



An
Bord
Pleanála

Inspector's Report ABP-315526-12.

Development	52 residential units and associated site works.
Location	Ballyard Road, Cloghers, Tralee, Co. Kerry.
Planning Authority	Kerry County Council.
Planning Authority Reg. Ref.	22630
Applicants	Homeland Projects Ltd.
Type of Application	Permission.
Planning Authority Decision	Grant permission
Type of Appeal	First and Third Party
Appellants	(1) Denise McConville and others (2) Pdraig McElligott (3) Richard Houlihan (4) Homeland Projects Ltd.
Observers	None
Date of Site Inspection	2/5/2023

Inspector

Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 1.96 hectares and is located to the southern side of the town of Tralee, Co. Kerry. It is situated circa 1km from the town centre. The site is roughly rectangular in shape and comprises a grassed field.
- 1.2. The western boundary of the site adjoins the Ballyard road L2010. This boundary extends for 83m. There is a footpath along the western side of the road. The boundary is formed by a stone wall. The site has frontage of circa 233m onto a private laneway which serves properties to the north. There are three residential properties located to north of the laneway. A residential property with a number of outbuildings is located to the east of the site and adjoining this to the east there is a woodland area. The Woodlands Caravan and Camping Park is located to the north of the woodland area.
- 1.3. An Choill housing estate which contains detached two-storey dwellings of mixed designs is located to the west of the site on the opposite side of the Ballyard road.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of 52 no. residential units and associated site works. The scheme comprises;
 - 12 no. type A1 – 3 bed detached dwellings
 - 24 no. type B1 – 3 bed semi-detached dwellings
 - 4 no. type C1 – 4 bed detached dwellings
 - 2 no. type D1 – 3 bed detached dwellings
 - 1 no. type D2 – 3 bed detached dwelling
 - 8 no. – 2 bed terraced dwellings
 - 1 no. – 1 bed detached dwelling
- 2.2. The development includes car parking, new vehicular access and a separate pedestrian access, public lighting, landscaping, amenity open space areas and all associated site development and infrastructural works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority granted permission for the proposed development subject to 21 no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Further information was sought in relation to the following:

1. The applicant is requested to submit following Further Information required by Irish Water.
 - (a) A layout of the watermain and connection to the existing mains.
 - (b) A plan and elevation of the foul sewer network and the connection to the existing sewer network.
 - (c) A plan and elevation of the surface water network including where the surface water is being disposed to. No surface water to enter the foul or combined sewer network due to capacity issues.
2. Address following issues raised by the County Archaeologist – A geophysical survey of the site should be carried out and any anomalies or features recorded during the survey should be archaeologically tested under licence from the National Monument Service. A report on the survey and any subsequent testing and excavation should be submitted to the planning authority prior to any grant of permission.
3. The applicant was requested to address the issues raised by the Biodiversity Officer in relation to surface water management and the use of nature based solutions to manage rainwater and surface water runoff in urban areas.
4. The applicant is requested to address the following issues raised by the Tralee Municipal District Roads and Transportation Department:
 - (a) A new footway is to be constructed on the development side of the L-2010 at the expense of the applicant to the satisfaction of the Area Engineer. This

footway is to include all associated drop kerbing. Details of the footway are to be agreed with Tralee Municipal District area engineer prior to planning has been approved.

- (b) A controlled pedestrian crossing is required at this location. Details are to be agreed with Tralee Municipal District area engineer prior to planning has been approved.
 - (c) The applicant is to provide details of the storm water outfall including where the proposed development plans to deal with surface water drainage.
 - (d) Details of the public street lighting are to be agreed with Kerry County Council's road design department prior to planning being approved.
5. The applicant is requested to address the following:
- (a) The applicant is requested to submit an assessment of the proposed development under each of the 12 criteria as set out in the Urban Design Manual Best Practice Guide, Department of Environment Heritage and Local Government 2009.
 - (b) The private amenity space provided for all dwellings provided does not meet the criteria set out in the Tralee Town Plan of 80sq m private open space for detached/semi-detached houses and 64sq m for terraced/town houses. The applicant is requested to submit revised proposals to address this.
 - (c) It is noted that the An Architectural Design Statement submitted with the application refers to the Cork County Development Plan as well as to Ringaskiddy and surroundings industrial development. The applicant is requested to clarify.
6. The applicant was requested to address issues raised by Housing Estates Unit concerning the design of the scheme.

Clarification of further information was sought in relation to the following:

- 1. The applicant is requested to carry out pre-development archaeological testing in order to verify and calibrate the results of the geophysical survey submitted. This testing must be carried out in advance as the presence of archaeological features or strata will inform the design of the proposed

development and ensure that, where possible, archaeological material can be avoided and preserved in situ, in accordance with national policy.

2. The following observations were received from the Tralee Municipal District Engineer in relation to the further information response received on 27/09/2022.
 - (a) The Road Safety Audit submitted in response to request for further information has failed to consider the operation of the proposed pedestrian crossing which is proposed to connect the development to public footpath infrastructure along the L-2010 public road. Applicant is requested to submit a revised Road Safety Audit.
 - (b) Section 4.1.3 of the Engineering Report submitted refers to sightlines of 45m being achieved at the junction with the main road. This needs to be reviewed for accuracy.
 - (c) Actions taken with regard to the findings of the Road Safety Audit 2201RSD-doc01 needs to be confirmed.
3. The applicant is requested to address issues raised by the Housing Estates Unit further to the F.I. response;
 - Road width remains 5.5m at a number of locations. The proposed road width of 5.0m at the estate entrance should be widened to 5.5m wide to allow for traffic movements at the entrance.
 - A 1.2m high paladin fence should be erected on the development side of any boundaries which are being retained. This is required to ensure that they are childproof. This would apply in particular where existing site boundaries are being kept.
 - 4 of the 5 of the cul de sacs having no turning areas. Turning areas are required. A turning area is required outside house no. 43.
 - The lack of 1 metre lateral clearance between the edge of the access road and the proposed hedging/landscaping (including the estate roads the front of House Nos 1, 8, 28, 29 and rear of House No 44 remains outstanding.

- Further pedestrian crossings have been added. The footpaths lead to pedestrian crossing points to the front of House Nos 1, 8, 28, 29 and Block 48-52. The Housing Estate Unit has a concern that a number of car parking bays are proposed beyond the proposed footpaths. Footpath/pedestrian footpath should be further assessed at each of these locations. Given the vehicular movement, at these locations, the need for further delineated pedestrian crossings is queried.
- Applicant is invited to consult directly with the Housing Estates Unit in relation to the matters raised in this paragraph.

3.2.2. Other Technical Reports

3.2.3. Tralee Municipal Office Roads, Transportation and Marine Department: report dated 22nd December 2022 – Recommendation, conditional approval.

3.2.4. Biodiversity Officer – In addressing the management of surface water from the proposed development could the applicant please consider the possibility of using nature based solutions – for example using natural features/landscaping to manage surface water flow and treatment of potential pollutants while also increasing biodiversity within the proposed housing scheme. Further guidance is available from the recently published 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, by the Department of Housing Local Government and Heritage.

3.2.5. County Archaeologist: reported dated 5th September 2022 – The geophysical survey submitted in part response to the further information request is inconclusive as is often the case in areas of karst/limestone bedrock. As such, pre-development archaeological testing is required to verify and calibrate the results of the geophysical survey, as outlined by the consultants (Aegis Archaeology Limited) in the mitigation proposed at the end of their initial archaeological impact assessment.

3.2.6. Housing: reported dated 1st July 2022 – further information required.

3.2.7. Housing: reported dated 17th October 2022 – conditions recommended.

3.3. **Prescribed Bodies**

3.3.1. Uisce Éireann – No objections

3.4. **Third Party Observations**

3.4.1. The Planning Authority received 12 no. submissions/observations in relation to the application. The issues raised are similar to those set out in the appeals.

4.0 **Planning History**

- None

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.

- Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities (2024)
- ‘Design Manual for Urban Roads and Streets’ (DMURS) (2019)
- ‘The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’) (2009)

5.3. Kerry County Development Plan 2022-2028

5.3.1. The Tralee Town Development Plan 2009-2015 (as extended and varied) is incorporated into the Kerry County Development Plan 2022-2028.

5.3.2. The site is zoned Objective ‘R1’ – New/proposed Residential.

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.

5.3.6. 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.

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

5.3.8. Section 1.5 refers to Residential Development.

5.4. Natural Heritage Designations

5.4.1. Tralee Bay Complex SPA (Site Code 004188) is situated 657m to the west of the appeal site.

5.4.2. Tralee Bay and Magharees Peninsula West to Cloghane SAC (Site Code 002070) is located 705m to the west of the appeal site.

5.5. EIA Screening

5.5.1. The proposed development comprises 52 residential units on a 1.96 hectare site. The development subject of this application falls within the class of development described in 10(b) Part 2, Schedule 5 of the Planning and Development Regulations, 2001, as amended. EIA is mandatory for developments comprising over 500 dwelling units or over 10 hectares in size or 2 hectares if the site is regarded as being within a business district.

5.5.2. The number of dwelling units proposed at 52 is well below the threshold of 500 dwelling units noted above. Whilst within the town of Tralee it is not in a business district. The site is, therefore, materially below the applicable threshold of 10 hectares.

5.5.3. The proposal for 52 residential units is located within the development boundary of Tralee on lands zoned Objective 'R1' – New/proposed Residential in the current Tralee Town Development Plan (as extended) which is which is incorporated into the Kerry County Development Plan 2022-2028. The site comprises a greenfield site. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage. The proposed development will not have an adverse impact in environmental terms on surrounding land uses. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The existing wastewater treatment plant serving the town of

Tralee has a plant capacity PE of 50333 and has sufficient capacity to accommodate the development. The site is not within a European site. The issues arising from the proximity/connectivity to a European Site can be adequately dealt with under the Habitats Directive. The application is accompanied by an Architectural Design Statement Assessment, geophysical report and engineering report. These address the issues arising in terms of the sensitivities in the area.

5.5.4. Having regard to;

- the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- the location of the site on lands within the development boundary of Tralee on lands zoned under the provisions of the Tralee Town Development Plan, 2009-2015 as extended which is incorporated into the Kerry County Development Plan 2022-2028 and the results of the strategic environmental assessment of the Tralee Town Development Plan, undertaken in accordance with the SEA Directive (2001/42/EC).
- the location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of residential development in the area.
- the location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended),
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and the need for environment impact assessment can, therefore, be excluded at

preliminary examination and a screening determination is not required. See Appendix 2 attached to this Report for the preliminary examination.

6.0 The Appeal

6.1. Grounds of Appeal

Third party appeals

The Board received third party appeals from the following;

- (1) Denise McConville and others
- (2) Pdraig McElligott
- (3) Richard Houihan

(1) Denise McConville and other

- It is set out in the appeal that the proposed development is incompatible with the pattern of surrounding development.
- It is noted that Ballyard Road is characterised by chestnut trees and old walls which are part of the Belmont House estate which dates from 1826. It is considered that development which has taken place over the past 45 years has respected the character of the area.
- The density of the scheme proposed is 26.5 units per hectare. In comparison the development across the road from the proposal (An Choill and Gleann Scotia) has a density of 8.1 units per hectare.
- It is submitted that the proposed development is likely to significantly devalue houses in its immediate vicinity.
- The house types proposed within the scheme comprise predominately smaller houses and starter homes of two and three bedrooms. Therefore, it is questioned in the appeal whether such houses can provide a sustainable model for long-term use by families.

- It is submitted that the proposed development would not follow a sequential approach to development. It is not appropriate to carry out the proposed development without a considerable investment in road, pedestrian and cycle infrastructure.
- The importance of determining the sequence of land to be developed is restated in the more recent section 28 document, Development Plans Guidance for Planning Authorities, 2022; paragraph 4.4.1 states, “should it be the case that there is a surplus of well-located zoned and fully serviced land to meet population and housing supply targets already zoned for development in any local authority area when reviewing a development plan, it is recommended best practice that a phased approach be taken to prioritise the preferred sequence of development of such sites. However, phasing should be applied where there is a sound planning rationale for doing so, based on factors such as site location, the availability or proximity of, or capacity to provide, off-site services, facilities or infrastructure.
- It is submitted that there are significant infrastructural deficiencies in terms of pedestrian and cycle facilities to access the town centre, that the proposed site should remain at the lower end of the sequential scale and that it should not be development until such time as more centrally located sites have been developed.
- It is submitted that the development proposed is at a density which would be considered high density given the traditional pattern of development in Tralee.
- Development of such a density should be directed towards central areas in the town. It is considered that there are many sites which remain undeveloped and that these should be development in advance of allowing the development of outer suburban site being developed at higher densities.
- The site is circa 600m from the Aquadome roundabout a location which is generally take by local residents as being the outer limit of the central town area.
- It is submitted that there is poor road and pedestrian connectivity. It is stated that the proposed vehicular access has a limited sight distance of 45m in either direction. It is noted that the carriageway width of the Ballyard Road

narrows to a width of 5.2m. The Ballyard Road is considered an extremely busy road.

- The provisions of Section 4.4.1 of DMURS is noted which states that the standard lane width on Arterial and Link streets is 6.5m. It is stated that the Ballyard Road is a Link Road.
- The development of the proposed scheme with a new access onto Ballyard Road would result in a total of eight separate access points across from the proposal.
- The location is not served by cycleways and it is submitted that the pedestrian infrastructure is significantly below the standard recommended under DMURS in terms of the width of footpath.
- It is highlighted that there is footpath only on one side of the road. The suitability of the proposal to provide a pedestrian accessway directly from the estate road rather than from a new footpath fronting the estate is questioned and whether this represents a safe means of pedestrian access.
- The appellants state that the existing footpath is not sufficiently wide to allow a person with a pram or a wheelchair or an adult holding the hand of a child to pass another person. This would result in one person having to move onto the road.
- In relation to the sight lines at the proposed junction of the estate with the Ballyard Road it is noted that the issue of inadequacy of sight lines was highlighted in the Stage 1 Road Safety Audit and the issue of the steep gradient of the roadway to the south was identified as an issue.
- The matter was raised by the Area Engineer who sought confirmation that the issue raised in the road safety audit stage 1/2 had been dealt with.
- It is noted in the Development Plan that there is a proposal for a new relief roadway system to be provided on lands immediately to the east of Ballyard Road. It is considered that the provision of such an relief road from Cloghers Road discharging on one side onto the Dan Spring Road would relieve a certain amount of the pressure which exists on Ballyard Road at present.

- It is submitted that the proposal will negatively impact upon the residential amenities of existing properties. The site is 1200mm above the floor level of the dwelling located to the north of the laneway which borders the site. It is considered that no effort is made to reflect this matter in the layout of the proposed development. A number of houses in the scheme will directly overlook these neighbouring properties.
- It is considered that the design and layout would result in significant overbearing on to the existing properties. House no. 1 has a finished floor level of 17.7m there is a difference in level of 3.4m between it and the neighbouring dwelling across the laneway. House no. 8 has a proposed floor level of 20.95 the house directly across the laneway from it has a floor level of 16.18. This is considered unsatisfactory no proposals have been provided for adequate fencing to prevent overlooking and overbearing.
- The strip of land along the northern boundary has been indicated as an access way and play area and it is unclear how privacy would be secured or how safety would be secured for users of it given the difference in level.
- The terrace at the eastern section of the proposed development will directly overlook Ivy House and it is considered inadequate screening has been proposed.
- The existing area is characterised by mature trees and pre-famine walls. The proposed development would result in this being substantially altered and this will have a negative impact on the amenity of the entire area.
- In relation to the design of the scheme it is stated that the layout is largely determined by the requirement to achieve high density. The proposed layout has resulted in very narrow frontages to some of the dwellings with internal dimensions as low as 4m.
- It is highlighted that the principal guidance of DMURS is to avoid distributor roads and provide grouped car parking with pedestrian friendly access.
- The layout as proposed does not provide for grouped car parking. The layout is car dominated. The green spaces within the scheme are small and unlikely to be useful. The parking standards for housing estates in the current

Development Plan and the previous Development Plan are for the provision of two car parking spaces per house plus one visitor space for every two houses. This has not been provided in the scheme.

- The suitability of the proposed rubbish disposal area is questioned as it would involve reversal from the home zone areas.
- The layout includes an accessway to the south which would provide access to potential future development land. The development of these lands would substantially increase the level of traffic accessing onto the Ballyard Road this was not included in the Road safety audit. It is considered that a master plan should have been provided.
- In conclusion, the appellants request that the Board refuse permission for the reasons set out in the appeal.

(2) Padraig McElligot

- The proposed development of 52 no. houses at Ballyard Road, Cloghers, Tralee would cause a dramatic increase in traffic congestion.
- It is considered that the development would impact on the wildlife and flora in the surrounding wetlands.
- The proposed development would require the felling of trees which would impact the fauna in the area. It would result in the reduction of trees in the area to capture carbon. It is submitted that it would result in light pollution.
- Ballyard Road, Cloghers, Tralee is a very picturesque part of Tralee which is frequented by walkers, runners and cyclists. The proposed development of 52 no. houses would dramatically change the landscape and the area would be more dangerous for pedestrians. The development would cause congestion issues, pollution to the area and it would generate noise.
- The increased traffic which the scheme would generate would negatively impact traffic on the nearby roundabout and on the Dan Spring Road.
- The proposed access to the site is also in a relatively dangerous place on a steep section of road approaching a bend.

(3) Richard Houlihan

- The appeal refers to the existence of a new 9” sewer pipe line extending down the laneway on the northern side of the proposed development.
- Submissions were made to Kerry County Council in relation to this matter. It would have been known to the applicants based on the submissions made.
- There has been no reference to this particular sewer line in the Plans and Particulars lodged by the applicant or in the further information requested by Kerry County Council or in any information submitted by the applicant in regard to this planning permission.
- It is stated that this sewer is of vital importance to appellant and that he expected that contact would have been made to him from the Planning Authority or by others regarding the existence of the sewer line.
- There is no wayleave granted although the applicant sought the permission of the existing landowner and consent was obtained in relation to the sewer and the sewer was laid, the sewer line does exist. It is reiterated that it should be shown on the Plans and Particular lodged.
- The appellant considers that the Board should ask for the existing of this sewer line to be acknowledged and shown on the Plans and Particulars.
- They request that the Board take their concerns into consideration, and should the Board decide to grant planning permission that a condition be attached which recognises the existence of the sewer and requiring the applicant to deal with the issue so as to preserve the existing sewer access to the main public sewer.
- Although further information was submitted to the Planning Authority in relation to sight lines, it is considered that the sight lines for the proposed vehicular entrance are inadequate.
- It is considered that the width of the Ballyard Road is quite limited. The appellant considers that the proposed development is premature until such time as a proper road realignment project is put in place to ensure safe means of access and egress onto the Ballyard Road for existing residential and future residents.

6.2. First party appeal

- The first party appeal is made in relation to condition no. 3 of the decision to grant permission issued by Kerry County Council under Reg. Ref. 22/630 on the 22nd of December 2022.
- Condition no. 3 requires the applicant to lodge with the Planning Authority a special development contribution fee in the sum of €137,200.00 with respect to the following infrastructure: Additional and enhanced public footpath infrastructure €112,200.00 – Provision of pedestrian crossing to serve the development €25,000.
- It is stated that it is unclear as to why the permission is subject to a special contribution condition towards the cost of implementation of this infrastructure given that the same infrastructure is already captured under the Planning Authority's General Contribution Scheme and particularly when this infrastructure has already been included in the applicant's plans and condition no. 11 of the decision would imply that the applicant is already required to deliver same.
- Condition no. 11

(a) The final detail and specification of the Pedestrian Crossing located along the L-2016 public road shall be agreed in full with the Tralee Area Engineer in advance of the construction of the development.

(b) No dwelling within this development shall be occupied until such time as all statutory consents and works associated with the construction of the pedestrian crossing serving this development are fully completed. The Developer shall engage in a timely fashion with the Tralee Area Engineer in this regard.

(c) The developer shall be responsible for relocating all existing public lighting standards in line with the rear of the proposed footpath bounding the L-2010 public road while ensuring they meet required standards. Additionally, the developer shall be responsible for relocating all pre-existing overhead communications and ESB services exposed during the removal of the western boundary wall of the site, underground to the satisfaction of the Tralee Area Engineer.

(d) The final detail of the footpath along the western boundary of the development and the extent of construction of the footpath along the L-2010 public road shall be agreed with the Tralee Area Engineer in advance of construction. All pre-existing roadside services shall be relocated to the satisfaction of the Tralee Area Engineer.
Reason: In the interest of public safety and orderly development.

- Condition no. 3 requires the first party to provide a special contribution in the sum of €137,200 for public infrastructure including footpaths and a pedestrian crossing.
- A pedestrian crossing and footpath were already included in the plans submitted by the applicants as part of their response to further information and condition no. 11 of the permission implies that the developer is required to deliver this very same infrastructure.
- Therefore, they submit that the imposition of this special contribution charge, outlined in Condition no. 3 amounts to double charging and is contrary to the provision of the Development Management Guidelines.
- It is not clear that the condition meets the tests for the imposition of a special contribution given that the works outlined are already accounted for under the Local Authority's General Contribution Scheme.
- Section 48 (2) (c) of the Planning and Development Act provides that a Planning Authority may require the payment of a special contribution where specific exceptional costs not covered by the general contribution scheme are incurred by the Planning Authority in respect of specified particular works of public infrastructure and facilities which benefit the proposed development.
- The current Kerry Development Contribution Scheme identifies public infrastructure and facilities covered by the Scheme and include:

(d) The provision of bus corridors and lanes, bus interchange facilities, infrastructure to facilitate public transport, cycle and pedestrian facilities and traffic calming measures.

- The provision of pedestrian facilities is a basis norm of the proper planning and sustainable development of an urban area. It is considered that it is in no

way exceptional, and its cost cannot be exceptional. No evidence has been provided in this instance that pedestrian facilities in excess of that norm will be provided. Therefore, no evidence has been provided of exceptional cost of its provision.

- The Development Contribution Guidelines 2013 state that special contributions arise as to the provision of particular works of public infrastructure or facilities specifies in the condition which benefit very specific requirements for the proposed development.
- It does not suffice that proposed infrastructure and facilities will benefit the proposed development, it is necessary that costs for their provision will be exceptional and the calculation of the special contribution must be made by reference only to the specific exceptional costs identified.
- The Development Management Guidelines 2007 state that it is essential that the basis of the calculation of the exceptional costs be explained in the condition and that the nature and scope of the works and apportionment to the specific development must be transparent.
- It is set out that there appears to be no clear basis for the calculation set out in condition no. 3 leading to a requirement that the applicant provide 33% of the cost of the proposed pedestrian crossing and 100% of the footpath. There is also no clear indication of what the 'additional and enhanced public footpath infrastructure' referred in the conditional and the Tralee MD report comprises or constitutes, or how a cost of €340,000 was arrived at.
- In conclusion, the first party submit that the imposition of condition no. 3 for a special contribution fee for public infrastructure in relation to the proposed development is not warranted given that the infrastructure forms part of the plans and particulars submitted with the planning application and condition no. 11 already requires the first party to deliver these infrastructure elements as part of the proposed development.

6.3. Applicant Response

6.3.1. A response to the third party appeals has been submitted by Coakley O'Neill Town Planning on behalf of the applicant Homeland Projects Ltd. The main issues raised are as follows:

- Three third party appeals have been submitted to the Board. The first appeal from Richard Houlihan sets out two main grounds of appeal which are that;
- They consider the sight lines for the proposed development and the road width of Ballyard Road are limited and inadequate.
- The second appeal submitted by Pdraig McElligott, the grounds of appeal are as follows;
- The effect of 52 no. dwellings on local ecology of the area.
- That the road cannot accommodate the additional traffic volume generated by the proposed scheme.
- The third appeal from Denise McConville and others set out several grounds of appeal as follows;
- The proposed development is not compatible with the surrounding pattern of development in the area in particular in relation to density of layout.
- The proposal does not comply with the principle of proper sequential development in that a higher density development is proposed to be located a considerable distance from the centre of the town of Tralee while there are many more appropriate sites available closer to the town centre.
- The extent of development is inappropriate given the very poor level of road infrastructure and lack of appropriate pedestrian connectivity which is evident on the Ballyard Road.
- The proposal will interfere with the residential amenity of existing nearby properties and will have a negative impact on the general residential amenity of the Ballyard area.
- The proposal tends towards being a car dominated layout and would not create a satisfactory level of residential amenity for its future residents.

- In terms of the justification of the proposed development the revised national policy as set out in the “Housing for All” plan is cited. Section 3 of “Housing for All” states that over 300,000 new homes are needed by 2030 to address pressure on the housing market. This means 33,000 new homes per annum on average to 2030.
- At a localised level, the need for the proposed development is emphatically justified on the basis of the urgent requirement for new residential dwellings on appropriately zoned and serviced sites within Tralee town and the wider County Kerry. This is advocated by national planning policy guidance particularly the National Planning Framework and the Regional Spatial and Economic Strategy for the Southern Region and the Kerry County Development Plan 2022 – 2028.
- They submit that the decision of the Planning Authority to grant planning permission for this residential development is fully in accordance with both national and local planning and housing policy.
- Regarding the domestic sewer it is stated in the appeal of Mr. Houlihan that he “enjoys a wayleave over the existing domestic sewer through the subject site, through the open area spaces to the front, down to connect to the existing public sewer along the laneway and in that regard, they wish to retain their sewer line as in and has a legal wayleave which has been established for many years along this particular route.”
- A folio map and Mr. Houlihan’s own Solicitors indicate that a formal wayleave was not granted over the lands of Mr. John Knightly and Mrs. Anne Knightly the owners of the adjacent field but the works were carried out with their authority and consent.
- In response to this particular concern of Mr. Houlihan regarding his domestic sewer, the first party note that it has been addressed at the planning application stage.
- It is stated in the appeal of Mr. Houlihan “there has been no reference to this particular sewer line either in the Plans and Particulars lodged by the applicant or in the further information request by Kerry County Council or in

any information submitted by the applicant in regard to the planning permission.”

- The first party state that this is not correct. O’Shea Leading Consulting Engineers have reaffirmed this in Appendix 1 of the appeal response. They state that the existing sewer line running through the site is proposed to be connected to the new sewer line which will serve the proposed housing.
- It is stated that drawings were submitted to Kerry County Council acknowledging the existing sewer line and proposed works in both the original planning application drawing (Drawing 2001 – GA-02) and at further information stage (Drawing 2001– GA-02 REV B). F
- The first party wish to assure Mr. Houlihan that the sewer line in question has indeed been acknowledged. There is no registered wayleave for the sewer pipe and the developer has clearly laid out that the pipe will be connected to the proposed sewer system for the proposed development and in turn will be connected back to the main sewer line as is the current situation.
- In relation to traffic, road infrastructure and connectivity firstly it is highlighted that a Road Safety Audit was prepared by MHL & Associates Ltd, and submitted as part of the planning application. It was also demonstrated how each recommendation outlined in the Road Safety Audit would be implemented in relation to traffic, road infrastructure and connectivity, they wish to highlight that the Tralee MD Roads Department and Housing Estates Unit did not raise any concerns regarding traffic and the proposed development.
- The appellants raised concerns in relation to sight lines however the primary report prepared by the Tralee MD Office Roads, Transportation and Marine Department dated 29th July 2022, states that “sightlines to the east and west are adequate as per the design manual for urban roads and bridges in both directions subject to the existing stone wall being set back.”
- It is outlined in the appeals that Roads Section had a requirement for a new footway to be constructed on the development side of the L-2010, the requirement for a controlled pedestrian crossing and for public street lighting to be agreed with Kerry County Council.

- Therefore, it is evident that the Tralee MD Roads Department did not have any objections to the proposed development by reason of inadequate sightlines or poor road infrastructure and connectivity.
- It is submitted that the conditions attached to the notification of decision to grant permission indicate that the road infrastructure and connectivity within the vicinity of the subject site will be improved as a result of the proposed development.
- It is highlighted that the Housing Estates Unit also did not have any objections to the proposed development on their primary report. Comments were made which would enhance the proposal by way of increasing the number of footpaths and pedestrian crossings throughout the development. Some items which were requested were an increase of dropped kerbs and tactile paving. A revised site layout demonstrated a minimum road width of 5.5m, further turning bays to be implemented and a revised site map includes a sightline triangle assessment.
- The comments made by the Tralee MD and the Housing Estates Unit were incorporated into the request for further information.
- In the appeal from Denise McConville and others reference is made to Ballyard Road being a “very narrow carriageway with a significantly substandard footpath, generally only 1.2m wide”. This is the opinion of the appellants, it is highlighted that there are currently no plans by Kerry County Council to upgrade this road or footpaths.
- It is highlighted that the new Development Plan, has a “New Residential” land use zoning objective for several sites in the vicinity of the subject site, all of which are served by Ballyard Road.
- Therefore, it is put forward that the Planning Authority do not consider there to be an issue with the carriageway width or footpath provision on Ballyard Road as there are currently no plans to upgrade it. It is presumed that the Planning Authority will have given significant consideration to the roads and street infrastructure in this area during the preparation of the recently adopted 2022-2028 Development Plan.

- Regarding the issue of connectivity, the subject site is well connected to the services and amenities in Tralee town. It is highlighted that there are two secondary schools within a 2km radius of the site, Christian Brothers Secondary School is located 1.5km away and Presentation Secondary School is located 1.6km away.
- Other amenities located close to the site include – Tralee Town, Playground located 1.3km away; Kerins O’Rahillys GAA Club which is located 1.1km away. The heart of Tralee town centre can be reached within a 5 minutes’ drive or 20 minutes’ walk. It is therefore submitted that the site is well connected to local services and amenities which can be readily accessed by pedestrians.
- In relation to the matter of ecology, it is highlighted that the lands are not located within any Natura 2000 sites. It is noted that 700m to the west of the site there are a number of designated Natura 2000 sites – the Tralee Bay Complex SPA and the Tralee Bay and Magharees Peninsula West to Cloghane SAC. The proposed Natural Heritage Site (pNHA): Tralee Bay and Magharees Peninsula, West to Cloghane(west) is located 700m to the west of the appeal site.
- It is highlighted that there is no surface water or terrestrial connection between the lands and these designated sites.
- It is stated that the first party have ensured that biodiversity and ecology form part of the development proposed. At further information stage a revised Landscaping Plan was submitted as part of the response. It is highlighted that the Biodiversity Officer had no objections.
- The first party stated that they employed the services of a suitably qualified professional in this area, Dave Ryan, Landscaping.
- The Biodiversity Officer made the following comments in response to the Landscaping Plan submitted as part of the further information. They concluded in the AA screening report that significant effects on European Sites can be excluded. In relation to ecological sensitive receptors, they considered that the hedgerows would be of high ecology value. The Biodiversity Officer stated that they were satisfied that the detailed landscape

plans have been undertaken by a suitably qualified specialist and that they represent a fair assessment of the site. They note that the development will result in the removal of some trees but overall, the proposal is seeking to retain hedgerows and associated stone walls.

- They considered that taking the issues on balance and considering the other landscape features submitted that they were satisfied that the existing landscape features can be retained and that the proposals for landscaping the development will mitigate any loss.
- The first party submit that the proposed scheme will serve to enhance the biodiversity and ecology of the site.
- Regarding the issue of layout and density, the density of the proposed scheme is 27 units per hectare. A mix of units is proposed which it is submitted is in keeping with the approach to urban development articulated in the Development Plan. The scheme responds to the overall character and density of existing residential development in the vicinity, and it is considered that it strikes a balance between achieving higher residential densities while responding positively to local character.
- It is noted that the Planner's report dated 8th of August 2022 does not make any objections to the proposed development with reference to the site, layout, site zoning, location or the nature and scale of the proposed development.
- They noted that while the 2009 Guidelines on Sustainable Residential Development in Urban Areas state that locations where the subject site is should not typically have net residential densities lower than 30 units/ha. It is highlighted that the newly adopted Kerry County Development Plan 2022-2028 identifies the site as being a suitable location for net residential densities of 15-20 units per hectare. Therefore, it is stated that there is an inconsistency between the national and local policy regarding density.
- It is submitted that the proposed density of 27 units per hectare is the result of a considered approach which was taken to strike a balance between national and local policy in the context of a national housing crisis which is manifesting locally in Tralee.

- Furthermore, as well as attempting to strike a balance in terms of the inconsistent policy, the proposed density also seeks to strike a balance between the undisputed need to pursue compact growth and higher density in this urban location and the preferred design approach of responding sensitively to the existing local character of the area.
- They submit that they have been successful in this regard and that the proposed residential density should therefore be considered favourably by the Board. It can also be inferred from the favourable decision of the Planning Authority in respect of the application that they considered the density of the scheme acceptable in terms of overall policy context on the matter.
- In relation to the matter of residential amenity it is submitted that the siting, design and layout of the overall scheme will deliver a high quality residential development. The scheme has been designed to provide communal open spaces which are safe and will be overlooked by proposed dwellings.
- Regarding the location of the open space within the scheme it is proposed in small plots which will serve their own bank of dwelling units which are connected by an amenity route running through the northern boundary of the site. This incorporates a pedestrian pathway which gives a separate access to the public roadway.
- It is stated that play and kick about areas are included in the landscape design. The design approach has been informed by the desire to retain trees along the northern boundary for visual amenity and privacy reasons as well as for local ecology and biodiversity reasons.
- The first party dispute the claims in the appeals that the proposal is car dominated. It is submitted that the proposed scheme is entirely consistent with the residential development standards set out in the Kerry County Development Plan.
- It is stated that boundary treatments and the distance to adjoining dwellings along the site boundaries are in keeping with established precedence and planning policies.

- It is submitted that the proposed development would not cause any undue overlooking, overhanging or overshadowing.
- Along the site boundaries the existing stone walls, trees and hedgerows are proposed to be retained where feasible and where required.
- The third party appeal submitted by Denise McConville and others states that “house no.8 is indicated at a proposed floor level of 20.95, while the house directly across the laneway from it has a floor level indicted of 16.18. This will result in a most unsatisfactory situation and no proposal has been made to secure adequate fencing to prevent overlooking and overbearing.”
- The first party request that the Board dismiss this claim as it is factually incorrect. The finished floor level is in fact 18.18m and not 16.18m as stated by the appellants.
- Regarding the matter of sequential development, it is stated that the site was assessed at the planning application stage in the context of the now expired Tralee Town Development Plan as being zoned R1 – New/Proposed Residential and lies within the development boundary of the town.
- It is highlighted that this zoning objective was retained in the adopted Kerry County Council Development Plan, 2022 – 2028. Therefore, it is submitted that the principle of the proposed development at this location is acceptable in the context of surrounding and current land use zoning objectives.
- Therefore, in response to the issue of “the sequence of land to be developed” the first party assert that the Planning Authority would have given the matter significant consideration whilst preparing the Kerry County Development Plan 2022– 2028.
- As the lands were not developed throughout the lifetime of the previous plan therefore it is clear that the Planning Authority wish to see them developed throughout the lifetime of the current Development Plan, i.e. over the period up to 2028. This is arguably why the R1-New/ Proposed Residential land use zoning objective was maintained for the site.
- It is noted that the Planning Authority had the opportunity to seek the applicant to address the matter of the sequential development of lands,

however they clearly did not consider that this was necessary due to the site's residential zoning objective and the fact that the site is located within the development boundary of Tralee which is designated as a Key town.

- In conclusion, the first party submit that the notification to grant permission for the proposed development was arrived at by Kerry County Council following a thorough and detailed assessment of the relevant planning issues pertaining to it.
- They submit that their assessment and submissions made by the applicant at planning applicant state, further information, request for further information clarification and appeal stages have conclusively demonstrated that the grounds of appeal raised by the appellants have no basis.
- The proposal is in compliance with the statutory development plan policies, and it will not create significant negative impacts and will not adversely affect the residential amenity of adjoining properties. It will not adversely impact on the character of the area or give rise to traffic hazard. It is therefore respectfully submitted that the decision of the Planning Authority should be upheld in this instance and that permission be granted for the proposed development.

6.4. Planning Authority Response

- None received

6.5. Further Responses

6.5.1. A further response was received from Ger O'Keeffe Consulting Engineers Ltd. on behalf of the appellant Richard Houlihan. The issues raised are as follows;

- They state that they have viewed the third party appeals of Pdraig McElliott and Denise McConville and others and also the submission in relation to the third party appeals provided by Coakley O'Neill representing the applicant.
- The appellant's main concerns refers to the impact that traffic flows from the development will have on the narrow Ballyard Road. It is stated that the road

is clearly substandard and incapable of dealing with the extent of traffic already generated on the road. Particularly having regard to the bend in the road on the northern side of the development where two cars can only pass going at a very low speed.

- The vertical alignment of the road is such that the traffic coming into town is inclined to travel at a considerable speed.
- It appears to be stated in one of the appeals that there is an alternative road to be constructed as part of the overall development plan for Tralee and this is important to facilitate development on the southern side of the Tralee Ring Road.
- They state that they are surprised by the submission from Coakley O'Neill on behalf of the applicant as they must be aware of their objection that there is no reference to the existing sewer which serves their property within the proposed site.
- They state that there is a right of access to the public sewer along this particular line and any alterations or changes to this line will be subject to their approval.
- The points made in their appeal are reiterated.
- It is considered that a low density development would be more appropriate for the site, having regard to the extent of development within the area and the issues concerning the road geometry which means that the area is not suitable to accommodate the proposed 52 no. houses.

7.0 **Assessment**

I consider that the issues arising from the appeals can be addressed under the following headings:

- Density, development and policy context
- Impact on residential amenity
- Design and layout
- Traffic and access

- Foul sewer
- First party appeal
- Appropriate Assessment

7.1. Density, development and policy context

- 7.1.1. The lands in question are zoned Objective – R1 New/Proposed Existing Residential under the provisions of the Tralee Town Development Plan 2009-2015 (as extended and varied) which is incorporated into the Kerry County Development Plan 2022-2028. The proposal is to construct 52 no. residential units comprising a mix of two bedroom, three bedroom and four bedroom dwellings. The site has an area of 1.96 hectares the proposed density would be equivalent to 26.5 units per hectare.
- 7.1.2. The third party appeals contend that the proposed density is out of character with the surrounding area and excessive for the site.
- 7.1.3. In relation to the matter of density it is set out in the Settlement Capacity Audit of the Kerry County Development Plan 2022-2028 that the Planning Authority seeks to ensure that all developments are carried out in a sustainable manner and comply with the ‘Sustainable Residential Development in Urban Areas Guidelines. The appropriate density for applications for housing developments will be determined by the Planning Authority to ensure the provision of a mix of unit types in proximity to existing and proposed transport and service infrastructure, in order to meet and adapt to the changing demographic trends and household profiles in a neighbourhood.
- 7.1.4. In relation to residential densities in Tralee the subject site at Ballyard Road, Cloghers, Tralee, Co. Kerry is identified as part of site no. 17 and it is set out in the table of Tralee – Settlement Capacity Audit of Zoned lands that the estimated density of units per hectare is 15-20. I note that the lands to the south adjoining the appeal site are also part of site no. 17 and as detailed on the table the potential yield from the overall site is 55-80 units based on that density range.
- 7.1.5. It is further advised in the Settlement Capacity Audit of the Plan that Higher densities and therefore higher housing yield will be considered on a case-by-case basis depending on 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. It is set out in the plan that the Planning Authority is committed to facilitating increased densities with developments that provide for a mix of unit types to meet the needs of the changing demographic trends and household profiles in the towns. The existing policies and objectives proposed are not limited to greenfield, new residential areas but rather are applicable to all zoned lands that facilitate residential use. The planning authority will also ensure that residential densities reflect the density of appropriate adjoining developments.

- 7.1.6. In response to the matter of density first party stated that the scheme responds to the overall character and density of existing residential development in the vicinity, and it is considered that it strikes a balance between achieving higher residential densities while responding positively to local character. The first party highlight that the Planner's report dated 8th of August 2022 does not make any objections to the proposed development with reference to the site, layout, site zoning, location or the nature and scale of the proposed development.
- 7.1.7. The first party noted the provisions of the 2009 Guidelines on Sustainable Residential Development in Urban Areas which stated that locations where the subject site is should not typically have net residential densities lower than 30 units/ha. They highlighted that the newly adopted Kerry County Development Plan 2022-2028 identifies the site as being a suitable location for net residential densities of 15-20 units per hectare. Therefore, it is stated that there is an inconsistency between the national and local policy regarding density.
- 7.1.8. The first party submitted that the proposed density of 27 units per hectare is the result of a considered approach which was taken to strike a balance between national and local policy in the context of a national housing crisis which is manifesting locally in Tralee. The first party further responded to the matter of density by stating that as well as attempting to strike a balance in terms of the inconsistent policy, the proposed density also seeks to strike a balance between the undisputed need to pursue compact growth and higher density in this urban location and the preferred design approach of responding sensitively to the existing local character of the area.

- 7.1.9. I note that the 2009 Guidelines on Sustainable Residential Development in Urban Areas have now been replaced by the recently adopted new guidelines, Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities (2024).
- 7.1.10. Tralee is designated as a Key Town within the Kerry Hub in respect of the provisions of the Regional Spatial and Economic Strategy for the Southern Region 2020 (RSES). Section 3.3.3 of the Sustainable Residential Development and Compact Settlement – Guidelines for Planning Authorities, 2024. refers to Key Towns and Large Towns. Table 3.5 refers to Areas and Density Ranges Key Towns and Large Towns and in relation to Suburban/Urban Extension locations it sets out that it is a policy and objective of these Guidelines that residential densities in the range 30 dph to 50 dph (net) shall generally be applied at suburban and urban extension locations of Key Towns and Large Towns, and that densities of up to 80 dph (net) shall be open for consideration at ‘accessible’ suburban/urban extension locations. The subject site at Ballyard Road, Cloghers, Tralee would constitute a suburban/urban extension location within the context of its location circa 1km from the town centre of Tralee and the existing surrounding housing development including An Choill housing estate to the west.
- 7.1.11. Accordingly, having regard to the relative proximity of the site to the town centre and with pedestrian access to the town centre. I consider that the proposed density of 26.5 units per hectare is appropriate and in accordance with the provisions of the Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities (2024) Tralee Town Development Plan 2009- 2015 (as amended and varied) and the Kerry County Development Plan 2022-2028.

7.2. Impact on residential amenity

- 7.2.1. The issue of impact on the residential amenities of neighbouring properties has been raised in the appeal submitted from Denise McConville and Others. Concern was expressed in relation to potential overbearing and overlooking and reference was made to the difference in finished levels between the proposed houses in the scheme and neighbouring properties.
- 7.2.2. It was submitted in the appeal that the proposal would result in significant overbearing on to the existing properties. The appellants referred to House no. 1

within the scheme which has a finished floor level of 21.1 and they noted that there is a nearby house across the laneway with a finished floor level 17.7 and stated that there is a difference in level of 3.4m. House no. 8 has a proposed finished floor level of 20.95 the house directly across the laneway from it has a floor level of 16.18. They expressed concern that proposals for boundary fencing were unsatisfactory and did not address potential overbearing and overlooking. Specific reference is made to the proposed terrace at the eastern section of the proposed development which they consider would directly overlook Ivy House.

- 7.2.3. In response to this the first party stated that the suggestion that the difference in finished floor level between the proposed house no. 8 and the house directly across the laneway is as stated in the appeal is not correct as the finished floor level of the neighbouring dwelling is 18.18 and not 16.18. Regarding the proposed finished floor levels, I note that they are indicated on drawing no: 20091-GA-01. As indicated on this drawing the difference in finished floor level between house no. 1 and the closest dwelling to the north across the laneway is 3.32. There is a separation distance of 18m between the properties and I note that having regard to the siting of house no.1 that the front building line is setback to the east of the existing dwelling, therefore the front of the existing dwelling does not directly face the gable wall of the proposed dwelling. Regarding proposed house no. 8 and the closest dwelling to the north across the laneway the difference in finished floor level is 2.79. There is a separation distance of over 25m between the properties.
- 7.2.4. In relation to boundary treatment, the first party have confirmed that they proposed to that along the site boundaries the existing stone walls, trees and hedgerows are proposed to be retained where feasible and where required. The first party submit that boundary treatments and the distance to adjoining dwellings along the site boundaries are in keeping with established precedence and planning policies. I note that the existing boundary treatment along the northern site boundary with the laneway is formed by a mature hedgerow and trees. Having regard to the separation distance proposed between the closest dwellings in the scheme and the neighbouring properties to the north on the laneway I am satisfied subject to the retention and reinforcement of existing boundary and/or provision of new boundary treatment along the northern boundary that the proposed development would not result in any undue overbearing or overlooking to the adjacent properties. Regarding

the other surrounding properties to the east, west and south of the site, I note that the separation distances provided are in excess of 28m.

- 7.2.5. In conclusion, having reviewed the proposed site layout of the scheme relative to the existing surrounding properties, I consider having regard to the proposed siting of the and design of the proposed dwellings within the scheme and the relative separation distances to the existing dwellings to the north, south, east and west and south of the site that the proposed scheme would not result in any undue overlooking, or overbearing impact of neighbouring residential properties.

7.3. Design and layout

- 7.3.1. The grounds of appeal refer to the design and layout of the scheme specifically the layout of the dwellings, the house types proposed and the location of and useability of the proposed open spaces areas.
- 7.3.2. In relation to the provisions of the Kerry County Development Plan 2022-2028 Volume Six of the Plan includes (1) Development Management Standards & Guidelines. Section 1.5 refers to Residential Development.
- 7.3.3. Regarding the house types proposed within a scheme, Section 1.5.3.1 refers to Mix of Dwelling Types. It sets out that for planning applications for schemes with 15+ residential units that there is a requirement to incorporate a variety and choice of housing type and size to meet the different household needs and requirements. The proposed scheme comprises a total of 52 no. dwellings and a total of seven different house designs are proposed. They are 12 no. type A1 – 3 bed detached dwellings, 24 no. type B1 – 3 bed semi-detached dwellings, 4 no. type C1 – 4 bed detached dwellings, 2 no. type D1 – 3 bed detached dwellings, 1 no. type D2 – 3 bed detached dwelling, 8 no. – 2 bed terraced dwellings and 1 no. – 1 bed detached dwelling. Accordingly, while I would note that majority of units within scheme i.e. 39 are three bedroom dwellings the remainder comprises a mix of four bedroom and two bedroom units and 1 no. – 1 bed detached dwelling. I am satisfied that a reasonable mix of house types have been provided. Furthermore, having regard to the site context and surrounding residential properties which are primarily single storey and two-storey, the provision of alternative house types such as duplexes on this particular site may not be appropriate.

- 7.3.4. Section 1.5.4 of the Development Management Standards & Guidelines of the Kerry Development Plan refers to General Residential Development Design Standards. It advises that the design and layout of individual dwellings should provide a high-quality living environment for residents and that dwellings should also be designed to provide adequate room sizes that create good quality and adaptable living spaces. Open space should be located behind the front building line of the house and be designed to provide for adequate private amenity. Regarding the provision of private amenity, I that all the dwellings have rear gardens with areas that are in accordance with Table 1: which refers to Minimum Private Open Space Requirements for Dwelling Units.
- 7.3.5. In relation to the layout of the dwellings, roads and open spaces within the scheme, the scheme is served by a central internal access road with five short cul de sacs off this to the north. There are four areas of open space along with a linear section of open space to the northern side of the site. A footpath is proposed to extend from the houses at the eastern end of the site through this linear space to connect to the public footpath.
- 7.3.6. In response to the issues regarding the layout raised in the appeals the first party stated that the siting, design and layout of the overall scheme will deliver a high quality residential development.
- 7.3.7. Section 1.5.4.4 of the Development Management Standards & Guidelines of the Kerry Development Plan refers to public open space. It advises that public open space should be provided at a minimum rate of 15% of total site area. The open space should be designed to complement the residential layout and be informally supervised by residents. The spaces should generally be centrally located within groupings, and be visually and functionally accessible, of a suitable gradient, useable and overlooked by a maximum number of dwellings. In relation to the total area of the public open space within the scheme, I note that it is circa 3,270sq m which is equivalent to 16.6% of the total site area. Accordingly, the area of public open space is in excess of 15% of the site area as required in the Development Plan.
- 7.3.8. Regarding the siting and design of the open spaces are the first party highlighted that the scheme has been designed to provide communal open spaces which are

safe and will be overlooked by proposed dwellings. In relation to the safety and useability of the open spaces I would concur with the first party that they are all well overlooked. The design rationale provided by the first party for the smaller open spaces is that those small plots which will serve their own bank of dwelling units which are connected by an amenity route running through the northern boundary of the site. This incorporates a pedestrian pathway which gives a separate access to the public roadway. The first party highlighted that design approach has been informed by the desire to retain trees along the northern boundary for visual amenity and privacy reasons as well as for local ecology and biodiversity reasons.

7.3.9. I note that the design of the open space areas does provide for play and kick about areas and also external seating as indicated on the Soft Landscape and Biodiversity Plan submitted with the clarification of further information to the Planning Authority.

7.3.10. Regarding the roads layout the first party dispute the claims in the appeals that the proposal is car dominated. They submit that the proposed scheme is entirely consistent with the residential development standards set out in the Kerry County Development Plan. I would not concur with the argument that the design of the scheme is car dominated having regard to the design and layout of the open space areas and the proposed pedestrian pathway which links all the open spaces to the public footpath. While I note that the proposed layout includes a central internal access road with a number of short cul de sac spurring off this road, I would note that this design is necessitated by the configuration of the site which is rectangular shaped. Therefore, having regard to the having regard to the limited scale of the development and configuration of the site being of a rectangular shape, I would consider the layout acceptable in this context.

7.4. Traffic and access

7.4.1. The proposal entails the provision of a total of 52 no. dwelling units. Vehicular access is proposed onto the Ballyard road the L2010. The grounds of appeal refer to the proposed vehicular access and additional vehicular traffic the scheme would generate and the impact it would have on the existing roads.

7.4.2. The third party appeals raised concerns in relation to the sightlines at the proposed entrance onto the L2010 and also the suitability of the road to accommodate the

traffic which would be generated. The grounds of appeal also referred to issues concerning pedestrian facilities and connectivity.

- 7.4.3. In response to the matter of sightlines the first party highlighted that the report of the Tralee MD Office Roads, Transportation and Marine Department dated 29th July 2022, states that “sightlines to the east and west are adequate as per the design manual for urban roads and bridges in both directions subject to the existing stone wall being set back.”
- 7.4.4. I note that as illustrated on Drawing No: 20091-GA-10 – Residential Development at Ballyard, Tralee, Co. Kerry that sightlines of 45m are proposed to the north and south at the vehicular access with a setback of 2.4m from the public road edge. The provision of these sightlines is subject to the setting back of a section of the existing boundary which is formed by a stone wall and hedgerow. The Planning Authority sought further information on a number of matters including issues raised by the Tralee MD Office Roads, Transportation and Marine Department concerning the design of a footway on the development side of the road and the design of a controlled pedestrian crossing. The Planning Authority also sought clarification of further information, and this included in relation to section 4.1.3 of the Engineering Report which referred to sightlines of 45m being achieved at the junction with the main road, they required that this needed to be reviewed for accuracy. In respect of this issue, I note that report of the Planning Officer dated the 22/12/2022 which stated that the Road Safety Audit considered the development in full and that sightlines of 45m have been achieved with the revised Site Layout Plan submitted indicating this.
- 7.4.5. In relation to traffic, road infrastructure and connectivity raised in the third party appeals the first party highlighted that the application was accompanied by a Road Safety Audit was prepared by MHL & Associates Ltd. As detailed above the Planning Authority did seek further information in relation the pedestrian crossing, the footway on the development side of the road and also the road safety audit.
- 7.4.6. The area is served by a public footpath which runs along the western side of the Ballyard road the L2010 as far as the junction with the Kearney’s Road to the south of the site and into Tralee to the north. I note that grounds of appeal referred to the width of the existing footpath being 1.2m at certain locations. While I would note that

point raised, I consider that the construction of the pedestrian crossing will ensure that there is safe pedestrian access between the proposed development and Tralee town centre. The first party in their appeal response also note the proximity of schools and facilities to the appeal site. Furthermore, I note that the Tralee MD Office Roads, Transportation and Marine Department and the Planning Officer were satisfied that the site was satisfactorily served by existing and proposed pedestrian facilities. Accordingly, I consider that there is no issue with connectivity.

- 7.4.7. Regarding the capacity of the road network to accommodate the additional traffic generated the first party highlighted that the Tralee MD Roads Department did not have any objections to the proposed development by reason of poor road infrastructure and connectivity. The matter of the proposed development being premature on the basis of the capacity of the existing road network and in the absence of a new relief road on lands immediately to the east of Ballyard Road was raised. It was noted in the appeal that in the Development Plan that there is a proposal for a new relief roadway system to be provided on lands immediately to the east of Ballyard Road. The appellants considered that the provision of such an relief road from Cloghers Road onto the Dan Spring Road would relieve congestion which exists on Ballyard Road at present. Regarding this matter, I note that there is an indicative road route on the Tralee Town zoning map which runs from the south-eastern side of lands zoning agriculture to the north to serve lands zoned tourism and related then to the north of existing residential development and across lands zoned agriculture. In response to this matter the first party highlighted that the new Development Plan, has a “New Residential” land use zoning objective for several sites in the vicinity of the subject site, all of which are served by Ballyard Road. Having regard to the zoning of the lands over which this indicative road objective runs I would concur with the first party that the lands zoned “New Residential” in the area are predominately directly accessed from the existing road network and therefore the development of the site would not be premature on the basis that this indicative road has not been developed.
- 7.4.8. In conclusion, I am satisfied with the proposed scheme in respect of access and traffic considerations.

7.5. Foul sewer

- 7.5.1. The third party appeal submitted by Richard Houlihan raised the matter of the location of an existing sewer on site. It was stated in the appeal that there is a 9" sewer pipe line extending down the laneway on the northern side of the proposed development. They highlighted that they raised the matter in their observations on application to the Planning Authority. However, they were not satisfied because they stated that there was no reference that sewer line in the Plans and Particulars lodged by the applicant or in the further information requested by Kerry County Council or in any information submitted by the applicant in regard to this planning permission.
- 7.5.2. The appellant states that they enjoy a wayleave over the existing domestic sewer through the subject site, through the open area spaces to the front, down to connect to the existing public sewer along the laneway and in that regard, they wish to retain their sewer line as is and they state that a legal wayleave has been established for many years along this particular route. They highlighted that there is no wayleave granted although the applicant sought the permission of the existing landowner and consent was obtained in relation to the sewer and the sewer was laid.
- 7.5.3. The appellant has requested that the Board take their concerns into consideration, and should the Board decide to grant planning permission that a condition be attached which recognises the existence of the sewer and requiring the applicant to deal with the issue so as to preserve the existing sewer access to the main public sewer.
- 7.5.4. In response to the matter the first party stated that a folio map and Mr. Houlihan's own Solicitors indicate that a formal wayleave was not granted over the lands of Mr. John Knightly and Mrs. Anne Knightly the owners of the adjacent field but that the works were carried out with their authority and consent. Regarding the issue that the location of the sewer was not acknowledged in the application the first party state that this is not correct. They referred to the drawings which were submitted with the application to the Planning Authority which acknowledge the existing sewer line and proposed works in both the original planning application drawing (Drawing 2001 – GA-02) and at further information stage (Drawing 2001– GA-02 REV B). In relation to this I note that drawings referring to the Site Layout with Foul Sewer indicate that it is

proposed to reroute the existing foul sewer on the site which serves the existing dwelling to the south of the site. The first party therefore confirm that the location of the sewer line in question has indeed been acknowledged. They confirm that while there is no registered wayleave for the sewer pipe that the design of the scheme specifically the foul drainage proposals include that the existing pipe will be connected to the proposed sewer system for the proposed development and in turn will be connected back to the main sewer line.

- 7.5.5. The appeal response includes a submission from O’Shea Leading Consulting Engineers who confirmed these proposals as detailed above. They state that the existing sewer line running through the site is proposed to be connected to the new sewer line which will serve the proposed house. Accordingly, I consider that this matter has been satisfactory addressed by the first party.

7.6. First party appeal

- 7.6.1. The first party lodged an appeal against condition no. 3 of the permission granted by the Planning Authority. Condition no. 3 states;

- 7.6.2. Prior to the commencement of development, the developer shall pay a contribution of EUR 137,200.00 to Kerry County Council (Planning Authority) in respect of public infrastructure and facilities benefiting the proposed development, as a special contribution within the meaning of Section 48 (2)(C) of the Planning and Development Act, 2000 towards the cost of implementation of the following schedule of works:-

Proposed Infrastructure and Facilities	Estimated Costs Additional
and enhanced public footpath infrastructure	€112,200.00
Total cost of €340,000.000 – 33% contribution to apply	
Provision of pedestrian crossing to serve the development	€25,000.00
Total cost €25,000.00 – 100% contribution to apply	

The amount of this contribution will be increased from January 1st 2023 and annually thereafter (unless previously discharged) in line with the Wholesale Price Index for Capital Goods, Building and construction as published by the Central Statistics Office.

Reason: It is considered appropriate that the Developer should contribute towards the cost of public infrastructure and facilities benefiting the development, in accordance with the provisions of Section 48 of the Planning and Development Act, 2000.

7.6.3. The first party appellant contends that the contribution should not have been applied on the basis that the cost of implementation of this infrastructure is already captured under the Planning Authority's General Contribution Scheme. Furthermore, the first party submit that this infrastructure has already been included in the applicant's plans and that condition no. 11 of the decision issued by the Planning Authority would imply that the applicant is already required to deliver same.

7.6.4. Condition no. 11 states;

(a) The final detail and specification of the Pedestrian Crossing located along the L-2016 public road shall be agreed in full with the Tralee Area Engineer in advance of the construction of the development.

(b) No dwelling within this development shall be occupied until such time as all statutory consents and works associated with the construction of the pedestrian crossing serving this development are fully completed. The Developer shall engage in a timely fashion with the Tralee Area Engineer in this regard.

(c) The developer shall be responsible for relocating all existing public lighting standards in line with the rear of the proposed footpath bounding the L-2010 public road while ensuring they meet required standards. Additionally, the developer shall be responsible for relocating all pre-existing overhead communications and ESB services exposed during the removal of the western boundary wall of the site, underground to the satisfaction of the Tralee Area Engineer.

(d) The final detail of the footpath along the western boundary of the development and the extent of construction of the footpath along the L-2010 public road shall be agreed with the Tralee Area Engineer in advance of construction. All pre-existing roadside services shall be relocated to the satisfaction of the Tralee Area Engineer.

Reason: In the interest of public safety and orderly development.

7.6.5. The first party highlight that condition no. 3 requires them to pay a special contribution in the sum of €137,200 for public infrastructure including footpaths and a

pedestrian crossing while a pedestrian crossing and footpath were already included in the plans submitted by the applicants as part of their response to further information and condition no. 11 of the permission implies that the developer is required to deliver this very same infrastructure.

7.6.6. Therefore, they submit that the imposition of this special contribution under Condition no. 3 amounts to double charging and is contrary to the provision of the Development Management Guidelines. They also submit that the subject works are already accounted for under the Local Authority's General Contribution Scheme.

7.6.7. Kerry County Council Contribution Scheme was adopted on the 25th of July 2017. Appendix A of the Scheme refers to the different classes of public infrastructure and facilities and it sets out a list of projects to be funded by the Development Contribution Scheme. The first party highlighted in their appeal that the current Kerry Development Contribution Scheme identifies public infrastructure and facilities covered by the Scheme and include:

(d) The provision of bus corridors and lanes, bus interchange facilities, infrastructure to facilitate public transport, cycle and pedestrian facilities and traffic calming measures.

7.6.8. Section 48(2)(c) of the Planning and Development Act 2000, as amended, stated that Planning Authorities may require the payment of a special development contribution in respect of a particular development where specified exceptional costs not covered by the General Contribution Scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development. By way of further clarification in this respect I note that Paragraph 7.12 of the 'Development Management, Guidelines for Planning Authorities, 2007, states the following:

7.6.9. "Special contribution requirements in respect of a particular development may be imposed under section 48(2)(c) of the Planning Act where specific exceptional costs not covered by a scheme are incurred by a local authority in the provision of public infrastructure and facilities which benefit the proposed development. A condition requiring a special contribution must be amenable to implementation under the terms of Section 48(12) of the Planning Act; therefore it is essential that the basis for the calculation of the contribution should be explained in the planning decision. This

means that it will be necessary to identify the nature/scope of works, the expenditure involved and the basis of the calculation, including how it is apportioned to the particular development.”

7.6.10. In relation to the first party appeal, I note that the Planning Authority did not submit a response to this. The first party submit that there appears to be no clear basis for the calculation set out in condition no. 3 leading to a requirement that the applicant provide 33% of the cost of the proposed pedestrian crossing and 100% of the footpath. There is also no clear indication of what the ‘additional and enhanced public footpath infrastructure’ referred in the conditional and the Tralee MD report comprises or constitutes, or how a cost of €340,000 was arrived at.

7.6.11. While condition no. 3 does specify total costs and estimated costs in relation to the provision of public footpath infrastructure and the pedestrian crossing, I would note the point made by the first party that the provision of public footpath is covered under the Development Contribution Scheme and that no clear rationale was provided in relation to the developer having to provide 100% of the cost for one element and 33% of the cost for another element. Therefore, I would tend to agree that it would appear the case that there is an element of double charging. Furthermore, I note condition no. 11 as attached by the Planning Authority which specified the works to be carried out in relation to the footpath along the development side of the road and also the provision of the pedestrian crossing. Therefore, I would concur with the argument made by the first party that no evidence has been provided of exceptional cost of its provision.

7.6.12. However, in relation to the fact that the scheme relies on the provision of pedestrian connectivity to the existing public footpath I would consider it appropriate that the developer carry out the works in relation to roads, traffic and pedestrian arrangements serving the site at the developer’s own expense.

7.7. Appropriate Assessment

Stage 1 Screening

7.7.1. The proposed development would not be located within an area covered by any European site designations and the works are not relevant to the maintenance of any such sites. The European site Tralee Bay and Magharees Peninsula West to

Cloghane SAC (Site No. 002070) is located 772m to the south-west of the development site. Tralee Bay Complex SPA (Site No. 004188) is located 624m to the south-west of the development site.

7.7.2. 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]</p> <p>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 (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p>	<p>Whooper Swan (<i>Cygnus cygnus</i>) [A038]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Wigeon (<i>Anas penelope</i>) [A050]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Mallard (<i>Anas platyrhynchos</i>) [A053]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Scaup (<i>Aythya marila</i>) [A062]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p>

Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]	
Dunes with <i>Salix repens</i> ssp. <i>argentea</i> (<i>Salicion arenariae</i>) [2170]	
Humid dune slacks [2190]	
Molinia meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410]	
Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i>) [91E0]	
<i>Lutra lutra</i> (Otter) [1355]	
<i>Petalophyllum ralfsii</i> (Petalwort) [1395]	

- 7.7.3. 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.
- 7.7.4. 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.
- 7.7.5. The subject site is a greenfield 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.

- 7.7.6. In relation to potential in cumulative/in-combination, no such impacts between the proposed development and other plans or projects are envisaged.
- 7.7.7. Having regard to the site's location in an urban area, the nature and scale of the works, the separation distance between the site and the SAC and the SPA and to the characteristics of the designated sites and the qualifying interests, it is considered that the proposed development would not be likely to have a significant effect on either of the designated sites.

AA Screening Conclusion

- 7.7.8. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on Tralee Bay and Magharees Peninsula West to Cloghane Special Area of Conservation, European Site No. 002070, Tralee Bay Complex Special Protection Area European Site No. 004188, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

- 8.1. I recommend that planning permission 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), and in particular the zoning objective of the site – New/Proposed Residential, and the provisions of the Sustainable Residential Development & Compact Settlement Guidelines 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. 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 27th day of September 2022, 6th day October 2022 and the 28th day of November 2022 expect 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. The following roads, traffic and pedestrian arrangements serving the site shall be in accordance with the detailed requirements of the planning authority for such works, and shall be carried out at the developer's expense.

(a) The Pedestrian Crossing located along the L-2016 public road shall be agreed in full with the Tralee Area Engineer in advance of the construction of the development.

(b) No dwelling within this development shall be occupied until such time as all statutory consents and works associated with the construction of the pedestrian crossing serving this development are fully completed. The Developer shall engage in a timely fashion with the Tralee Area Engineer in this regard.

(c) The developer shall be responsible for relocating all existing public lighting standards in line with the rear of the proposed footpath bounding the L-2010 public road while ensuring they meet required standards. Additionally, the developer shall be responsible for relocating all pre-existing overhead communications and ESB services exposed during the removal of the western boundary wall of the site, underground to the satisfaction of the Tralee Area Engineer.

(d) The footpath along the western boundary of the development and the extent of construction of the footpath along the L-2010 public road shall be agreed with the Tralee Area Engineer in advance of construction. All pre-existing roadside services shall be relocated to the satisfaction of the Tralee Area Engineer.

Reason: In the interest of public safety and orderly development.

5. 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.

6. 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.

7. 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.

8. Each proposed house shall be used and occupied as a single dwelling unit for residential purposes and shall not be sub-divided or used for any commercial purposes (including short-term letting) without a separate planning permission.

Reason: In the interest of clarity and to ensure the maintenance of a residential community.

9. 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.

10. 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.

11. 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.

12. 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.

13. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 site and to secure the preservation and protection of any remains that may exist within the site.

14. 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.

15. The development, including all roads, footpaths, verges, public lighting, open space, surface water drains, attenuation infrastructure and all other services, as permitted under this development, shall be carried out and completed in accordance with the “taking-in-charge” standards of the planning authority.

Reason: In the interest of proper development and in order to comply with national policy in relation to the maintenance and management of residential estates.

16. 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.

17. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:-

- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
- (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
- (c) details of proposed street furniture, including bollards, lighting fixtures and seating;
- (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.
- (e) The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

18. 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.

19. 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.

20. 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

31st January 2024

Appendix 1 - Form 1
EIA Pre-Screening
[EIAR not submitted]

An Bord Pleanála Case Reference			
Proposed Development Summary	Construction of 52 no. residential units and associated site works.		
Development Address	Ballyard Road, Cloghers, Tralee, Co. Kerry.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?	Yes	<input checked="" type="checkbox"/>	

(that is involving construction works, demolition, or interventions in the natural surroundings)		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) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		N/A	EIA Mandatory EIAR required
No	✓	Class 10(b)(i), Schedule 5 Part 2	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]?			
1.			
		Threshold	Comment (if relevant)
No		N/A	No EIAR or Preliminary Examination required
Yes	✓	Class 10(b)(i), Schedule 5 Part 2	Proceed to Q.4

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	ABP 315526-23
Proposed Development Summary	Construction of 52 no. residential units and associated site works.
Development Address	Ballyard Road, Cloghers, 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 proposed development is a residential scheme of 52 no. dwellings. The site at Ballyard Road, Tralee is a greenfield site which is situated to the south of a number of residential properties and the An Choill and Gleann Scotia housing estates are located to the west of the site on the opposite side of the Ballyard Road. Therefore, proposal is not exceptional in this context.</p> <p>No significant emissions resultant.</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 considerations having regard to other existing and/or permitted projects?</p>	<p>No, the proposed development entails the construction of 52 no. dwellings The proposal is at a greater density than the surrounding development but would not be described as exceptional.</p> <p>No significant emissions resultant of this project combined with any existing or permitted</p>	No
<p>Location of the Development</p> <p>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</p>	<p>It is located over 657m to any ecologically sensitive sites. Having regard to the topography of the area it does not provide a direct pathway to the closest ecologically sensitive site.</p>	No

<p>potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>Having regard to the nature and scale of the proposal which comprises a residential scheme of 52 no. dwellings to connect to public foul sewer with attenuation of surface on site, it does not have the potential to significantly affect other significant environmental sensitivities in the area.</p>	
<p>Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required</p>	<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>Schedule 7A information required to enable Screening Determination to be carried out</p>	<p>There is a 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)