Proposed Development.....	5
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports.....	6
3.3. Prescribed Bodies.....	12
3.4. Third Party Observations.....	12
4.0 Planning History.....	12
5.0 Policy Context.....	12
5.1. Project Ireland 2040 - National Planning Framework.....	12
5.2. Section 28 Ministerial Guidelines	13
5.3. Development Plan	13
5.4. Tralee Town Development Plan 2009-2015 (as extended and varied)	14
5.5. Natural Heritage Designations	14
5.6. Environmental Impact Assessment.....	15
6.0 The Appeal.....	17
6.1. Grounds of Appeal.....	17
6.2. Applicant Response.....	17
6.3. Planning Authority Response	18
7.0 Assessment.....	19
7.1. Design and finished floor levels.....	19
7.2. Impact on amenity	20
7.3. Flood Risk.....	21
7.4. Appropriate Assessment	29

8.0 Recommendation..... 32

9.0 Reasons and Considerations 33

10.0 Conditions..... 33

1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 0.7753 hectares and is located to the south-eastern side Tralee Town Centre. It is situated to the east of Ballymullen Road and extends back from circa 207m. Ballymullen Post Office, which is a Protected Structure is situated to the north of the site.
- 1.2. The western section of the appeal site contains a 4 no. two-storey terraced dwellings (no's 1-4 Ballymullen). No. 4 Ballymullen adjoins the Munster Bar which is located at no's 5-7 Ballymullen. Along the section of Ballymullen Road in the vicinity of the site there is on street parking along both sides of road. There is a small public park on the western side of Ballymullen Road opposite the appeal site and this adjoins Ballmullen Roundabout. The Ballymullen Roundabout forms the junction of the N68 Ballymullen Road and the Dan Spring Road.
- 1.3. The eastern section of the appeal site comprises a relatively flat area of land which contains an area of hard surfacing. A shed structure on site is in a ruinous condition and there is a pile of large stone blocks located on the northern site of the site.
- 1.4. The northern, eastern and southern site boundaries are formed by high stone walls. The adjoining property to the north contains the premises of Kelliher's Electricals and Kelliher's Feed and Agri Supplies Ltd. The eastern boundary of the site adjoins the premises of Lee Strand Co-Operative Creamery Ltd. The lands to the south of the appeal site are occupied by Ballymullen Barracks.

2.0 Proposed Development

- 2.1. Permission is sought for the demolition of 4 no. existing houses, the construction of 18 no. houses and 12 no. apartments and associated site development works.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 19 no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Further information was sought regarding the following matters;

1. Address issues raised by the Roads Transportation and Marine Department of the Tralee Municipal District Office:
 - (i) Submit proposals for the road construction design and details of the tie into the public road at the junction of the Regional road R874.
 - (ii) Liaise with the road design office of KCC regarding the requirement for speed signs for the development.
 - (iii) Liaise with KCC public lighting department regarding the location of street lighting.
 - (iv) Liaise with Tralee Municipal District Engineer regarding the arrangement of the public footpath prior to construction.
2. The applicant is requested to address the issues raised by Water Services, KCC/Irish Water:
 - (i) A layout of the watermain and the size of the watermain required. The layout should indicate location of fire hydrants which are to be located in communal areas and within 46 metres of each dwelling.
 - (ii) A layout of the foul sewer and longitudinal section and where the proposed connection to the existing sewer network is required.
3. The applicant is requested to address the following issues raised by the Flooding & Coastal Protection Unit, KCC:

The applicant is proposing a finished floor elevation of 3.725m for Units 1 to 4 which are located in an area of high flood risk (Flood Zone A) and recurring history of frequency flooding.

In Section 4.2.3.1 of the Flood Risk Assessment report the design flood level for fluvial risk has been estimated at 3.12mOD assuming the predicted flood depth for the 0.1% AEP fluvial event (existing scenario) being 0.25m to 0.5m at the entrance to the site as detailed in the CFRAM flood extents mapping.

However, in section 4.2.3.2 the design flood level for coastal flood events is estimated at 3.94mOD based on minimum standard of protection for coastal flood events being 0.5% AEP Mid-Range Future Scenario (MRFS). In this scenario the predicted flood depth at the entrance to the site would be in order of 1.14m above existing road levels and 215mm above the proposed FFL of 3.725OD for Units 1 to 4.

The assessment of risk to occupants (section 4.6) is not clear and appears to be contradictory. Section 4.6.1 (Access, Egress and Refuge) of the report assess the risks associated with a 1% AEP MRSF flood event (approximated earlier as the 0.1% AEP fluvial current event). The depths for this scenario at the entrance to the development are in the 0.25m to 0.5m range. However, it does not assess the risk associated with a 0.5% AEP MRFS coastal event. The depths in this scenario would be >1m.

Similarly for section 4.6.1.1. (Assessment of Flood Hazard) of the report assesses hazards associated with a 0.1% AEP event and indicates that the maximum flood depth is 0.64m. It is not clear what this event is. The 0.1% AEP coastal event (existing scenario) indicates a water level of 3.65mOD so in the theory a flood depth of 0.85m at the entrance. However, in this current scenario the area is considered a defended area due to the presence of an existing flood defence embankment. The applicant should assess the risk associated with a 0.5% AEP MRFS coastal event.

The application as submitted does not clearly define the design parameters for justifying the finished floor elevations of 3.75m for units 1 to 4 and similarly there is inconsistency in the assessment regarding the flood risk associated with the proposed access road and in particular ensuring safe access and egress for occupants for the required design flood events.

4.

- (i) The applicant is requested to submit a schedule outlining the details of the proposed apartments in the context of the standards set out in the "Sustainable Urban Housing: Design Standard for New Apartments" (2020) in relation to room dimensions, room floor areas, storage provision, private open space provision etc.

- (ii) The applicant is requested to outline the extent of private open space being provided to the rear of each dwelling. Regard should be had to the requirements of the Tralee Town Plan in this regard.
 - (iii) The applicant is requested to provide a breakdown of the areas of shared open space calculated to provide 14% of the site area.
 - (iv) The applicant is requested to provide for passive surveillance of the area between apartment block unit 5-7 and units 8 to 10.
- 5.
- (v) The applicant is invited to address the issues raised in the submission received from Harry Kelliher in relation to the ownership of the site.
 - (vi) The applicant is invited to address the issue raised in the submission received from John O'Sullivan of the Munster Bar in relation to potential for damage to property due to proposed demolition.
6. The applicant is requested to submit a building lifecycle report for the proposed apartment blocks as per Section 6.13 of the "Sustainable Urban Housing: Design Standards for New Apartments" (2020).
7. The applicant is requested to make provision for locating communal or individual satellite dishes on less visible parts of the apartment buildings, such as at roof level as per Section 4.4 of the "Sustainable Urban Housing: Design Standards for New Apartments" (2020).
8. Submit an assessment of the proposal with regard to the 12 criteria outlined in the Urban Design Manual – Best Practice Guide (2009).
- 9.
- (i) As the circular windows on buildings in the Ballymullen Barracks are not generally visible, it is considered that they appear as incongruous design elements on Ballymullen Road. The applicant is requested to submit revised proposals and revised contiguous elevational drawings for Ballymullen Road.

- (ii) The applicant also requested to submit revised proposals for additional fenestration on the front elevation of apartment blocks of units 5-7 and 8-10 to address the extent of blank façade and to provide more light.
- (iii) The applicant is requested to provide fenestration on the southern gable of Unit 1 and northern gables of Units 2 and 4 to provide for passive surveillance and to avoid blank elevations.

10. The Design Standards for New Apartment Guidelines 2020 specify a minimum standard of 1 cycle storage space per bedroom with visitor cycle parking at a standard of 1 space per 2 units. The Guidelines also require the cycle storage facilities be provided in “a dedicated facility of permanent construction”. This has not been provided. The applicant is requested to submit revised proposals to address this issue.

11. The applicant is requested to address the following issues raised by the Housing Estates Unit, KCC:

- (i) Developer to provide a separate Site Layout Plan drawing showing all communal areas and services that maybe taken in charge by the Local Authority.
- (ii) Developer to provide a cross section drawing of the proposed access/estate road. The finish of the access road to be fully demonstrated. 100mm thick bituminous surfacing to the estate road is required.
- (iii) Please ensure a 1m lateral clearance for all fixed objects, including lighting columns, fire hydrants/sluice valve marker plate, landscaping, in line with the publication, ‘Recommendations for Site Development Works for Housing Areas’. The lateral clearance is measured from the edge of the access/estate road.

12. It is noted that an existing gate on the northern boundary is being retained with grasscrete surfacing adjacent to it. The applicant is requested to clarify why an access is sought to be retained at this location.

13. The applicant is requested to address the following issues raised by the Biodiversity Officer: - Consideration should be given to the landscaping of the proposed development with native Irish species of Irish provenance and in

consultation with recommendations for the All Ireland Pollinator Plan, Pollinator Friendly Planting Code Guidelines.

Clarification of Further Information was sought in relation to the following;

1. The applicant was requested to address the issues raised by Water Services, KCC.

- No surface water to enter the foul/combined sewer network along the Ballymullen Road due to capacity issues. Attenuation is not sufficient as this area has a risk of flooding from surface water. On the proposal to Irish Water to connect to the Combined Sewer Network this will not be allowed. An alternative for dealing with the surface water must be found rather than what is been proposed.

3.2.2. Following the submission of a response to the further information and the clarification of further information the Planning Authority recommended a grant of permission.

3.2.3. Other Technical Reports

Tralee Municipal District Roads – The proposed development is located on the R874 at the junction of Ballymullen in a 50km/hr zone. The developer shall submit their proposal for the road construction design and details of the tie into the public road at the junction of the R874. The developer shall liaise with the road design office of Kerry County Council regarding the requirement for speed signs for this development including their site location. The developer shall liaise with Kerry County Council's public lighting department regarding the locations of street lighting. The Developer shall liaise with Tralee Municipal District Engineer regarding the arrangement of the public footpath prior to construction if planning is granted.

Kerry North Roads Design Office – No observations to make.

Water Services – Further information required. 1. A layout of the watermain and the size of the watermain is required. 2. A layout of the foul sewer and longitudinal section and where the proposed connection to the existing sewer network. 3. How will the surface water be dealt with. No surface water to enter the foul/combined sewer network due to capacity issues.

County Archaeologist – There are no recorded monuments listed in the Record of Monuments & Places in proximity to the proposed development site. However, given the scale of the development site and despite disturbance of the site in the past, there is still a possibility that archaeological features, strata and/or artefacts may survive on the site. As such, the following condition should attach to any grant of planning permission. “All ground disturbance associated with the proposed development should be archaeologically monitored and a report submitted to the planning authority on completion.

Conservation Officer – No objection to the proposal. If permission is granted the following conditions should be included:

1. Submission of annotated colour photographic record of the four houses proposed for demolition. Survey record to be submitted to the Planning Authority prior to the demolition phase of the development.
2. The boundary wall to the north, south and east of the site shall be protected from damage during the course of the development. Where required, localised consolidation can be carried out under the direct supervision of a conservation professional during the course of the development.
3. A maintenance plan for the ongoing conservation and protection in situ of this wall should be incorporated into any future management company or structure designed to cater for the development post construction.

Housing Estates Unit – Report dated 11/29/2022 – Conditions required.

Biodiversity Officer – Report dated 8/3/2022 – Further information requested.

Biodiversity Officer – Report dated 27/6/2022 – No objection subject to the attachment of a condition requiring that the developer liaise with the Biodiversity Officer, Environmental Unit of Kerry County Council prior to construction commencing with the view of installing/building in/incorporating swift nest boxes into the development.

Flooding & Coastal Protection Unit – Further information sought in relation to the following – Clarify inconsistencies regarding the design flood levels (coastal/Fluvial AEP's etc). Reassess the access and egress arrangements in the event of the entrance to the proposed development being flooded. Reassess the proposed FFL 3.725m OD as it's below the applicants indicated flood level.

Flooding & Coastal Protection Unit – report subsequent to further information response. The applicant has raised the FFE to 3.95m for Units 1-4 and provided an additional access/egress route to the north which is at a higher elevation.

3.3. Prescribed Bodies

3.3.1. Uisce Éireann – No objections

3.4. Third Party Observations

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

4.0 Planning History

4.1.1. Reg. Ref. 22/848 & ABP 316259-23 – Permission was granted by the Planning Authority to construct a warehouse and to remove a section of boundary wall within curtilage of a Protected Structure. The application is currently on appeal.

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. (2023)

5.3. Development Plan

- 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 ‘R2’ - Existing Residential on the western part adjoining the Ballymullen road which contains 4 no., terraced houses and the eastern part is zoned - Objective ‘M4’ – Built Up Area.
- 5.3.3. Chapter 3 of the Kerry Development Plan refers to Core & Settlement Strategy
- 5.3.4. Section 3.10.1 – Principles of the Settlement Strategy
- 5.3.5. 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.
- 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.

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

5.3.7. Section 1.5 refers to Residential Development.

5.3.8. Appendix 4 – Strategic Flood Risk Assessment

5.4. Tralee Town Development Plan 2009-2015 (as extended and varied)

5.4.1. Section 1.3.4 refers to Flood Risk

5.4.2. A Strategic Flood Risk Assessment has been carried out for this plan and has informed the land use zonings. Flood Maps indicating those areas in Tralee that are risk of flooding are included in section 1.12

5.4.3. Section 1.12 refers to Land Use Zoning Maps and Flood Maps

5.4.4. Objective TR 121 – It is an Objective of the Council to: Development within existing built-up areas located within Zone A & B; Ensure that development proposals avoid the identified flood risk areas, or if not possible ensure that proposals avoid the identified flood risk properties and consider flood resilient or flood resistant construction design methodologies.

5.5. Natural Heritage Designations

5.5.1. Tralee Bay Complex SPA (Site Code 004188) is situated 1.73km to the west of the appeal site.

5.5.2. Tralee Bay and Magharees Peninsula West to Cloghane SAC (Site Code 002070) is located 1.9km to the south-west of the appeal site.

5.5.3. Ballyseedy Wood SAC (Site Code 002112) is situated 1.6km to the south-east of the appeal site.

5.6. Environmental Impact Assessment

5.6.1. The proposed development comprises 30 residential units on a 0.7753 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.

5.6.2. The number of dwelling units proposed at 30 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.

5.6.3. The proposal for 30 residential units is located within the development boundary of Tralee on lands zoned Objective 'R2' – Existing Residential and Objective 'M4' – Built Up Area in the Tralee Town Development Plan 2009-2015 (as extended and varied) which is incorporated into the Kerry County Development Plan 2022-2028. The site comprises a brownfield site and infill site which contains 4 no. existing vacant dwellings. 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 a Design Assessment Report, Archaeological Impact Report, Flood Risk Assessment, Water Services Design Statement and Traffic and Transport Analysis

submitted with the appeal. These address the issues arising in terms of the sensitivities in the area.

5.6.4. 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 was submitted by James Collins. The issues raised are as follows;

- The appellant states that as detailed in the reports in respect of the application that officials of Kerry County Council considered that the elevations provided with the application were confusing and contradictory.
- The developer is proposing to increase site levels from 3.75m to 3.95m.
- The appellant submits that the surface water/flooding issue has not been dealt with satisfactorily. They consider that the proposals are confusing.
- The appellant submits that the construction hours of Monday – Friday 8am to 7pm are unacceptable. They state that the hours should be 8am to 5pm with no work allowed on Saturdays.
- The appellant considers that an NIS and EIAR are required in respect of the application.
- The appellant requests that the Board refuse permission for the proposed development.

6.2. Applicant Response

A response to the appeal was submitted by Sean MacGillicuddy Architects on behalf of the applicants Paddy Sugrue and Edward Kelliher. The issues raised are as follows;

- It is set out in the appeal response that a very detailed, technical and professional planning application was submitted to Kerry County Council for the site.
- The details provided covered the following disciplines, archaeology, architecture, planning, civil engineering, environment and traffic.

- It is stated that constructive and positive dialogue took place between the applicant and the various departments in the Local Authority throughout the planning process in order to achieve a positive planning outcome of the site.
- The Design Team involved with this planning application are of the opinion that the scheme represents a well-designed, contextual scheme that is cognisant of all the planning and technical issues presented by the site which is an infill and brownfield site.
- Regarding floor levels they have been designed based on flood level requirements.
- It is highlighted that floor levels along Ballymullen Road are elevated.
- It is stated that the considered architectural design permits Part M compliant access to all the units while maintaining the aesthetic from the street side.
- It is submitted that the design of the scheme pays cognisance of both engineering and architectural constraints and that it has successfully met the requirements of the Council.
- It is stated that the drainage proposals for the site are clear and concise. The drainage proposals have been agreed with Kerry County Council Engineers on the ground and during the planning application process.
- The surface water drainage proposals consist of a SUD's compliant design with an attenuated discharge to greenfield runoff rates controlled flows, from the site to ultimately discharge to the River Lee via a piped network.
- There is no storm discharge to the Irish Water network and this is consistent with the Irish Water Pre connection agreement.
- The first party respectfully request that the Board grant permission for the proposed development.

6.3. Planning Authority Response

None received.

7.0 Assessment

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

- Design and finished floor levels
- Impact on amenity
- Flood Risk
- Appropriate Assessment

7.1. Design and finished floor levels

- 7.1.1. The appeal site is located to the south-east of Tralee town centre. The site is zoned – Objective ‘R2’ - Existing Residential on the western part adjoining the Ballymullen road which contains 4 no., terraced houses and the eastern part is zoned - Objective ‘M4’ – Built Up Area.
- 7.1.2. The scheme proposed comprises the demolition of 4 no. existing two-storey dwellings within a terrace situated on the eastern side of Ballymullen Road. These properties are vacant. It is proposed to construct 30 no. residential units comprising 18 no. dwellings and 12 no. apartments. The dwellings within the scheme comprise 4 no. detached two and a half storey houses, two terraces each containing 3 no. two and a half storey houses and two terraces each containing 4 no. two and a half storey houses. The proposed apartment units are contained within 3 no. detached three storey buildings.
- 7.1.3. The vehicular and pedestrian access is proposed from Ballymullen Road. In relation to the design and layout of the proposed scheme the Planning Authority sought further information in relation to how the proposed apartments complied with the standards set out in the “Sustainable Urban Housing: Design Standards for New Apartments, how the proposed scheme complied with the 12 criteria outlined in the Urban Design Manual – Best Practice Guide (2009) and also in relation to cycle parking proposals and open space provision. In relation to these various design matters I note that as detailed in the report of the Planning Officer on foot of the submission of a response to the further information request that they were fully satisfied with the details provided and response submitted.

7.1.4. The appeal specifically refers to concerns regarding proposed finished floor levels of units within the scheme. In relation to this matter, I note that this issue arose in relation to addressing flood risk and specifically regarding the proposed 4 no. dwellings to the western side of the site close to Ballymullen Road. The finished floor level of these 4 no. detached dwellings as originally proposed was 3.725 as indicated on the Overall Plan Drawing No: 22680-MWP-ZZ-ZZDR-S-0001. As part of the response to the request for further information issued by the Planning Authority revised plans were submitted by the applicants to the Planning Authority on the 24th of May 2022. As indicated on the revised Overall Plan Drawing No: 22680-MWP-ZZ-ZZDR-S-0001 Rev P01 the finished floor level of these 4 no. detached dwellings was revised to 3.95. In respect of the other dwellings and the three apartment buildings proposed within the scheme I note that the finished floor levels remained as originally proposed. The revisions in the finished floor level of these 4 no. dwellings marginally increases the height of the units by 200mm. As illustrated on the Site Section and Contiguous, Drawing No: P-15 Revision 2, which was submitted to the Planning Authority on the 24th of May 2022 this increase in finished floor level does not result in the two dwellings to the front of the site at Ballymullen having a higher ridge height than that of the adjacent properties to the north including Ballymullen Post Office which is a Protected Structure. The siting of these two dwelling is such that they maintain the existing building line of no. 1 to no. Ballymullen Road. I note that the elevational treatment of these dwellings has been designed to reflect the existing character of the surrounding streetscape in terms of the height and design of the buildings proposed. Accordingly, I am satisfied that the proposed development will integrate well into the streetscape and the proposed finished floor levels are acceptable in terms of the site context.

7.2. **Impact on amenity**

7.2.1. The grounds of appeal raised the matter of the hours of construction as conditioned by the Planning Authority. The condition attached by the Planning Authority specified that construction activities be limited on site between the hours of 08.00 – 19.00 - Monday – Friday (excluding public holidays) and between the hours of 08.00 and 16.00 on Saturdays.

7.2.2. The appellant stated that they considered that the construction hours of Monday – Friday 8am to 7pm are unacceptable. They stated that the hours should be 8am to

5pm with no work allowed on Saturdays. In response to this matter, I would note that the hours of construction as conditioned by the Planning Authority for weekdays are standard construction working hours. In relation to the hours conditioned on Saturdays I note that the standard working hours would be between 0800 to 1400 hours. Accordingly, should the Board decide to grant permission for the proposed development, I would recommend the attachment of condition specifying that site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.

7.3. Flood Risk

- 7.3.1. The matter of flood risk was raised in the appeal. The site at Ballymullen Road/Clonbeg, Tralee, Co. Kerry is located within an area designated as flood zone A. The application was accompanied by a Flood Risk Assessment (FRA). The FRA was prepared by MWP Engineering and Environmental Consults.
- 7.3.2. In relation to the matter of flooding history in the area it is stated in the FRA that there are 19 records of flooding in the area. There is no record of flooding in the immediate vicinity of the appeal site. Regarding this statement in the FRA submitted with the application, I would note from records from the OPW past flooding events that flooding occurred on the 29th of November 2011 on Ballymullen Road, Tralee at the 4 no. existing dwellings on the appeal site. The source of flood waters was a storm sewer became overwhelmed once the outfall flaps were closed due to heavy rainfall. It is highlighted that flooding has occurred frequently before at this location.
- 7.3.3. It is stated in the FRA that having regard to the Shannon CFRAM study carried out by the OPW it is not at risk of coastal flooding but is potentially at risk of fluvial flooding.
- 7.3.4. In relation to fluvial flooding, the nearest source to the site is the River Lee which is located 190m down gradient of the site at its closest point. It is indicated from the Shannon CFRAM maps that flooding of the site would not occur from the River Lee but is as a result of flooding upstream of the railway bridge at Rathass circa 1.3km to the north-east of the site. As indicated in the CFRAM maps overtopping of the channel banks is predicted at this location which leads to overland flow through in a south westerly direction through the town and around to the west of the appeal site.

It is highlighted in the FRA that these over land flows do not flow through the site and that the overland flows eventually discharge into the River Lee downstream of the site.

- 7.3.5. In relation to estuarial or tidal flooding it is stated in the FRA that the Shannon CFRAMS coastal extent map indicates that the site would have a low risk of flooding in the current scenario.
- 7.3.6. Regarding pluvial flooding and overland flow it is stated in the FRA that intense rainfall events can result in ponding in low areas or upstream of physical obstructions. Overland flow is most likely to occur following periods of sustained and intense rainfall when the ground becomes saturated. Overland flow can also occur due to river flooding where the overbank flow from a point upstream runs across an area before returning to the river channel further downstream. This flooding mechanism has been identified in the Shannon CFRAM study.
- 7.3.7. In relation to groundwater flooding it is detailed in the FRA that the GSI groundwater data viewer was examined and that it was found that there is no record groundwater flooding and the predictive maps do not include flooding in the area.
- 7.3.8. In relation to predicted flood levels on the site it is stated in the FRA that it was not possible to obtain flood levels or flood depths from the published CFRAMS information however the 0.1% AEP current flood extent maps can be used to provide a moderately conservative estimate of the design of flood levels. Using data from the Shannon CFRAMS flood depth maps it was noted that the flood depths for the 0.1% AEP current event is between 0.25 and 0.5m at the entrance to the site.
- 7.3.9. The design flood level is 3.12 AOD. It is set out in the FRA that this level can be easily achieved and access to the properties proposed through clever design can accommodate levels of up to 3.75m OD.
- 7.3.10. In respect of Coastal Flood levels it is stated in the FRA that the site is defended up to the 0.1% AEP. It is highlighted that the site is within Flood Zone C for coastal flooding and that it is necessary to establish the flood level for the 0.5% AEP MRFS. The predicted flood level at the nearest node is 3.44m OD for the 0.5% AEP event as per the Shannon CFRAMS flood maps. A design flood level of 3.94m OD for coastal flood to take account of a mean sea level rise of 500mm above the current climate value for the Mid-Range Future Scenario (MRFS). It is highlighted in the FRA that while the appeal site would be defended from coastal flooding up to the 0.1%

AEP event the design Mid-Range Future Scenario would exceed this level of protection. Therefore, the appeal site is considered to be at risk of coastal flooding in MRFS. It is highlighted that the site is located within a defended area and it is submitted that the finished floor levels have been risen as high as reasonably possible up to 3.75m OD. This finished floor level is in excess of 500mm above any previously recorded flood events in the area. It is stated that a finished floor level of 3.75m can be accommodated.

- 7.3.11. In relation to these details provided in the FRA the report of the Council's Flooding and Coastal Protection Unit sought further information in relation to the issue of flood risk on a number of matters. It was stated in the further information request that a finished floor elevation of 3.725m for units 1 to 4 is proposed and they are located in an area of high flood risk (Flood Zone A) and recurring history of frequency flooding. The further information request referred to Section 4.2.3.1 of the FRA and that the design flood level for fluvial risk has been estimated at 3.12mOD assuming the predicted flood depth for the 0.1% AEP fluvial event (existing scenario) being 0.25m to 0.5m at the entrance to the site as detailed in the CFRAM flood extents mapping.
- 7.3.12. The further information request then referred to Section 4.2.3.2 of the FRA which stated that the design flood level for coastal flood events is estimated at 3.94mOD based on minimum standard of protection for coastal flood events being 0.5% AEP Mid-Range Future Scenario (MRFS). In this scenario the predicted flood depth at the entrance to the site would be in order of 1.14m above existing road levels and 215mm above the proposed FFL of 3.725OD for Units 1 to 4. The further information stated that the assessment of risk to occupants (section 4.6) is not clear and appears to be contradictory. Section 4.6.1 (Access, Egress and Refuge) of the report assess the risks associated with a 1% AEP MRSF flood event (approximated earlier as the 0.1% AEP fluvial current event). The depths for this scenario at the entrance to the development are in the 0.25m to 0.5m range. However, it does not assess the risk associated with a 0.5% AEP MRFS coastal event. The depths in this scenario would be >1m.
- 7.3.13. The further information then refers to Section 4.6.1.1. of the FRA which assesses hazards associated with a 0.1% AEP event and indicates that the maximum flood depth is 0.64m. It was stated in the further information request that it was not clear what this event is. The 0.1% AEP coastal event (existing scenario) indicates a water level of 3.65mOD so in the theory a flood depth of 0.85m at the entrance. However,

in this current scenario the area is considered a defended area due to the presence of an existing flood defence embankment. The applicant was required to assess the risk associated with a 0.5% AEP MRFS coastal event. Also, it was detailed in the further information request that the application as submitted does not clearly define the design parameters for justifying the finished floor elevations of 3.75m for units 1 to 4 and similarly there is inconsistency in the assessment regarding the flood risk associated with the proposed access road and in particular ensuring safe access and egress for occupants for the required design flood events. Therefore, the applicant was required to clarify inconsistencies regarding the design flood levels in relation to coastal, fluvial and AEP's. They were required to reassess the access and egress arrangements in the event of the entrance to the proposed development being flooded. They were required to reassess the proposed FFL 3.725m OD as it's below the applicants indicated flood level.

- 7.3.14. In response to the matters raised in the further information requested MWP Consulting Engineers provided a detailed response. They advised that the finished floor level of units no. 1 – 4 will be raised to 3.95m. They stated that this is based on the 0.5% AEP mid-range future scenario and that the FRA detailed each fluvial and coastal event and the findings were summaries in relation to climate change and freeboard factors. The different levels referred to in the report relate to different flood events. It was highlighted that the level of 3.75m which was previously chosen included a reduced freeboard because this was considered a pragmatic approach to accommodate access on the site.
- 7.3.15. The revised finished floor level of 3.95m achieves the minimum 0.5% AEP midrange future scenario event and the accesses to the buildings have been redesigned to suit this. It is highlighted that this level includes a 500mm sea level rise factor. The proposed finished floor levels are 1.2m above existing finished floor levels. They stated that this would be a considerable increase in levels which would be way beyond any flood events ever recorded in the area. This it is highlighted is achieved without a loss of storage. It is further noted that the removal of a number of the central dwellings will increase the storage and therefore the proposed development will have no adverse effects on adjoining properties.
- 7.3.16. They highlighted that only 4.5% of the site is within the high risk flood zone. In relation to the matter of inconsistencies raised in the further information MWP

Consulting Engineers confirm that there are no inconsistencies and they carried out a thorough evaluation of all events which in turn produce multiple flood levels.

- 7.3.17. Regarding access and egress it is advised that an additional access and egress will be accommodated on the site. This is proposed via an existing gated access which is a right of way to the north. This will provide a second access and egress location with an ultimate escape route that will be closer to the Ballymullen roundabout.
- 7.3.18. MWP Consulting stated that they concur with the statement in the further information request that in the 0.5% AEP MRSF event that outside the site on Ballymullen Road will not be safe for the public. However, they highlight that this is true for the current scenario without any development taking place. They state that in the extreme event all of the centre of Tralee will be under water while the site will be safe and above the extreme flood levels.
- 7.3.19. The report of the Planning Officer in respect of the further information response refers to item 3 which relates to the matter of flooding and notes that the applicant has raised FFE to 3.95m for Units 1-4 and provide an additional access/egress route to the north which is at a higher elevation.
- 7.3.20. A Clarification of Further Information was sought in respect of the matter of surface water. The applicant was advised that having regard to the history of flooding in the vicinity of the site including the open drain across the road the proposal to attenuate and discharge surface water to the drain was not acceptable. The applicant was requested to submit revised proposals to manage surface water arising from the proposed development taking cognisance of the capacity constraint of the combined sewer network and history of flooding in the vicinity of the site including the open drain across Ballmullen Road.
- 7.3.21. In response to the clarification of further information, MWP Consultants stated that they contacted the relevant departments of Kerry County Council and that there were no concerns in relation to road issues and that the proposal in principle is acceptable in terms of flooding provided a flap is provided at the discharge point. They stated that Irish Water has no objections subject to no stormwater entering their combined 300mm diameter sewer outside of the site. The Council's Engineer reviewed the drain on the ground and raised concern in relation to the long term maintenance of the drain. MWP Consultants were advised that a pipe down the culvert would be more appropriate and would address maintenance concerns. They have provided

revised proposals for the surface water drainage system with an additional length of pipe work to convey the attenuated stormwater flow from the site to the opening of the culvert which crosses beneath the Dan Spring Road. The report of the Planning Officer on foot of the submission of clarification of further information stated that they considered that the clarification of further information has been satisfactory addressed, and a grant of permission was recommended.

- 7.3.22. The Planning System and Flood Risk Management Guidelines (DoEHLG/OPW, 2009) provide guidance in respect of development and flood risk. Table 3.2 of the Guidelines advises the restriction of types of development permitted in Flood Zone A to that are 'appropriate' to each flood zone, as set out in the Guidelines. Developments that are an 'inappropriate' use for a flood zone area, as set out in Table 3.2 of the guidelines, this includes residential development which will not be permitted, except where a proposal complies with the 'Justification Test for Development Management', as set out in Box 5.1 of the Guidelines.
- 7.3.23. The following criteria must be satisfied in respect of the 'Justification Test for Development Management' that (1) The subject lands have been zoned or otherwise designated for the particular use or form of development in an operative development plan, which has been adopted or varied taking account of these Guidelines. (2) The proposal has been subject to an appropriate flood risk assessment that demonstrates: The development proposed will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk.
- 7.3.24. Having regard to the 'Justification Test for Development Management', I note that the appeal site is located on lands which are zoned – Objective 'R2' - Existing Residential on the western part adjoining the Ballymullen Road. This area of the site contains 4 no., terraced houses and it lies within Flood Zone A. The eastern part of the appeal site is zoned - Objective 'M4' – Built Up Area. These lands lie outside the extent of the flood zone as indicated on Map C – Revised Flood Risk Maps – Tralee from the Strategic Flood Risk Assessment (SFRA) in the Kerry County Development Plan 2022-2028.
- 7.3.25. In relation to the first issue in the part (2) of the justification test that it must be demonstrated that the development proposed will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk.

- 7.3.26. It is set out in the FRA that the site is a brownfield site and that it is an objective of the Tralee Municipal District Local Area Plan to promote the development of brownfield sites in Tralee. Objective TR 121 of the Tralee Town Development Plan 2009-2015 (as extended and varied) states that it is an Objective of the Council to: Development within existing built-up areas located within Zone A & B; Ensure that development proposals avoid the identified flood risk areas, or if not possible ensure that proposals avoid the identified flood risk properties and consider flood resilient or flood resistant construction design methodologies.
- 7.3.27. In relation to the matter of how the development will not increase flood risk elsewhere the details provided from MWP Consultants in the further information response confirmed that the proposed revised finished floor level of 3.95m achieves the minimum 0.5% AEP midrange future scenario event and that while the proposed finished floor levels are 1.2m above existing finished floor levels, it is achieved without a loss of storage. They further highlighted in the response that the removal of a number of the central dwellings will increase the storage and therefore the proposed development will have no adverse effects on adjoining properties.
- 7.3.28. In accordance with part (2) of the justification test, the development proposals are required to include measures to minimise flood risk to people, property, the economy and the environment as far as reasonably possible. In relation to this matter, I note that the proposed revised finished floor levels are 1.2m above existing finished floor levels and that MWP Consultants confirmed that achieves the minimum 0.5% AEP midrange future scenario event.
- 7.3.29. Section (iii) of part (2) of the justification test requires that 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 measures and provisions for emergency services access. Section (iv) of part (2) requires that 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.
- 7.3.30. Mitigation Measures are set out in section 4.3 of the FRA. Mitigation measures are required in order to mitigate the flood risk to the building and end users. It advises that the minimum finished floor levels for the development should be above the 1%

AEP Mid-Range Future Scenario (MRFS) flood level with appropriate freeboard. It is stated in the FRA that as advised in the Flood guidelines that freeboard should account for uncertainty in hydrological predictions, wave action, modelling accuracy, topographical accuracy. It was concluded that considering the risk of fluvial/overland and coastal flooding in conjunction with the freeboard provision the minimum finished floor levels should be 3.75m OD. I note this finished floor level is revised to 3.95mOD as per the proposal submitted with the further information response. It is highlighted in the FRA that to prevent an increased risk in third party lands, provision must be made for replicating the existing flow paths through the site.

- 7.3.31. It is stated in the FRA that it will be ensured that finished ground levels along Ballymullen Road are maintained and that there will be no immediate change in levels that could deflect the natural flow of water. It is advised in the FRA that while the surface water drainage design is outside the scope of the FRA that the surface system should be designed in accordance with best practice guidelines using a Sustainable Urban Drainage System (SUDs) which will replicate the greenfield scenario insofar as practicable.
- 7.3.32. It is advised that the design of the attenuation system should consider the potential need for increased retention volumes to cater for a scenario where the drainage system is unable to discharge due to high river levels downstream of the site. In relation to the matter of potential impact of the development on flooding elsewhere it is stated in the FRA that it is considered that the proposed development would not have a significant impact on flooding elsewhere because flooding at the site is predicted only at the entrance to the site that no overland flows are predicted to occur. Regarding flood storage capacity it is set out in the FRA that the development will have no influence on existing flood storage as no loss of storage is proposed. It is highlighted that it is likely that storage will increase as the existing houses are removed. Section 4.6 of the FRA refers to the Assessment of Risk to Occupants. It sets out proposals for access, egress and refuge. It is stated that during the 1% AEP MRFS that the access point to the site at 2.8m OD would be flooded. Therefore, it is concluded that it is likely that access and evacuation in the event of a flood would be assisted by the emergency services. The Planning Authority in their assessment of the proposal had concerns regarding the means of egress during flooding events. In response to the further information the applicants proposed to provide an additional access and egress on the site. This is proposed via an existing gated access which

is a right of way to the north. This will provide a second access and egress location with an ultimate escape route that will be closer to the Ballymullen roundabout.

- 7.3.33. It is confirmed in the FRA that the internal areas of the buildings would not be flooded for the design event and therefore would provide safe refuge until the emergency services arrive. It is set out that in terms of risk to any occupants on the external areas of the site that the maximum flood depth would be 0.64m with reference to the Shannon CFRAM study flood depth maps for the 0.1% AEP event. During an extreme coastal event it is stated that outside the site on Ballymullen Road that it would not be safe to the public however the area would be accessible by emergency vehicles. It is highlighted that during an extreme coastal event that the site would not be flooded and that it would provide a safe haven for the occupants. It is concluded in the FRA that it has been demonstrated that the proposed development will not have an adverse impact on flooding elsewhere and that the risk to occupants of the site would be low. It was also concluded that the mitigation measures have been proposed will be sufficient to ensure that the flood risk to the development is reduced to an acceptable level and that in relation to residual risks associated with the development this was considered to be low and acceptable.
- 7.3.34. Accordingly, I conclude that the proposal would pass the justification test for residential development to be located on lands which are located within Flood Zone A under the zoning provision of the Tralee Development Plan 2009-2015 (As extended and varied) as incorporated into the Kerry County Development Plan 2022 – 2028. It can be concluded that having regard to the Site Specific Flood Risk Assessment, submitted with the application, that the proposed development would not result in displacement of fluvial floodwaters, would not result in an adverse impact to the hydrological regime of the area nor an increase in flood risk elsewhere. The proposed development would therefore be acceptable in terms of flood risk in the area.

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. Ballyseedy Wood SAC (Site Code 002112) is situated 1.6km to the south-east of the appeal site.

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

Tralee Bay and Magharees Peninsula West to Cloghane SAC	Tralee Bay Complex SPA
<p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Coastal lagoons [1150]</p> <p>Large shallow inlets and bays [1160] Reefs [1170]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p>	<p>Whooper Swan (Cygnus cygnus) [A038]</p> <p>Light-bellied Brent Goose (Branta bernicla hrota) [A046]</p> <p>Shelduck (Tadorna tadorna) [A048]</p> <p>Wigeon (Anas penelope) [A050]</p> <p>Teal (Anas crecca) [A052]</p> <p>Mallard (Anas platyrhynchos) [A053]</p> <p>Pintail (Anas acuta) [A054]</p> <p>Scaup (Aythya marila) [A062]</p> <p>Oystercatcher (Haematopus ostralegus) [A130]</p> <p>Ringed Plover (Charadrius hiaticula) [A137]</p> <p>Golden Plover (Pluvialis apricaria) [A140]</p> <p>Grey Plover (Pluvialis squatarola) [A141]</p>

<p>Dunes with <i>Salix repens</i> ssp. <i>argentea</i> (<i>Salicion arenariae</i>) [2170]</p> <p>Humid dune slacks [2190]</p> <p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p> <p><i>Petalophyllum ralfsii</i> (Petalwort) [1395]</p>	
---	--

Ballyseedy Wood SAC

Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i>) [91E0]
--

- 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 Conservation Objectives for Ballyseedy Wood SAC (Site No. 002112) are to restore the favourable conservation condition of Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) as defined by a list of attributes and targets.

- 7.4.6. 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.
- 7.4.7. In relation to potential in cumulative/in-combination, no such impacts between the proposed development and other plans or projects are envisaged.
- 7.4.8. 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's 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 any of the designated sites.

AA Screening Conclusion

- 7.4.9. 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, Ballyseedy Wood Special Area of Conservation, European Site No. 002112 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 is granted for the proposed development in accordance with the following reasons and considerations:

9.0 Reasons and Considerations

- 9.1.1. Having regard to the provisions of the Kerry County Development Plan 2022 – 2028 and Tralee Development Plan 2009-2015 (As extended and varied) as incorporated into the Kerry County Development Plan 2022 – 2028, and having regard to the pattern of existing development in the area and the design, scale and layout of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area and would be acceptable in terms of pedestrian and traffic safety, and would not increase the flood risk in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the planning authority on the 14th day of January 2022, the 24th day of May 2022 and the 9th day of August 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Prior to the commencement of development, the developer shall enter into water and/or waste water agreement(s) with Uisce Éireann.

Reason: In the interest of public health.

3. Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

4. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

5. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

- 6.

- (a) An annotated colour photographic record of the four houses proposed for demolition shall be compiled. The survey record shall be submitted to the Planning Authority prior to the demolition phase of the development.
- (b) The boundary wall to the north, south and east of the site shall be protected from damage during the course of the development. Where required, localised consolidation can be carried out under the direct supervision of a conservation professional during the course of the development.
- (c) A maintenance plan for the ongoing conservation and protection in situ of this wall should be incorporated into any future management company or structure designed to cater for the development post construction.

Reason: To protect the character of the boundary wall which adjoins protected structures in the vicinity of the site.

7. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

8. The developer shall liaise with the Biodiversity Officer, Environmental Assessment Unit of Kerry County Council prior to commencement of development in relation to the installation/incorporation of swift nest boxes into the development.

Reason: In the interest of biodiversity protection.

9. The internal road and vehicular circulation network serving the proposed development, including turning bays, junctions, parking areas, footpaths, and kerbs shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets. Drawings and particulars showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of amenity and of traffic and pedestrian safety.

10. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. All existing ground cables shall be relocated underground as part of the site development works.

Reason: In the interest of visual and residential amenity.

11. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

12. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

13. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any unit.

Reason: In the interests of amenity and public safety.

14. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

15. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials [and for the ongoing operation of these facilities] [within each house plot] shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

16. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future management of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

17. Proposals for an estate/street name, house/apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility.

18. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

A plan to scale of not less than [1:500] showing –

- (i) The species, variety, number, size and locations of all proposed trees and shrubs [which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder] [which shall not include prunus species]
 - (ii) Details of screen planting [which shall not include cupressocyparis x leylandii]
 - (iii) Details of roadside/street planting [which shall not include prunus species]
 - (iv) Hard landscaping works, specifying surfacing materials, furniture [play equipment] and finished levels.
- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.
 - (c) A timescale for implementation [including details of phasing]

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of [five] years from the completion of the development [or until the development is taken in charge by the local authority, whichever is the sooner], shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

19. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as

amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

20. Prior to the commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of streets, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part therefore to the satisfactory completion of any part of the development. The form and amount of security shall be as agreed between the planning authority and the developer, or in default of an agreement shall be determined by An Bord Pleanála.

Reason: To ensure the satisfactory completion of the development.

21. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning

authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Siobhan Carroll
Planning Inspector

22nd December 2023