



An
Bord
Pleanála

Inspector's Report

ABP-315091-22

Development	Demolition of disused supermarket, construction of 3-storey apartment block comprising of 12 apartments and all associated site development works.
Location	1 Monalee Estate, Monavalley, Tralee, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	22893
Applicant(s)	Fothain
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Fothain
Observer(s)	Monalee Estate Residents Association Glenard Estate Residents Association
Date of Site Inspection	3 November 2023
Inspector	Claire McVeigh

1.0 Site Location and Description

- 1.1. The subject site (0.1 ha as stated on the application form) comprises the corner with Monalee residential estate and its junction with the R556 in the Monavally area, approximately 1.5km north of Tralee town centre, in County Kerry. To the east of the subject site are the detached two-storey houses of Monalee Estate, with deep back gardens. To the north of the site is a semi-public open space at the entrance to Glenard residential estate.
- 1.2. The existing building on site, a former supermarket, comprises a two-storey detached building (previously in use as a retail unit and a residential unit) with a ridge height shown as 6770mm. There is a single storey extension to the rear and side of the two-storey section of the original dwelling unit, height indicated as 4235mm. The front building line of the existing two storey building is set back and at an angle from the other houses which run parallel along Monalee. A low plinth wall demarcates the southern boundary of the site onto Monalee Road with no boundary detail along the western boundary of the site allowing access to an area of surface car parking and services/deliveries from the regional road R556. There is no formal footpath along the western edge of the subject site with the R556. To the southern boundary there is an existing footpath and grass verge with street trees.
- 1.3. A strong set back from the regional road defines the character of this approach road into Tralee along this eastern edge. There are private front/side gardens and areas of planted semi-public open space within this set back area providing a green buffer. On the opposite side of the R556 the campus building for Kerry College the trees line boundary reinforces the setback building line from the road looking south towards the mountains.

2.0 Proposed Development

- 2.1. The proposed development is for the demolition of existing vacant supermarket (339 sq. m) and the construction of 12 no. apartments comprising 9 no. 2 bed (3 person) and 3 no. 1 bed (2 person) apartments:

Table 2.1	Apartment no. ref (as per Drawing No. 21/176/002)	Stated apartment floor area (sq.m)	No. of bedrooms	No. of persons	Stated Terrace/Balcony floor area (sq.m)
Ground Floor					
Dual aspect	01	70	2	3	9.4
Dual aspect	02	63	2	3	13.8
Single aspect (N)	03	69.1	2	3	10.3
Single aspect (S)	04	57.9	1	2	8.4
First Floor					
Dual aspect	11	70	2	3	9.4
Dual aspect	12	63	2	3	7.1
Single aspect (N)	13	69.1	2	3	10.3
Single aspect (S)	14	57.9	1	2	8.4

Second Floor					
Dual aspect	21	70	2	3	9.4
Dual aspect	22	63	2	3	7.1
Single aspect (N)	23	69.1	2	3	10.3
Single aspect (S)	24	57.9	1	2	8.4

The proposed apartment block is three storeys in height with a parapet height of 9.4m with the lift over run rising to 9.85m from footpath level (Drawing No. 21/176/003). The proposed development includes surface parking for 10 no. car parking spaces, one of which is proposed to be designated as a wheelchair accessible space. Bicycle spaces are proposed but no details have been provided in relation to the design, position and number of spaces.

A refuse store is proposed in the southeast corner of the site adjacent to the shared boundary with the existing dwelling No. 2 Monalee. No elevational/sectional drawings of this structure have been provided.

Limited details have been provided on any proposed boundary treatment of the site or the provision of footpaths. It is noted that the site layout plan indicates a block wall to the site's eastern and northern boundaries. The Design Statement (submitted to the planning authority on 24th August 2022) states "the new low walls and planters are to be constructed to the Monavalley side of the site to discourage vehicle use, enhance privacy for the occupants and soften the façade of the building on the approach from Tralee town centre".

It is proposed to connect to the public water supply and to the public wastewater system. Proposed surface water disposal is via public sewer/drain as stated on the application form. No lighting scheme proposed.

The application is accompanied by:

- Design Statement (prepared by Suzanne Keane MRIRI RIBA)

The cover letter to the planning application dated 24 August 2022 states that they are proposing to comply with Part V through Section 96 (3) (b), at 10%. No further details have been submitted.

3.0 Planning Authority Decision

3.1. Decision

Planning permission refused on the 18 October 2022 for two reasons:

- (1) It is considered that the proposed development would constitute over-development of this confined site by reason of excessive site coverage, inadequate communal open space and inadequate provision of off-street parking car parking and would, therefore, not provide a satisfactory standard of residential amenity for future residents. The proposed development would cause traffic congestion and give rise to ad hoc car parking in the area and would seriously injure the amenities of property in the vicinity. The proposed development would, therefore, be contrary to the proper planning and development of the area.
- (2) Having regard to the design and siting of the proposed 3-storey apartment building, it is considered that the proposed development would be out of character with the pattern of development in the vicinity, would infringe the building line along the R556 Regional Road and would seriously injure the visual and residential amenities of the area. The proposed development would, therefore, be contrary to the proper planning and development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Notes that pre-planning took place in relation to previous proposal (Refused permission for 18 no. apartments under planning authority Register Reference: 22/1)
- 21 car parking spaces and 21 bicycle parking spaces are required under Table 4 section 1.20.7 Car Parking Standards of the County Plan. No details have been provided in respect to bicycle parking, with exception to a reference that 'ample bicycle parking is to be provided onsite'. In terms of car parking provision, the proposal falls significantly short of the required 21 spaces as per the County Plan. It is considered that the shortfall in parking given the location of the subject site and the lack of public parking in the vicinity is not acceptable.
- Concerns have been raised with regard to the design of the car parking spaces in respect of lateral clearance and lack of a turning circle.
- Further information required in relation to effluent disposal and surface water disposal.
- Residential amenity for the future residents considered to be an issue having regard to the apartment floor area, storage areas are indicated but no floor areas provided, and no provision made for additional bulky goods storage, the public amenity space would be of poor quality in terms of recreational value and useability along with limited passive surveillance.
- Given the three-storey nature of the proposal in an area generally characterised by mature single and two storey development would have a negative impact. A greater set back from the regional road is proposed from the previously refused application 22/1, however, the current proposal continues to infringe upon the building line of the R556.

3.2.2. Other Technical Reports

- Environment Department sought further information in respect to possible presence of ACM (Asbestos Containing Material) or any other hazardous materials within the structures to be demolished. In addition, to identify, quantify and evaluate all demolition, excavation and other wastes likely to

arise during the proposed works and to submit a detailed waste management and disposal plan.

- Water Services Department sought further information on water supply and sewerage disposal.
- Biodiversity Officer notes that the Water Services Department have sought further information in relation to water infrastructure proposed for the development. In the absence of this information, they conclude that significant effects on European Sites can not be excluded at this stage.
- An Appropriate Assessment (AA) Screening report is attached. In respect to surface water management, they recommend that the applicant considers the use of nature based solutions, reference is made to further guidance in 'Nature-based Solutions to the Management of Rainwater and Surface Water Runoff in Urban Areas, Water Sensitive Urban Design Best Practice Interim Guidance Document' (2021) published by the Department of Housing, Local Government and Heritage.
- Roads, Transportation and Marine Department raise concerns about the lack of parking facilities for this peripheral and/or less accessible urban location (para 4.22 of the Sustainable Urban Housing Design Standards for New Apartments 2020 refers) within residential zone M3 (a requirement for 1 car parking space per bedroom per apartment para. 1.20.7 Volume 6 County Development Plan 2022-2028) and the precedent that this would set.
- Housing Estates Unit requests a revised site map to demonstrate a turning bay, all proposed boundary treatments, 1 metre lateral clearance at identified locations and details sought in respect to proposed footpaths with tactile paving/dropped kerbs at vehicular entrance, stop sign/stop line at the vehicular exit, sight lines assessment and site access road to be a minimum of 5.5m in width. Details of public lighting to be submitted and details of the location of proposed drainage infrastructure and connections to existing infrastructures. Further details required in respect to fire hydrant locations, name plates, visitor and car parking for people with disabilities to be provided and the number of car parking spaces to be assessed against the development plan standards. They suggest that the vehicular entrance be

relocated to the south eastern corner of the site to minimise interference with the proper functioning of the existing junction onto Monavalley Road.

- County Archaeologist indicates that there are no recorded monuments listed in the Record of Monuments & Places in proximity to the proposed development site which has previously been disturbed. No mitigation is required.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

There were 26 individual third party submissions made at the planning application stage from the residents of the Monalee estate, including the resident of adjoining property no. 2 Monalee, and from residents of the adjoining estate of Glenard. A submission each was also made from their representative residents' associations, namely, Monalee Estate Residents Association and Glenard Estate Residents Association raising concerns about the proposed development. In summary the issues raised include:

- Overdevelopment of a constrained site
- Detrimental impact on established residential amenities
- Traffic safety concerns, inadequate amount of car parking spaces/no cycle spaces and impact of overspill car parking
- Overbearing, overshadowing, and overlooking issues
- Negative visual impact
- Loss of street trees
- Loss of the local shop a negative impact on services in area
- Concerns about disturbance, noise and dust during construction
- Flooding issues

The owner of the subject site, Louis Byrne, submitted an observation supporting the planning application and, in this submission, highlights the reduction in residential units to 12 from the previously refused 18 apartments (Planning Authority register reference: 22/1) in response to the refusal reasons. A summary of the previous use of the property as a supermarket and hot food takeaway and off-licence is provided. Part of the building was also used as a two-storey residential property and that the property has been derelict for five years following a fire in 2017. It is detailed that the property has been on the market for the past four years.

4.0 Planning History

Planning Authority Register Reference 22/1: Planning permission refused (March 2022) for the demolition of disused supermarket and construction of a three-storey building comprising 18 no. apartments with associated circulation and service spaces, construction of 11 car parking spaces and bicycle parking areas and all associated site works.

5.0 Policy Context

5.1. Development Plan

5.1.1. Under the Kerry County Development Plan 2022-2028 (CDP) the relevant map-based objectives and designations for the subject site located within the town boundary of Tralee are as follows:

- Tralee is a designated Gaeltacht Service Town
- Zoning is M4 – Built up area (This CDP uses the My-plan classification for categorising land zones) The objective is set out in the land use zoning table contained in Volume 6 of the CDP. The objective is stated as ‘Existing built areas of mixed use’ and the description for this zoning: Provides for a mix of land uses which may have existing buildings in place, brownfield lands and undeveloped greenfield lands within the development boundary.

The relevant CDP policy, objectives, requirements, and/ or standards include the following:

The long-term vision for Tralee is to enhance its position as a regional economic driver and a 'Destination Town' that is competitive nationally and internationally in attracting investment, talent, enterprise and visitors as set out in section 1.1.3 of the Tralee Town Development Plan, part Vision for Tralee includes.

Tralee 'Destination Town'/University Town (Excerpts)

- Ensure underused/vacant and infill/brownfield sites are prioritised for re-use and re-development in support of Tralee's role as a Key Town and economic driver in the region and as a University Town.

KCDP 3-4 Deliver at least 30% of all new homes in the Key Towns of Tralee and Killarney with the existing built-up footprint of the settlements.

Strategic Objective TR 11 Plan for the future growth of Tralee and facilitate the sustainable regeneration and renewal of vacant / derelict sites within the town.

Residential Development Objectives:

TR 12 Facilitate the development of 2,087 residential units within the town boundary.

TR 13 Facilitate the provision of a range of housing solutions, to cater for the diverse housing demand within the town, catering for individuals and families at appropriate scales and attractive alternatives to urban generated housing in rural areas.

TR 15 Ensure that residential densities are in accordance with the Ministerial Guidelines 'Sustainable Residential Development in Urban Areas 2009', 'Urban Development and Building Height Guidelines (2018)' and any successor guidelines.

With respect to climate action, it is stated in section 1.3.1 that: 'The future development of Tralee and its renewal will focus on the development of higher-density neighbourhoods, co-working opportunities, smarter use of information technologies and patterns of mixed land use which can help reduce the need to travel and the development of a circular economy. There must be a reduction of the dependence on and use of vehicular traffic in Tralee, an increase in alternative modes of transport and a renewed focus on the development of infill and brownfield sites'.

The objective therefore is to: **TR 17** Prioritise the regeneration of Tralee Town Centre as a compact town for residential, employment and services that are accessible by sustainable modes of transport including walking, cycling and public transport.

Volume 6 1.3.2 Development in Existing Residential/Built Up Areas (R2/M2/M4) (Excerpts)

Within predominantly built-up areas, development proposals normally involve infill development, redevelopment or refurbishment or changes of use. It is important to recognise that this is part of the cycle of development or redevelopment in settlements that contributes to the character of towns. In many ways, this is more sustainable than continually encouraging growth to concentrate only towards undeveloped areas. Indeed, a mix of harmonious uses is often considered a desirable and attractive characteristic.

It is therefore the policy of the Planning Authority to protect and improve existing/developed/residential areas and to provide facilities and amenities incidental to those areas. There is a range of additional uses open to consideration within these areas where it can be demonstrated that there is a need for such facilities and that it will not affect the predominant use of the area. Within existing built-up areas there will inevitably be some areas of land that are either undeveloped or have some potential to be considered for development.

The inclusion of this land within an existing built-up area does not imply any presumption in favour of development or redevelopment unless this would enhance the character and amenity of the area. While many areas are zoned M4 Built Up and many uses are “open to consideration” the council shall have regard to the established uses within the area. It is the policy of the Local Authority to facilitate development that supports in general the primary land use of the surrounding existing built up area.

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

(I note that Kerry County Council are currently drafting the Tralee Municipal District Local Area Plan 2023-2029 which will replace the existing Tralee Town Plan as

contained in the Kerry County Development Plan 2022-2028 and the Tralee Municipal District LAP 2018-2024).

5.2. **Regional Spatial and Economic Strategy (RSES) - Southern Regional Assembly**

It is an objective of the CDP plan to facilitate for growth of more than 30% by 2040 for Tralee in line with the RSES's Regional Policy Objective 11a.

RPO 11a - Key Towns Local Authorities are supported in targeting growth of more than 30% for each Key Town subject to capacity analysis and sustainable criteria under Section 3.3 A Tailored Approach, RPO 2 Local Authority Core Strategies and the sustainable requirements under the following sub sections of RPO 9 Key Towns. The appropriate level of growth is to be determined by the Core Strategy of Development Plans

5.3. **Section 28 Guidelines**

5.3.1. National planning guidelines of relevance to the proposed development in respect of policy relating to apartment development (mix and standards), increased densities for residential development and requirements for increased building heights. These include:

- Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities, July 2023 (apartment guidelines).
 - Section 2.4 identifies peripheral and/or less accessible urban locations as being suitable for small-scale high density apartment developments (no upper density range is specified, and the minimum density is indicated as broadly less than 45dph).
 - SPPR 1 specifies that apartment schemes can contain up to 50% 1 bedroom apartments (unless otherwise indicated in the CDP HNDA).
 - SPPR 2 (applicable to urban infill schemes of up to 0.25ha, and where for schemes between 10-49 units) allows the first 9 units to be 1 bedroom apartments, and the unit mix allowable under SPPR 1 (i.e. 50%) to be applied to the remainder of the scheme.

- Standards and requirements of SPPR 3 (minimum floor, storage, private open space areas for 1 bedroom and 2 bedroom units), SPPR 4 (33% to be dual aspect units), SPPR 5 (discretion for minimum 2.7m requirement for ground level floor to ceiling height), and SPPR 6 (not applicable as no floor level has more than 12 units).
- Sections 3.5-3.7 make provision for a two-bedroom apartment to accommodate 3 persons, with a minimum floor area of 63 square metres. The guidelines emphasise that while providing necessary variation in dwelling size, it would not be desirable that, if more generally permissible, this type of two-bedroom unit would displace the current two-bedroom four-person apartment. No more than 10% of the total number of units in any private residential development may comprise this category of two-bedroom three-person apartment.
- Urban Development and Building Heights, Guidelines for Planning Authorities, December 2018 (Building Height Guidelines). Applicable to the proposed development includes:
 - Section 1.9 requires building heights of at least 3 to 4 storeys, coupled with appropriate density, in locations outside city and town centre areas to be supported in principle at development management level.
 - Section 2.1 states implementing the NPF requires increased density, scale and height of development in our town and city cores, to be achieved through reusing previously developed 'brownfield' land, building up urban infill sites and redeveloping existing sites that may not be in the optimal usage.
- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009, (Sustainable Residential Development Guidelines). Applicable to the proposed development includes:
 - Section 5.4 states increased densities are required to be encouraged on brownfield and/ or infill contexts (no upper density range is specified subject to the identified safeguards including compliance with the policies and standards of public and private open space adopted by development

plans, avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours, good internal space standards of development, conformity with any vision of the urban form of the town or city as expressed in development plans and compliance with plot ratio and site coverage standards).

Circular letter NRUP 02/2021 gives further clarity in relation to appropriate densities at the edge of larger towns and within small towns and villages.

5.4. Natural Heritage Designations

The application site is not located in or immediately adjacent to any natural heritage designated sites. The closest European sites are the (Site code: 004188) Tralee Bay Complex SPA and the (Site code: 002070) Special Area of Conservation: Tralee Bay and Magharees Peninsula, West to Cloghane SAC and pNHA - Tralee Bay And Magharees Peninsula, West To Cloghane, within 2.5km of the proposed development.

5.5. Environmental Impact Assessment (EIA) Preliminary examination

See completed Form 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The first party has not provided separate grounds of appeal rather they refer to and attach the 'Design Statement', as was originally submitted with the planning application. It is contended in the appeal details that the reasons for refusal had been addressed in this 'Design Statement' and it demonstrates how the development is appropriate in terms of scale, occupancy/density, and services.

In the interests of clarity, having regard to the submitted appeal details, I understand that the grounds of appeal are based on a rebuttal of the two reasons for refusal.

6.2. Planning Authority Response

- None

6.3. Observations

Two observations were received, one from the Monalee Estate Residents Association and one from the Glenard Estate Residents Association.

The issues raised by both observers generally restate their original objections to the proposed development in observations submitted to the planning application, as summarised in section 3.4 of this report.

Issues of concern include that the proposed development:

- Is out of character, visually obtrusive at this prominent location and incongruous in scale with the established two storey detached residential dwellings and mature green spaces in the suburban area.
- It has not been made clear in this planning application whether it is the intention of the developer to sell these apartments on the open market or if these are to be Build-to-Rent (BTR) or leased to an approved housing body.
- The density of development is at odds with the established density in the suburban area. The apartment sizes do not meet with minimum standards.
- The loss of the local shop negatively impacts on the area.
- Overlooking from proposed balconies of adjoining and surrounding houses, including overlooking of the recreational/child play area at Glenard.
- No green space for the proposed apartments, concerns about new residents loitering in the estates.
- The proposed development will result in overshadowing and loss of light of adjoining properties at Monalee, overshadowing of adjoining amenity space at Glenard and negatively impact on views.
- There is poorly designed public open space proposed contrary to the Sustainable Residential Development in Urban Areas (2009) guidelines. The

proposed development seeks to 'take over' the green space at Glenard and would detract from the use of this space and biodiversity value.

- Inadequate car parking provision and potential overspill parking on street at both Monalee and Glenard, concern about potential issues with emergency vehicles and delivery vehicles being unable to access Monalee and Glenard as a result of on-street parking. Many of the proposed parking spaces on the subject site appear to be physically inaccessible.
- Concern about potential vehicular/pedestrian conflict at proposed new entrance and within the cul-de-sac with the additional traffic movements and on-street parking. The site is limited for car parking provision and safe entrance/exit facilities.
- Traffic safety concerns as the proposed new vehicular entrance is too close to the junction of Monalee and Monavalley Road (R556) and that the proposed apartment building by reason that it is too close to the R556 would block views of approaching traffic from the north given the curvature of the road.
- Location of the bin structure is too close to the existing residential property (No. 2 Monalee) and visible from the public road, there are concerns about maintenance of this structure and the potential waste/smells to attract rodents etc.
- Concerns about damage to shared boundary walls and removal of the grass strip and trees planted in the footpath area to the southern boundary of the subject site.
- Concerns about disturbance, noise and dust, during construction.
- The proposed lower ground floor level gives rise to concerns that the site may become inundated at times of flash flooding. Reference is made to the original planning permission for the structure now proposed to be demolished indicating that 'the ground floor level is to be a minimum of 13" (275mm) above the crown of the adjacent roadway'.
- Discrepancies raised in the Design Statement in respect to amenity spaces identified in Figure 14.

I acknowledge that new points are raised on procedural matters with respect to the site notices of the previously refused application planning authority Register Reference 22/1 being left up on site and, as purported only taken down when

replaced with the new site notices for the current application 22/893. It is stated that in doing so many people were inhibited from exercising their right to make objections. Furthermore, Monalee Estate Residents Association state that not all parties were notified that an appeal had been made and that the residents had an opportunity to make an observation.

Both resident associations have appended to their resident association objections the original third-party submissions made from individual residents of both their respective estates. As I have noted above, the issues raised in all the third-party submissions received on the planning authority's application file are summarised in section 3.4 of this report and as these issues relate to the grounds of appeal will be covered in the assessment.

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on the file, including all of the submissions received in relation to the appeal, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider the main issues in determining the appeal are as follows:

- Principle of development
- Density, Design, Layout and Character (existing and future residential amenity)
- Traffic, Access and Parking
- Miscellaneous
- Appropriate Assessment Screening

7.2. **Principle of development**

7.2.1. Tralee is designated a key town in the settlement strategy of the CDP. It is a stated principle of the settlement strategy to ensure the sustainable development of the key town to fulfil the role identified in the Regional Spatial and Economic Strategy (RSES). Residential Development Objectives (TR 12) seeks to facilitate the development of 2,087 residential units within the town boundary.

7.2.2. The subject site is zoned M4 mixed use and residential use is open to consideration within this zoning. The observers to the appeal have highlighted that the loss of the potential for another local shop to open on the site negatively impacts on the local community. The planning authority planners report did not address the loss of the convenience retail use on the M4 zoned lands. I am of the opinion that insufficient evidence of the retail impact of the loss of the unit has been provided to justify a refusal on these grounds. However, I would agree with the observations received from the Glenard Estate Residents Association that the loss of the retail unit would have a negative effect on the local community.

7.2.3. The observers have raised concerns with respect to whether the intention is for the apartments to be Build-To-Rent (BTR), sold on separately or leased to an approved housing body. Given that the planning application was submitted before the 21 December 2022 the transitional arrangements of the apartment guidelines apply (section 5.10-5.11 refers). In this case, the public notices associated with the planning application would have had to describe the proposed development as 'Build-To-Rent in accordance with SPPR 7 of the 2018 version of apartment guidelines. As the current application did not include 'Build-To-Rent' in the public notices my assessment is undertaken having regard to the apartment guidelines (July 2023). The 2023 guidelines make clear that the standards for BTR development are now the same as those for all other permitted development, as such, the specific planning requirements no longer apply. The proposed development is assessed against the apartment guidelines, see sections 7.3.5-7.3.14.

7.3. Density, Design, Layout and Character

7.3.1. The applicants submitted a 'Design Statement' to the planning authority in support of the application and has subsequently submitted the same 'Design Statement' as part of the appeal details in order to rebut the reasons for refusal of permission. The Design Statement outlines that the proposed development is designed in line with the guidance of the Kerry County Council Development Plan 2015-2021 and the Tralee M. D LAP 2018-2024. The planning application was received by the planning authority on the 24 August 2022 and just preceding this the new Kerry County Development Plan 2022-2028 came into effect on the 15 August 2022, and now includes the Ministerial Direction 2022, dated 5 December 2022. In the interests of

clarity my assessment is undertaken having regard to the policies and objectives in the Kerry County Development Plan 2022-2028 and, in terms of the wider context of the subject site, the Tralee MD LAP 2018-2024 as summarised in section 5.0 of this report.

Density

- 7.3.2. I am of the view that the subject site is located in a peripheral and/or less accessible urban location, as outlined in the apartment guidelines, given the nature and limited frequency of the bus services including the distance from public transport hubs of Tralee Train Station and Bus Station. Such locations, the guidelines state, are suitable for limited small-scale higher density development that may wholly comprise apartments or residential development of any scale that will include a minority of apartments at low-medium densities broadly <45 dwellings per hectare net.
- 7.3.3. The proposed density of the development is approximately 126.3 dwellings per hectare on the site of 0.095ha (site area as stated on the site layout plan). This density of development is significantly higher than the broad guideline of <45 dwellings per hectare. The Tralee Town Development Plan establishes that higher densities 'will be considered on a case-by case basis depending amongst other issues – the location of the site, the design and quality of the scheme – how it complies with certain performance criteria and the quality of life proposed for incoming residents in addition to existing or proposed services in the area' (Volume Two). Given the proposed higher density scheme, I note section 1.4.1 Development Management Standards & Guidelines (Volume 6 of the CDP) which allows exceptions to prescribed standards set out in the various guidelines in relation to the redevelopment of brownfield/regeneration sites. Such flexibility is caveated as only being permissible in response to well-designed development proposals.
- 7.3.4. Given the proposal relates to the redevelopment of a brownfield site I am of the opinion that the acceptability of the proposed development is dependent on demonstrating the apartment design parameters will result in high-quality design outcomes from a broader planning and community perspective. In order to determine then acceptability of the higher density of development I shall assess the design, layout and character in sections 7.3.5-7.3.14.

Design, Layout and Character

- 7.3.5. The proposed development of 12 no. apartments, comprises a mix of one and two bedroom units (see Table 2.1 above). I have reviewed the plans, particulars and design statement submitted in the first party appeal. I note that a schedule of accommodation was not submitted by the applicants. Taking into account the small scale of the development, being less than 15 no. apartments I consider that the mix of one and two bedroom units is acceptable.
- 7.3.6. Notwithstanding the acceptability of the overall unit mix there is a concern raised by the observers relating to the proposed number of three persons two bedroom apartments within the scheme. The apartment guidelines set out that no more than 10% of the total number of units may comprise this category of two bedroom three person apartment. I would agree that the proposal to have nine three persons two bedroom apartments, within the scheme of 12 no. apartments in total, greatly exceeds that set out in the apartment guidelines (section 3.7) for private residential development. I note that the three proposed 1 bedroom apartments exceed the minimum floor area for 1 beds. However, given that none of the proposed two bedroom apartments meet the standard for a four person unit I consider the proposed development will not result in the good mix of apartment sizes and would be contrary to minimum apartment floor areas required under SPPR 3 for two bedroom apartments (73 sq. m) and the guidance contained in section 3.7 with respect to three person two bedroom apartments.
- 7.3.7. A schedule of internal storage for the apartments has not been provided. I note that cupboards and storage spaces are shown on the proposed floor plans, however, the floor areas for these spaces are not indicated in all the proposed apartments and some appear to be hot presses or boiler spaces, which would be considered not to comply with general storage. I am of the opinion that the applicant has not demonstrated sufficiently how the proposed apartment scheme meets the internal storage requirements set out in the apartment guidelines (section 3.30-3.34 and Appendix 1). However, given that all the proposed one-bedroom units exceed the minimum floor area standards set out in the guidelines and the two-bedroom (3 person) apartments also are principally greater than the minimum floor area of 63 sq. m I am of the view that the provision of internal storage can be accommodated. In respect to the provision of private amenity space the proposed balconies and terraces exceed the minimum floor area requirements. However, some of these

balconies do not meet the minimum depth of 1.5m. The internal storage provision and detailed design of the balconies, including provision of screened clothes drying space, could be matters addressed by way of a condition subject to the acceptability of all other aspects of the design and layout.

- 7.3.8. There are six single aspect units (50%) proposed out of the total of 12 no. apartments. SPPR 4 of the apartment guidelines require that generally a minimum of 50% dual aspect apartments are provided in a single scheme in suburban or intermediate locations. As table 2.1 above sets out there are three north facing single aspect units proposed. Taking into account the proposed outlook of these units facing onto the amenity space fronting the Glenard estate, I would be of the opinion that these north facing single aspect units are acceptable given the confines of the subject site. The scheme, therefore, is acceptable in terms of the provision of dual aspect and I note the floor-to ceiling heights of 2.8m at ground floor level exceeds the minimum of 2.7m set out in the SSPR 5 of the apartment guidelines.
- 7.3.9. I acknowledge that the use of different materials and colour on the elevations, as indicated on the photomontages within the Design Statement, will ameliorate the bulk of the proposed building to an extent. Notwithstanding the elevational treatments, the proposed three storey structure, approximately 22m in depth and almost 22m in width, will in my view result in a mass of built form bulky in design which would not positively frame the public space to the north of the subject site or respond satisfactorily to this corner location, its massing will exaggerate the protrusion beyond the established set back building line, and is at odds with the rhythm of the adjoining properties (as illustrated by Figure 18 of the submitted Design Statement). I note the observers concerns that proposed development would result in overshadowing and negative impact on residential amenity. No daylighting and overshadowing analysis has been submitted with the application to determine the extent of overshadowing likely from the proposed development. Notwithstanding, I consider that the proposed development by reason of its scale, bulk and proximity to the site boundaries would seriously injure the residential amenities of adjoining properties by reason of visual obtrusion and overbearing.
- 7.3.10. The proposed development includes three landscaped areas (labelled public amenity areas A, B and C), a surface car park for 10 no. spaces (including an accessible car parking space for persons with a disability) and a refuse store (no dimensions or

design details provided). Concerns have been raised by the adjoining resident at no. 2 Monalee and the observers to the appeal about the proposed location and limited size of the refuse store. I would agree with these concerns, the proposed refuse store positioned adjacent to the shared boundary with the existing adjoining residential property (No. 2 Monalee) and abutting the front boundary of the proposed site visible from the public street would be detrimental to the visual amenities of the area and adjoining property. In addition, it has not been demonstrated that sufficient communal storage area has been provided to satisfy the three-bin system for the collection of mixed dry recyclables, organic waste and residual waste. Given the visual prominence of the site on the corner with the regional R556 approach road to Tralee centre, I am of the opinion that this issue can not be addressed by condition as it requires a significant redesign for the waste storage to be incorporated within the built form of the proposed apartments rather than a standalone element.

- 7.3.11. The site layout plan indicates green strips of 'public amenity' space to the western, northern, and eastern boundaries of the site. The total area of cumulative landscaped public amenity areas (as annotated on the drawing) comprises a total of 239.4 sq. m. I concur with the planner's report that the areas labelled as public amenity area B and C would be of poor quality in terms of recreational value and usability. I consider that these spaces (B and C) constitute a 'privacy strip'/landscape buffer to the boundaries of the site rather than useable amenity space. Proposed area A is lacking in passive surveillance and would be dominated by the three storeys c. nine-metre high blank wall of the proposed apartments to the east and by the shared boundary wall of no. 2 Monalee to the west.
- 7.3.12. Taking into account the scheme is a small urban redevelopment on 0.1ha and that there is usable public open space at Glenard immediately adjoining the site I consider there may be scope to relax the requirements for communal amenity space, having regard to section 4.12 of the Apartment Guidelines. Notwithstanding I am of the view that the proposed landscaped areas are not of sufficient size or design to be considered of a 'high-quality' to justify applying any flexibility in terms of the design standards as set out in the apartment guidelines.
- 7.3.13. In conclusion, I would therefore agree with the planning authority's reason for refusal in respect to the proposed development constituting overdevelopment of the confined site. The higher density as proposed has not been justified in terms of the

proposed design and mix of unit types, layout of the built form and communal open spaces and given its limited contribution to the character, streetscape and visual amenities of area.

- 7.3.14. I consider that the design approach would not achieve a high quality of living accommodation for future residents and the proposed development will adversely impact the area's character, existing residential and visual amenities as a result of its design, layout and character.

7.4. Traffic, access and parking (bicycle and car)

- 7.4.1. The development plan requires in Section 1.20.7 (Table 4) one parking space per bedroom and 1 bike space per bedroom. Section 1.20.7.1 requires a minimum of 1 EV charging point space per five car parking spaces with ducting for every parking space provided. These standards are 'maximum' requirements. The development plan allows for a flexible approach to these standards where such a case is substantiated, there is no traffic safety issue, and it is clearly demonstrated to the planning authority that the proposal is in the interest of proper planning and development in a site-specific context. The apartment guidelines have a benchmark guideline for apartments in relatively peripheral or less accessible urban locations of one car parking space per unit, together with some visitor parking in a range of one space for every 3-4 apartments. The apartment guidelines allow for a relaxation of car parking spaces on building refurbishment schemes or urban infill sites up to 0.25ha on a case-by-case basis. As such, having regard to the development plan standards the maximum required parking spaces of 21 car parking spaces in conjunction with 21 bicycle parking spaces. The apartment guidelines benchmark would indicate that 12 car parking spaces plus three visitor car parking spaces with 12 cycle storage spaces with six visitor cycle spaces would be appropriate for this peripheral urban location, not taking into consideration the relaxation provision.
- 7.4.2. The proposed development provides for a surface car parking with 10 no. parking spaces (including an accessible car parking space for persons with a disability). I note that bicycle parking provision is not shown on the submitted documentation and no details have been provided in relation to EV charging points.
- 7.4.3. The Housing Estate Unit and the Roads, Transportation and Marine Department have raised concerns in relation to the detailed design of vehicular entrances and

inadequate provision of car parking spaces, see section 3.2.2. The observers to the appeal raise concerns in respect to the likely over spill of car parking that will occur in the adjoining estates due to the shortfall in provision on site and potential for pedestrian/vehicular conflict.

- 7.4.4. The applicant has not demonstrated sufficiently that the number of car parking spaces, the functionality of the design and layout of same or that the proposed boundaries and footpath provision will ensure that manoeuvres within and egress/exit movements would be as safe as possible for pedestrian and cyclists, to avoid any potential conflict between users. I note that the submitted Design Statement (p.10) states that 'ample bicycle parking is to be provided on site'. No other details have been provided in respect to the proposed bicycle parking and/or storage areas. The applicant is seeking to reduce the car parking provision for the apartments. In the absence of any real alternatives such as drop off facilities, visitor parking spaces or alternative mobility solutions including dedicated cycle parking and secure storage I would, therefore, agree with the planning authority's reason for refusal with respect that the proposed development would cause traffic congestion and give rise to ad hoc car parking in the area.

7.5. **Miscellaneous**

Water Services, Surface Water Management and Flooding

- 7.5.1. The proposed development seeks to connect to the public water supply, wastewater treatment, and surface water drainage systems located to the rear of the site. The applicant has not submitted the confirmations of feasibility from Uisce Eireann authorising connection to the water supply and wastewater treatment systems. For surface water drainage, no proposals have been submitted. The need for further information was identified by the Water Services Department. The observers highlight that as the Rahoone, Shanakill & Monavally are now largely 'built up' areas there are large volumes of direct and immediate run-off in times of high intensity rainfall. It is stated that flash flooding occurs on the roadway, which flows southward along the eastern carriageway as a rivulet from Shanakill to a point just north of traffic lights at St. Brendan's Park, where the pipe network becomes sufficient to take the flow once more. As the proposal includes the lowering of the

ground floor level there are concerns raised that serious inundation would occur on the site in times of high intensity rainfall.

- 7.5.2. I am of the opinion that insufficient evidence has been provided of the adequate servicing of the proposed development in terms of water services and that there is no demonstration that its design incorporates appropriate surface water management measures to alleviate demands on public drainage systems. I note the report from the Biodiversity Officer highlights that the applicant should consider the possibility of using nature based solutions to manage surface water and also to potentially increase the biodiversity value of the subject site, refer to 'Nature-based solutions to the Management of Rainwater and Surface Water Runoff in Urban Areas, Water Sensitive Urban Design Best Practice' Interim Guidance Document (2021) published by the Department of Housing, Local Government and Heritage. Nature based solutions proportionate to the small-scale nature of the subject site and its associated constraints, to assist with managing the rainwater and surface water runoff, may be possible on the subject site. However, such solutions require a sequential and iterative approach ideally at design brief stage and, as such, can not be addressed by condition for this constrained site.

Procedural Issues

- 7.5.3. Concerns have been raised by both observers (Monalee Estate Residents Association and Glenard Estate Residents Association) on procedural issues relating to the poor management of site notices, firstly in respect to the first application planning authority register reference 22/1 site notices not being removed until immediately replaced with the new site notices for the current application planning authority register reference 22/893, on the subject site which may have resulted in the public not adequately being made aware and given an opportunity to comment on the proposals. Secondly, issues relating to the payment of the appropriate planning fee and the sign off of the validation checklist and appeal notification.
- 7.5.4. In terms of procedural matters and the alleged irregularities in terms of the nature and timing of the erection of the site note and processing the application, I note that these matters were considered acceptable by the planning authority. I am satisfied that this did not prevent the concerned party from making representations.

7.6. Appropriate Assessment

- 7.6.1. I note the planning authority indicate that further information is required in respect to Appropriate Assessment as per the Biodiversity Officer's report 'Appropriate Assessment Report' dated 29 September 2022. The Appropriate Assessment Report acknowledges that the development is upstream of the Tralee Bay and Magharees Peninsula, West to Cloghane SAC/SPA and the application has hydrological connectivity to the SAC. The Biodiversity Officer identifies the main potential for in-combination effects relates to possible impacts to water quality within the SAC/SPA downstream at construction and operational phase. The report concludes that given further information has been sought from Water Services on the detail of proposed water infrastructure, including how surface water is to be managed, this further information is highlighted as necessary to complete the screening.

7.7. Screening for Appropriate Assessment- Test of likely significant effects

- 7.7.1. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).
- 7.7.2. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

7.7.3. Brief description of the development

In summary, the development comprises:

The demolition of an existing two and single storey detached building previously in use as a retail unit and residential accommodation. The construction of a three-storey building comprising 12 no. apartments with associated circulation and service spaces, 10 no. car parking spaces, bicycle areas and associated site works.

- 7.7.4. The development site is described in the Design Statement page 5. It is described as the former Spar site at the junction of the R556 (Monavalley) and Monalee. It is a brownfield redevelopment site adjacent to public recreational space at Glenard Estate.

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

- Demolition and Construction related -uncontrolled surface water/silt/ construction related pollution.

Given the subject site is within a serviced urban area the operational phase of the development is not likely to have significant effects and, as such, is not included as an issue for further examination.

7.7.6. Submissions and Observations

None.

7.8. European Sites

The proposed development site is not located in or immediately adjacent to a European site. The closest European sites are the (Site code: 004188) Tralee Bay Complex SPA and the (Site code: 002070) Special Area of Conservation: Tralee Bay and Magharees Peninsula, West to Cloghane SAC, within 2.5km of the proposed development.

There is an indirect hydrological pathway from the subject site to the designated SPA and SAC through surface water ultimately discharging to the culverted river connecting to outfall in Tralee Bay. As such, the European sites Tralee Bay Complex SPA and Tralee Bay and Magharees Peninsula, West to Cloghane SAC will be considered further in screening.

The project is not physically or hydrologically connected to any other European site.

7.9. Identification of likely effects

A summary of the outcomes of the screening process is provided in the screening matrix Table 7.9

Table 7.9				
Site Code	Site Name	Can the possibility of significant effects be excluded at Screening Stage?		

		Habitat Loss	Water Quality and water dependant habitats	Disturbance
002070	Tralee Bay and Magharees Peninsula, West to Cloghane SAC	Y	Y	Y
004188	Tralee Bay Complex	Y	Y	Y

During the construction phase there is potential for surface water runoff from site works to temporarily discharge to the culverted river, which ultimately discharges to Tralee Bay. However, the hydrological connection to the Tralee Bay sites is indirect and weak. Intervening land use and the separation distance of >2km means that water quality in the European sites will not be negatively affected by any contaminants, such as silt from site clearance and other construction activities, if such an event were to occur due to dilution and settling out over such a distance. Furthermore, the construction phase will not result in significant environmental impacts that could affect European Sites within the wider catchment area.

This determination is based on the following:

- The nature, small scale, and extent of the proposed development in a serviced urban area, and
- The scale of the proposed development and its distance from the nearest European site.

7.10. Mitigation measures

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

7.11. Screening Determination

The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Site Tralee Bay and Magharees Peninsula, West to Cloghane (Site Code: 002070) and Tralee Bay Complex (Site Code: 004188), or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

8.1. I recommend that permission is refused in accordance with the following reasons and considerations.

9.0 Reasons and Considerations

1.	<p>Having regard to the peripheral location of the site the proposed density of the scheme is excessive in the context of adjoining development and would result in:</p> <ul style="list-style-type: none">(a) an inadequate amount of communal open space to serve the proposed development, and would give rise to substandard residential amenity for future occupiers,(b) a visually discordant feature, by reason of its bulk and massing would exaggerate the protrusion beyond the established set back building line, that would be detrimental to the established character of this area, and
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	<p>(c) would seriously injure the residential amenities of adjoining properties by reason of visual obtrusion and overbearing.</p> <p>The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.</p>
2.	<p>Adequate car parking spaces, bicycle spaces and a turning space have not been provided within the curtilage of the site. The proposed development would, therefore, result in on-street parking and create serious traffic congestion on the adjoining streets. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.</p>

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.

Claire McVeigh
 Planning Inspector

13 December 2023

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	315091-22		
Proposed Development Summary	(A) Demolish existing disused supermarket (B) Construct a three-storey building comprising of 12 no. apartments with associated circulation and service spaces (C) Construct 10 no. car parking spaces and bicycle parking areas and (C) All associated site works.		
Development Address	1 Monalee Estate, Monavalley, Tralee, Co. Kerry.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>		Yes	√
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No	√		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
			Conclusion
No		N/A	No EIAR or Preliminary Examination required
Yes	√	Class/Threshold Part 2, Schedule 5 (Class 10 (a)) Construction of more than 500 dwelling units.	Proposal for 12 no. units significantly Proceed to Q.4

			below the threshold.	
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4. Has Schedule 7A information been submitted?		
No	√	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	315091-22	
Proposed Development Summary	(A) Demolish existing disused supermarket (B) Construct a three storey building comprising of 12 no. apartments with associated circulation and service spaces (C) construct 10 no. car parking spaces and bicycle parking areas and (D) all associated site works.	
Development Address	1 Monalee Estate, Monavalley, Tralee, Co. Kerry	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The site is located in an established residential area on lands zoned for mixed use (M4) which is served by public transport and social infrastructure.</p> <p>The demolition and construction will result in small amounts of C&D waste, possible presence of ACM (Asbestos Containing Material) or any other hazardous materials within the structures to be demolished would be managed in accordance with Waste Management Plan. This issue can be adequately dealt with under the planning assessment. Localised construction impacts will be temporary.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative</p>	<p>The proposed development comprises a three-storey block of 12 no. apartments. The size of the development is not exceptional in the wider context of the existing built-up urban environment.</p> <p>There is no real likelihood of cumulative effects with other existing and/or permitted projects.</p>	No

<p>considerations having regard to other existing and/or permitted projects?</p>		
<p>Location of the Development Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>There are no ecologically sensitive locations in the vicinity of the site. The nearest European site is located 2.5 km to the east Tralee Bay and Magharees Peninsula, West to Cloghane) and the Tralee Bay Complex SPA (Special Protection Area). The subject site is noted, in the Appropriate Assessment Screening report submitted by the Biodiversity Officer Kerry County Council, as having a hydrological connectivity to the aforementioned SAC.</p> <p>The lands are not identified functionally linking habitat for birds for SCI (Special Conservation Interest) and/or supporting habitat for key species within the SAC (Special Area of Conservation) or ecologically sensitive.</p> <p>The proposed development is not likely to have the potential to significantly affect other significant environmental sensitivities in the area.</p>	<p>No</p>
<p>Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		

Inspector: _____

Date: _____

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)