



An
Bord
Pleanála

Inspector's Report

ABP-315990-23

Development	24 houses and associated site works.
Location	Ashfield, Islandganniv North, Greenville Road, Listowel, Co Kerry.
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	22508
Applicants	John & Kay Sayers
Type of Application	Permission and outline permission
Planning Authority Decision	Grant permission and grant outline permission
Type of Appeal	Third Party
Appellants	Mary Deenihan & others
Observers	None
Date of Site Inspection	10/6/2024
Inspector	Siobhan Carroll

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	7
3.4. Third Party Observations	7
4.0 Planning History	7
5.0 Policy Context	8
5.1. Project Ireland 2040 – National Planning Framework	8
5.2. Section 28 Ministerial Guidelines	8
5.3. Kerry County Development Plan	9
5.4. Listowel Municipal District Plan 2020-2026	10
5.5. Natural Heritage Designations	11
5.6. EIA Screening	11
6.0 The Appeal	13
6.1. Grounds of Appeal	13
6.2. Applicant Response	19
6.3. Planning Authority Response	24
7.0 Assessment	24
7.1. Policy context and density	24
7.2. Drainage	28
7.3. Access and Traffic	30

7.4. Residential amenity.....	31
7.5. Other issues.....	32
8.0 AA Screening.....	34
9.0 Recommendation.....	34
10.0 Reasons and Considerations (1)	35
11.0 Conditions	35
12.0 Reasons and Considerations (2)	38
13.0 Conditions	38
Appendix 1 – Form 1: EIA Pre-Screening	
Appendix 2 – Form 2: EIA Preliminary Examination	

1.0 Site Location and Description

- 1.1. The appeal site is located circa 1.4km to the north-west of Listowel town centre. The town of Listowel is located in the north of County Kerry approximately 26km north-east of Tralee. The N69 national route which runs from Limerick to Tralee links Listowel to those larger settlements in the region and also the port of Tarbert.
- 1.2. The N69 has recently been upgraded. The town of Listowel is now bypassed with the development of a 6km section of road to the north and west of the town. The Listowel bypass is situated directly to the north of the appeal site and it was officially opened in August 2024.
- 1.3. The appeal site is situated to the north-western side of the Ashfield housing estate. The Ashfield housing estate is located to the north of Greenville Road. It contains detached dwellings with a mix of house designs including single storey, dormer and two-storey properties.
- 1.4. The site has a stated area of 2.62 hectares. The eastern section of the site includes an area of greenspace which serves the Ashfield housing estate. It has frontage of circa 150m onto the existing access road within Ashfield. The roadside boundary is defined by a concrete capped wall along a section of circa 30m. A section of ibex fencing has been installed between the concrete wall and the boundary with the N69 bypass to the north. The southern boundary of the site is defined by a concrete capped wall. The properties no's 42-47 Ashfield adjoin this boundary.

2.0 Proposed Development

- 2.1. Permission is sought for the following
 - (a) Construction of access roads, footpaths and associated services including watermains, storm and foul drainage (including pumping station) and electrical utility services along with all associated site works and;
 - (b) Outline permission for 24 no. two-storey houses.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Under Schedule 2A – Outline permission was granted for 24 no. two-storey houses subject to 5 no. conditions.
- 3.1.2. Under Schedule 2B – Permission was granted to construct access road, footpaths and associated services including watermains, storm and foul drainage (including pumping station) & electrical utility services along with all associated site works.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Further Information was requested in relation to the following;

1. The proposed development cannot encroach on the existing green area as it would contravene the conditions of the planning permission PRN 04/404053 which is the governing planning permission. The applicant was required to address this.
2. Pre-development archaeological testing to be carried out and result and report to be carried out.
3. Submit Site Layout Plan drawing showing all communal areas and services that may be taken in charge by the Local Authority.
4. – Clarify ecological status of watercourse referred to in Section 4.2 of the Engineering Services Report.
 - Consider using nature based solutions for surface water management.
 - Submit details of noise and visual barrier proposals for any potential noise or visual screening due to the N69 Listowel Bypass.
 - Proposed development adjoins a buffer area zoned G3 and designated walkway/cycleway G2 in the Listowel Town Development Plan. Submit revised plans ensuring that it does not encroach on these designated areas and incorporating sufficient separation distance.

- Submit Part V agreement with Housing Section of Kerry County Council.
5. Review road layout from a safety perspective & designed in accordance with DMURS.
- Submit a Traffic and Transport Assessment, a Road Safety Impact Assessment and Road Safety Audits.
 - Facilities for vulnerable road users to be provided in accordance with DMURS.
 - All road markings & signage shall be in accordance with the requirements of the Department of Transport Traffic Signs Manual.
 - All site works shall be carried out to “recommendations for site development works for housing areas”.

6. Storm Water Drainage

- Provide full calculations in relation to all surface water attenuation including storage above and below ground.
- Confirm and provide evidence of an assessment of the capacity of the open drain as the receiving water course and that the capacity is adequate in receiving the runoff.
- Detailed information including calculations and capacities/dimensions are required.
- The applicant shall confirm if the watercourse at the location of the outfall is within the site boundary and if not the necessary consent to outfall to the watercourse is in place from the relevant landowner.
- Consultation shall take place with the Listowel MD Office regarding the storm water drainage proposals.

3.2.2. Report of Planning Officer dated 13/02/2023 – Following the submission of a response to the further information the Planning Authority were satisfied that all issues had been addressed and a grant of permission and outline permission was recommended.

3.2.3. Other Technical Reports

- 3.2.4. Listowel MD Roads Transportation & Marine Office – Further Information required.
- 3.2.5. Listowel MD Roads Transportation & Marine Office: report dated 10/2/2023 – No objection subject to conditions.
- 3.2.6. Housing Estates Unit – Further Information required.
- 3.2.7. County Archaeologist – Further Information required. Pre-development testing to be carried out prior to any grant of planning permission.
- 3.2.8. County Archaeologist: report dated 9/2/2023 – No further mitigation is required.
- 3.2.9. Biodiversity Officer – Further Information required.
- 3.2.10. Biodiversity Officer: report dated 9/2/2023 – No objection. Landscaping plan to be conditioned.
- 3.2.11. Conservation Section – No objections.
- 3.2.12. Flooding Specialist – No issue of flooding.
- 3.2.13. NRDO – Kerry County Council will not be responsible for any noise or visual screening mitigation due to the N69 Listowel Bypass, this is the responsibility of the developer.

3.3. **Prescribed Bodies**

- 3.3.1. Uisce Éireann – Connection agreement required.

3.4. **Third Party Observations**

- 3.4.1. The planning authority received 26 no. observations/submissions in relation to the application and a further 18 no. observations/submissions at further information stage. The main issues raised are similar to those set out in the appeal.

4.0 **Planning History**

- 4.1.1. **Reg. Ref. 04/404053** - Permission was granted for 40 no. dwellings comprising, 9 no. bungalows, 20 no. dormer style houses and 11 no. two-storey houses and associated site development works.
- 4.1.2. **Reg. Ref. 04/444053** - Extension of duration of permission granted.

- 4.1.3. **Reg. Ref. 2460120 & ABP: LH08.319739** - Permission was granted for a large scale residential development (LRD) – 62 houses and 40 apartments and associated site development works. The site is located to the west of the appeal site.

5.0 Policy Context

5.1. Project Ireland 2040 – National Planning Framework

- 5.1.1. The NPF includes a Chapter, No. 6 entitled ‘People, Homes and Communities’. It sets out that place is intrinsic to achieving good quality of life. National Policy Objective 33 seeks to “prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location”.
- 5.1.2. National Policy Objective 35 seeks “to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights”.
- 5.1.3. National Planning Objective 13 also provides that “In urban areas, planning and related standards, including in particular height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected”.

5.2. Section 28 Ministerial Guidelines

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

- 5.3.1. The Listowel Town Development Plan 2009-2015 (as extended and varied) is incorporated into the Kerry County Development Plan 2022-2028.
- 5.3.2. The appeal site is zoned objective R1 – New/proposed Residential Phase 1.
- 5.3.3. Objective R2 – Existing Residential and G3 – Buffer Space.
- 5.3.4. Section 3.2 of the Listowel Town Development Plan 2009-2015 (as extended and varied) refers to Demographics
- 5.3.5. Section 3.2.2 refers to Housing Land Requirement - The Core Strategy envisages a population growth of 529 persons over the lifetime of the plan. This population growth equates to 415 residential units. As outlined in Volume 1, Chapter 3 (Core Strategy) and Chapter 4 (Towns & Villages), the Council promotes a plan led approach to residential development.
- 5.3.6. Residential Development Objective – LIS 11 - It is an objective of the Council to: Facilitate the development of 415 residential units within the town boundary.
- 5.3.7. Residential Development Objective – LIS 13 - It is an objective of the Council to: monitor the scale, rate and location of newly permitted developments and apply appropriate development management measures in order to ensure compliance with the Settlement Hierarchy and Strategy, including the population targets for the county.
- 5.3.8. Settlement Capacity Audit for Listowel indicates that the site forms part of the parcel of land L-6. The site is indicated as having road access, footpaths, public lighting, foul/storm sewer and water supply. Parcel L-6 has a total area 5.53 hectares with an estimated density of 15-20 units per hectare.
- 5.3.9. Chapter 3 – Core and Settlement Strategy – Listowel is designated in the Settlement Hierarchy as a Regional Town, the function of which is to harness and develop the complementary strengths and synergies between the settlements and their functional hinterland, to create highly connected centres of scale with the necessary critical mass, in terms of population and employment, to enable them to compete and grow

to fulfil their potential and drive regional development in tandem with regional and national policy. The population of Listowel is estimated (2022) as 5,127 with a population growth target of 529 and a housing target of 415.

5.3.10. Housing policies and objectives include the following:

5.3.11. KCDP 4-1 – Support and facilitate the objectives of ‘housing for all’ to regenerate towns and villages and to achieve compact growth and increased population in these centres.

5.3.12. KCDP 4-10 – ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy an enhanced quality of life and well-being.

5.3.13. KCDP 4-17 – Facilitate the development of sustainable compact settlements with the “10-minute” town concepts, whereby a range of community facilities and services are accessible in short walking and cycle timeframes from homes, with walkways and link routes to Greenways or are accessible by high quality public transport services connecting people to larger scaled settlements delivering these services.

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

5.3.15. Section 1.5 refers to Residential Development.

5.4. Listowel Municipal District Plan 2020-2026

5.4.1. Section 3 – Part – A 3.1: Introductions to Settlements

5.4.2. Section 3.1.2 – The Listowel Town Development Plan 2009-2015 remains the statutory planning policy framework for Listowel town.

5.4.3. Part B – 3.2 Listowel Town

5.4.4. The Listowel Town Development Plan 2009-2015 as extended will continue to apply to the area formerly administered by the Listowel Town Council. This plan will remain in force as the relevant development plan for the former town council area until the next Kerry County Development Plan in 2021. All planning applications received within Listowel Town will be assessed against the policies, objectives and

development management standards of the current Listowel Town Development Plan 2009- 2015 as extended and varied.

- 5.4.5. While this local area plan does not deal with Listowel town, it does include the land use strategy for the 'environs' area of the town.
- 5.4.6. The subject site at Ashfield, Greenville Road, Listowel, Co. Kerry is located within the town boundary of Listowel town. As detailed in Section 3.1.2 and 3.2 of the Listowel Municipal District Plan 2020-2026 the provisions of Listowel Town Development Plan 2009-2015 remains the statutory planning policy framework for Listowel town.

5.5. Natural Heritage Designations

- 5.5.1. Lower River Shannon SAC (Site Code 002165) is situated 445m to the south of the appeal site.
- 5.5.2. Moanveanlagh Bog SAC (Site Code 002351) is located 5.5km to the east of the appeal site.
- 5.5.3. Bunnaruddee Bog NHA (Site Code 001352) is located 7.6km to the north-east of the appeal site.

5.6. EIA Screening

- 5.6.1. The proposed development comprises 24 residential units and associated works on a 2.62 hectare site. The development subject of this application falls within the class of development described in 10(b) Part 2, Schedule 5 of the Planning and Development Regulations, 2001, as amended. EIA is mandatory for developments comprising over 500 dwelling units or over 10 hectares in size or 2 hectares if the site is regarded as being within a business district.
- 5.6.2. The number of dwelling units proposed at 24 is well below the threshold of 500 dwelling units noted above. Whilst within the town of Listowel it is not in a business district. The site is, therefore, materially below the applicable threshold of 10 hectares.
- 5.6.3. The proposal for 24 residential units is located within the development boundary of Listowel on lands zoned Objective 'R1' – New/proposed Residential Phase 1 in the

current Listowel Town Development Plan (as extended and varied) 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 Listowel as detailed on Uisce Éireann – Wastewater Treatment Capacity Register has available capacity and accordingly sufficient capacity to accommodate the development. The site is not within a European site.

5.6.4. Having regard to;

- the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- the location of the site on lands within the development boundary of Listowel on lands zoned under the provisions of the Listowel Town Development Plan, 2009-2015 as extended and varied which is incorporated into the Kerry County Development Plan 2022-2028 and the results of the strategic environmental assessment of the Listowel 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

A third party appeal has been submitted by Ger O’Keeffe Consulting Engineers Ltd on behalf of the appellants Mary Deenihan and others. The issues raised are as follows;

- In relation to the decision to grant permission condition no. 4(a) (b) and (c) is raised. It is stated that it appears unusual to incorporate such conditions. It is considered that an appropriate Section 47 should be incorporated as part of the planning decision in Part A which relates to the construction of the access roads etc.
- Condition no. 5e refers to the requirement for the applicant to submit cross section through the site, indicating the existing and proposed ground levels, the proposed finished floor level and the service road levels. It is considered that this information should have been provided as part of the planning application documentation.
- Condition no. 9(b) states that ‘prior to the commencement of the development, the developer shall submit details of wayleave for the proposed storm water outfall to the watercourse from the relevant landowner.’ It is considered that this wayleave should be put in place as part of the planning process in order to ensure that there is appropriate access to existing drains for surface water runoff. Concern is expressed in relation to the maintenance of drains.

- The initial application was for 29 houses it was reduced to 24 houses due to a section of the green area space being part of a previous planning application which had been included in this planning application.
- Therefore, there was a reduction in the site rather than a reduction in the density.
- The report of the Planning Officer refers to the Development Plan policy – Listowel Town Development Plan 2009-2022 as varied and extended. The report referred to the objectives of the Housing Strategy of the Listowel Town Development.
- Reference is made in the appeal to the Listowel Municipal District Plan 2020-2026 and specifically LS/R/NE09 which states, “Ensure that residential development will comply with DOEHLG Guidelines on Sustainable Development in Urban Areas 2009, higher densities will be considered in the town/village centre or within close proximity to the town/village centre. It states; ‘lower densities will be considered at the edge of the settlement.’ This is considered an important policy objective.
- The report of the planning officer refers to the various submissions which included reference to excessive density and the reduction of open space. Other issues raised in the submissions included management and maintenance of the pumping station and potential flooding.
- It is noted that the Planner’s report referred to submissions raising the issue of a traffic hazard being created at the proposed entry from the development to the existing Ashfield Estate.
- The current Kerry Development Plan was adopted on the 4th of July 2022 and it came into effect on the 15th of August 2022. The planning application was lodged on the 13th of May 2022.
- Listowel Town Development Plan 2009-2015 as extended and varied refers to the Housing Strategy. Section 5.1 refers Development Strategy it states, “development of brown field and town centre sites is encouraged with an emphasis on more sustainable development patterns which would lead to

reductions in urban sprawl and the use of previously undeveloped lands or isolated poorly serviced lands”.

- It further states ‘the density of development is controlled with density guidelines for residential zoned lands. Densities of development will be monitored to ensure that housing density and development will be commensurate with the range of facilities and amenities on offer in the vicinity of the site.’
- It is stated that the development of a new site or completion of a site of residential development must take into account the Sustainable Residential Guidelines of 2008. It is highlighted that the guidelines advise that “the appropriate density and general form of proposed development is to be assessed in relation to proximity to town centre, public transport modes, community and education facilities, impact on the neighbouring properties, efficient use of the site and the availability of public utilities and services.”
- Section 3.11 of the Kerry County Development Plan 2022-2028 states that ‘a lower residential density figure may have to be applied to some settlement and development sites depending on their tier within the settlement hierarchy and location within the settlement.’
- It is noted that it states in the plan that ‘where low densities are identified within settlements, the rationale for so doing would be based on the requirement to meet the housing need for both urban and rural area with particular focus on providing a real alternative to urban generated development in the open countryside and providing scope and choice within the housing market.
- Regarding the pattern of existing development it is noted that the pattern of development within Phase 1, Phase 2 and Phase 3 of the Ashfield Development has large sites with individual houses of different designs including amenity and open space incorporated as part of the design.
- It is highlighted that the provision of larger sites with the facility for different house types serves to ensure that urban generated development in the open countryside can be curtailed as providing appropriate larger sites similar to

what is common in the rural area can be provided at the perimeter of the town boundary.

- The appellants consider that the 24 no. houses permitted by the Council is too dense and is not appropriate to compliment the existing development.
- The layout with larger house types with considerable floor area being incorporated in small confined site area is not considered in keeping with the proper planning and sustainable development of the area.
- The layout proposed indicates 11 no. houses at the north side of 6 no. existing house sites. The 6 no. existing houses have balanced site areas for the size of the houses. It is considered that the incorporation of sites of a much smaller size will detract from the amenity value of existing properties taking into consideration the existing pattern of development.
- They consider that the proposed development will have a negative impact on the existing character of the area and will have a negative impact on the enjoyment of the existing estate by residents.
- Part B of the Listowel Municipal District Local Area Plan 2020-2026 refers to Listowel Town. Section 3.2.3 refers to Housing Land Requirement which refers to the DOEHLG Guidelines on Sustainable Residential Development.
- L/S/R/09 in the Listowel Municipal District Local Area Plan 2020-2026 states; 'ensure that residential development complies with the DOEHLG Guidelines on Sustainable Residential Development in urban areas. Higher densities will be considered in the towns/village centre or within close proximity to the town/village centre.
- In relation to the issue of lower densities it is submitted that this objective suggests that a lower density development is the most appropriate development to be undertaken at the western perimeter of the Ashfield site.
- Section 3.1.2 refers to Listowel Town, it states 'the compact settlement contained, within the Town Council boundary' it refers to the fact that some development has occurred in the environs of the town in the Cahirdown and Dromin areas.

- It is stated in the plan that Listowel environs are under pressure from urban generated housing. It states that sufficient land has been zoned for residential use within the town development boundary in the Listowel Town Development Plan 2002-2015 as extended with variations.
- Development Objective OS01 is to provide an improved quality of life for all citizens of the plan area by promoting the area's economic potential, protect its natural and built environment and safeguard its cultural heritage.
- Development Objective OS05 refers to the provision for the development of the area in a manner which is environmentally sustainable and protects its social, cultural, environmental and economic assets for future generations.
- It is submitted that the provision of larger sites in existing developments on the perimeter of the town will negate the necessity for the unsustainable pattern of high rates of development in rural areas which are under strong urban influence.
- It is considered that the proposal provides for large houses on extremely confined sites which would not attract rural dwellers into the town.
- Therefore, it is submitted that it would be more appropriate to have larger sites where houses could better fit into the sites providing amenity space to proposed residents of the houses similar to what might be available in a rural area.
- It is highlighted that a lesser development would reduce the extent of hard paved areas, would increase the extent of impermeable areas and would improve the capabilities of the ground conditions to deal with surface water runoff and water infiltration.
- It is submitted that having to rely on the maintenance of external surface water drainage to facilitate the high density development as proposed is not desirable because the applicants do not have complete control of the disposal system of storm water.
- The residents of Ashfield are concerned at the lack of completion of existing services in the previous phase of development and that the developer will

carry out the appropriate works required to service the proposed development.

- It is stated that permission should not be granted for this proposed development until such time as the works as required by the Estates Section of Kerry County Council in the correspondence dated 30th May 2016 referring to non-compliance with planning conditions and actions required is carried out.
- Recent correspondence in 2022 from the Housing Estates Section refers to issues still arising with the Phase 3 Development 04/40453.
- It is stated that a substantial amount of these planning requirements have not been carried out to date.
- If the Board decides to grant permission it should be a condition of the planning permission that the present existing services with the current estate are appropriate and comply with the Government Publication – Site Development Works for Housing Areas before any planning permission be granted for further development.
- It is requested that the existing layout of the green area spaces is not interfered with. The residents of Ashfield advise that they have been maintaining the northern side fence since 2008 and that they have been upkeeping the green area edges and fertilising the grass.
- Concern is expressed in relation to the incorporation of a tarmac footpath running from the end of the new proposed development across the current green area to the cul-de-sac. Concern is raised that this would impact the residential amenities of the neighbouring properties in the cul-de-sac to the east in terms of noise and disturbance from the use of the pathway in the proposed amenity area.
- It is considered that the proposed development does not include significant green space or amenity areas.
- Concern is expressed that roads and services have not been taken in charge for Phase 3 comprising 16 houses, as the development does not comply with

the requirements of the Planning Authority as per the correspondence from the Estate Section of the applicant's dated 30th May 2016.

- It was highlighted that residents of the estate have had to carry out maintenance works of fences and public area spaces.
- Concern is expressed in relation to the presence of the sewer pumping station included in the new development and the responsibility of upkeep and maintenance going forward.

6.2. Applicant Response

A response to the third party appeal was submitted by Mc Cutcheon Halley, Chartered Planning Consultants on behalf of the applicants John and Kay Sayers. The issues raised are as follows;

- The matter of the validity of the appeal is raised. They contend that the appellants did not provide a valid address in accordance with the mandatory requirements as set out in Section 127(1) of the Planning and Development Act, 2000.
- The grounds of appeal refer to the proposed density of the development being excessive.
- It is highlighted that the site is located approximately 900m north-west of Listowel town centre and it forms part of the remaining phase of the unfinished Ashfield estate.
- The Ashfield estate comprises a mixture of large, detached dwellings on generous plot sizes. It is highlighted that the appeal site benefits from the availability of existing infrastructure and services provided under previous planning permission.
- The surrounding area is characterised primarily by residential development. The lands to the south and east have been developed with low density residential development.
- The site is bounded to the north and west by agricultural land and a former railway line adjoins the northern site boundary.

- It is highlighted that there has been an absence of planning application for new residential development in Listowel over the past ten years. It is considered that a new application for residential development on a previously unfinished residential estate site should be supported by the community.
- The appeal site is located within the development boundary of Listowel. It is zoned for a mix of residential and open space uses. The majority of the site is zoned 'R1 – New/Proposed Residential' with the existing open space area zoned as 'R2 – Existing Residential'. There is also a 20m wide 'Buffer Zone' G3 – buffer space running along the northern site boundary.
- The buffer zone has been included along the northern boundary of these 'R1' zoned lands in accordance with the Council's long-term objective to facilitate the on-going construction of the Listowel bypass as well as the greenway immediately to the north.
- The purpose of the buffer zone is to protect/ensure the residential amenity of future residential development on the adjoining lands.
- It is highlighted that the site is not within a flood risk zone and is not affected by other designations.
- The water infrastructure in the area has been subject to some upgrades and improvements in recent years. The proximity of the site to the local National School, Secondary School and Community Hospital is highlighted.
- The Listowel Municipal District Local Area Plan 2020-2026 (LMDLAP) states that the vision for Listowel town is to maximise its growth in population and services to a level that will encourage the development of a vibrant Regional town, while maintaining and enhancing its physical assets, unique character and natural attributes. The LMDLAP makes provision for the development of 122 residential units.
- Objective – LS-R-07 states that it is an objective to: "Require all new residential development schemes (over five units) to provide for a mix of house types in order to meet and adapt to the changing demographic trends and household profiles.

- In relation to the Listowel Town Development Plan the minimum area of open space which is acceptable is 10% of the total site area. Regarding private open space the plan states that minimum standard of 80sq m is provided in all new residential including detached/semi-detached dwellings.
- It is stated that the proposed development is fully compliant with the zoning and open space requirements.
- Regarding the matter of density the previous permission granted on the overall 4 hectare site under 04/53 comprised 40 no. dwellings with only 16 constructed. This equated to a low overall residential density of 10 per hectare.
- The current proposal increases the density and brings it more in line with the 2009 Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas.
- The gross area of the application site is 2.6 hectares. As 1.1 hectares of the site is provided as open space a net developable area 1.5 hectares is provided. The area would have a density of 16 units per hectare. It is submitted that this is an acceptable density and provides a balance between respecting the character of the existing Ashfield estate and the evolving planning policy which seeks to increase residential densities.
- The proposal also complies with Section 6.12(c) of the Guidelines which states that in order to offer an effective alternative to the provision of on-off houses in the countryside it is appropriate in controlled circumstances to consider proposals for development with densities of less than 15-20 dwellings per hectare along or inside the edge of smaller towns and villages. It is submitted that the density proposed is consistent with the Guidelines and that it also respects the existing residential area. Therefore, it is considered that the proposed density is not excessively greater than the previous density applied to the site.
- Regarding the design and layout of the scheme in 2005 under Reg. 04/53 40 no. dwelling houses were granted permission. Of the 40 no. permitted just 16

no. of these dwelling houses are the open space area was constructed on the eastern end of the overall lands.

- It is highlighted that some of the base infrastructure/foundations of the permitted road layout was constructed on the western part of the Reg. Ref. 04/53 permission. Therefore, it is submitted that the current proposal follows a similar pattern of development to that permitted under 04/53.
- Reference is made in the appeal to concern regarding overlooking and privacy, due to the increase in density from that previously permitted under Reg. Ref. 04/53. It is submitted that there is a modest increase in the number of units under the current proposal from that previously permitted.
- It is submitted that this is immaterial in terms of potential impact on residential amenity and overlooking. It is highlighted that generous separation distances have been provided between the proposed units and adjoining dwellings.
- It is highlighted that the proposed development relates to an application for outline permission, the design of the units is not for consideration and any issues or concerns regarding overlooking and privacy can be addressed at detailed design stage.
- Regarding the matter of the capacity of existing infrastructure serving Ashfield as part of the permitted development the developer will be responsible for the provision and maintenance of all the internal roads, footpaths, open space and services within the estate until it is taken in charge by Kerry County Council. The services proposed include watermains, storm and foul drainage (including pumping station) and electrical utility services.
- The original report of the Planning Officer in relation to the application highlighted that the subject site had previously been in receipt of a grant of permission for 40 no. units and that 16 no. units have been constructed from that permission. The report stated that the subject site is undeveloped in an existing residential development where there are existing services.
- The report of the Planning Officer stated that they considered that the proposed units were not out of character with the remaining development or

would reduce the amount of adjoining properties or would detract from the character of the area and its amenities.

- It is noted that the number of units was reduced from 29 to 24 in response to the further information requested. It is therefore contended that any concerns regarding impacts on existing infrastructure are further reduced with the reduction of 5 no. units from the original outline permission submitted.
- It is highlighted that condition no. 7 attached by the Council to the decision to grant permission requires that a bond be provided to ensure the satisfactory completion of any part of the development i.e. including infrastructure/services.
- The appeal raised concern regarding the impact of traffic generation. As part of the further information request a Traffic and Transport Assessment and Road Safety Audit were submitted.
- The TTA and RSA were undertaken by Roadplan Consulting. It is concluded in the TTA that the existing L1401 Greenville Road, Ashfield junction operates within capacity and minimal delays at peak time during the morning and evening. It concludes in the TTA that the L1401 priority junction will continue to operate within capacity with minimal delays expected when the proposed development is aimed to be completed in 2024.
- The report of the Roads Department 10/02/2023 stated that the information submitted in response to the further information was satisfactory and a grant of permission was recommended subject to conditions being attached.
- It is confirmed that the applicant intends to be fully compliant with the conditions.
- The report of the Planning Officer agreed the traffic disruption will be minimal and that the 'issue of construction traffic like all construction sites will be temporary in nature.
- The appeal refers to the Council's use of the Section 47 requiring the applicant/developer to restrict the residential units to first occupation by individual purchases. The restriction was introduced by the Minister in May 2021 to prohibit the bulk buying of units in new developments by commercial

institutional investors and to increase the availability and choice of new homes available to individual purchasers including first time buyers.

- It is highlighted that this restriction was introduced by the Minister and is out of the applicant's control. It is set out in the appeal that Section 47 of the Act should have been used in relation to the construction of the access roads and services as a means of managing/maintaining the infrastructure serving the site/development. It is noted that condition no. 7 requires the payment of a significant bond of €332,000 to ensure the "satisfactory completion of any part of the development" (i.e. including infrastructure services). Therefore, there is no requirement for a Section 47 agreement to manage/maintain the infrastructure serving the development.

6.3. Planning Authority Response

- None received.

7.0 Assessment

Having examined the application details and all other documentation on file, including all the submissions received in relation to the appeal, the report/s of the local authority, and having inspected the site and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal can be considered are as follows:

- Policy context and density
- Drainage
- Access and Traffic
- Residential amenity
- Other issues

7.1. Policy context and density

- 7.1.1. The appeal site at Ashfield, Greenville Road, Listowel, Co. Kerry is located within the development boundary of the town of Listowel. The lands in question are subject to

three different zoning objectives under the provisions of the Listowel Town Development Plan 2009-2015 (as extended and varied) which is incorporated into the Kerry County Development Plan 2022-2028. The eastern section of the site is zoned objective R2 – Existing Residential. This section of the site contains the existing open space which serves the properties in the Ashfield Estate.

- 7.1.2. Along the northern boundary of the site, it is zoned objective G3 – Buffer Space. The main area of the site is zoned objective R1 – New/proposed Residential Phase 1. The proposal for the development of 24 no. dwellings is in accordance with the zoning provisions of the subject lands.
- 7.1.3. As part of the further information request the applicant was required to address the matter of the area of the site overlapping with the existing green area which is part of the development permitted under Reg. Ref. 04/404053. In response the matter the applicants submitted revised proposals that fully retain the existing green area. The scheme was revised with the number of units proposed reduced from 29 to 24.
- 7.1.4. In relation to the section of the site zoned G3 – Buffer Space the applicant in response to the appeal confirms that there is a 20m wide ‘Buffer Zone’ running along the northern site boundary and that it has been included along the northern boundary of these ‘R1’ zoned lands in accordance with the Council’s long-term objective to facilitate the on-going construction of the Listowel bypass as well as the greenway immediately to the north. It is highlighted that the purpose of the buffer zone is to protect/ensure the residential amenity of future residential development on the adjoining lands. Regarding the G3 zoned lands on site, I note that these are located outside the sites of the proposed dwellings and are proposed as a Linear park and amenity area with walkway and wilded area as indicated on the Proposed Site Layout Plan Incorporating Landscaping Schedule drawing no:121018-PP-1001.
- 7.1.5. The grounds of appeal contend that the proposed density is out of character with the surrounding area and excessive for the site.
- 7.1.6. In relation to the matter of residential development within the town boundary of Listowel, Section 3.2.2 of the Listowel Town Development Plan 2009-2015 (as extended and varied), refers to Housing Land Requirement. It states that the Core Strategy of the Development Plan envisages a population growth of 529 persons over the lifetime of the plan. This population growth equates to 415 residential units.

As outlined in Volume 1, Chapter 3 (Core Strategy) and Chapter 4 (Towns & Villages), the Council promotes a plan led approach to residential development.

- 7.1.7. Residential Development Objective – LIS 11 of the Listowel Town Development Plan states that it is an objective of the Council to facilitate the development of 415 residential units within the town boundary. Residential Development Objective – LIS 13 - It is an objective of the Council to: monitor the scale, rate and location of newly permitted developments and apply appropriate development management measures in order to ensure compliance with the Settlement Hierarchy and Strategy, including the population targets for the county. Therefore, in order for the development of residentially zoned and serviced lands in Listowel to be carried out in accordance with these specific residential development objectives then the density at which the development is permitted should be in line with the relevant policies and objectives set out in the County Development Plan and the Listowel Town Development Plan.
- 7.1.8. 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.
- 7.1.9. In relation to residential densities in Listowel the subject site at Ashfield, Islandganniv North, Greenville Road, Listowel Co. Kerry is identified as part of site no. L-6 and it is set out in the table of Listowel – Settlement Capacity Audit of Zoned lands that the estimated density of units per hectare is 15-20. I note that the lands to the west adjoining the appeal site are also part of site no. L-6 and as detailed on the table the potential yield from the overall site which has an area of 5.53 hectares is 85-120 units based on that density range.
- 7.1.10. 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.

- 7.1.11. The appeal site has a stated area of 2.62 hectares. Therefore, the proposed 24 no. dwellings on the 2.62 hectares site would equate to 9.2 number dwellings per hectare. It was highlighted in the first party response to the appeal that the gross area of the application site is 2.6 hectares and that as 1.1 hectares of the site is provided as open space a net developable area 1.5 hectares is provided. On that basis the net density of the scheme would be 16 units per hectare. The first party submit that this is an acceptable density and that it provides a balance between respecting the character of the existing Ashfield estate and the evolving planning policy which seeks to increase residential densities. The net density of 16 units per hectare is in line with the estimated density of units per hectare as set out in the Settlement Capacity Audit of Zoned lands for this specific site.
- 7.1.12. It is argued in the appeal that a density of housing on the site should be lower than that proposed on the basis that that a lower density development is the most appropriate development to be undertaken at the western perimeter of the Ashfield site. In this regard they cited the Listowel Municipal District Plan 2020-2026 and Objective LS-R- 09 which states that it is an objective of the Council to ensure that residential development complies with the DOEHLG Guidelines on Sustainable Residential Development in urban areas. Higher densities will be considered in the towns/village centre of within close proximity to the town/village centre. The appellants cited that it is stated in the plan that Listowel environs are under pressure from urban generated housing. It states that sufficient land has been zoned for residential use within the town development boundary in the Listowel Town Development Plan 2002-2015 as extended with variations.

- 7.1.13. In relation to the above statement, I would highlight that the subject site at Ashfield, Greenville Road, Listowel is not within the Listowel environs, that it is located within the town development boundary in the Listowel Town and that it is within close proximity to the town/village centre and therefore this is a moot point which is raised in the appeal that the site should be developed at a lower density than proposed on the basis of the provisions of the Listowel Municipal District Plan 2020-2026.
- 7.1.14. In conclusion, having regard to the relative proximity of the site to the town centre of Listowel and having regard to the relevant provisions of the Listowel Town Development Plan 2009- 2015 (as amended and varied) specifically the zoning of the subject lands and the provisions of Residential Development Objective – LIS 11 of the Listowel Town Development Plan which seeks to facilitate the development of 415 residential units within the town boundary and the Settlement Capacity Audit for Listowel which states that parcel L-6 of which the site forms part is to be developed with an estimated density of 15-20 units per hectare.
- 7.1.15. Accordingly, I consider that the proposed density which is equivalent to 16 units (net) per hectare is appropriate and in accordance with the provisions of the Listowel Town Development Plan 2009- 2015 (as amended and varied) and the Kerry County Development Plan 2022-2028.

7.2. Drainage

Surface water drainage

- 7.2.1. The grounds of appeal refer to surface water drainage. Concern is expressed that a scheme of a higher density would increase the extent of impermeable areas and the reliance on the maintenance of external surface water drainage to facilitate the development is not desirable because the applicants do not have complete control of the disposal system of storm water.
- 7.2.2. The issue of surface water drainage was addressed as part of the further information requested. In this regard the applicant was required to provide full calculations in relation to all surface water attenuation including storage above and below ground and to confirm and provide evidence of an assessment of the capacity of the open drain as the receiving water course and that the capacity is adequate in receiving the runoff. The applicant was required to confirm if the watercourse at the location of the

outfall is within the site boundary and if not the necessary consent to outfall to the watercourse is in place from the relevant landowner.

- 7.2.3. In response to these matters the applicant stated that originally it was proposed that surface water would be discharged to the Millstream via the existing open ditch with the discharge rates limited to pre-development rates. The revised proposals entail the disposal of stormwater to the Millstream via a pipeline routed around the newly constructed attenuation pond which has been constructed a part of the Listowel bypass project. The applicant confirmed that all run-off from the site shall be attenuated to greenfield/pre-development run-off rates.
- 7.2.4. Regarding the matter of the location of the outfall the applicant confirmed that the open drain did not form part of their landholding but that they sought to outfall to the drain in the north-west corner of the site. They proposed to pipe surface water from the development to the recently constructed attenuation pond to directly outfall to the Millstream. The applicant noted that this would reduce the burden of maintenance that would be required from an open drain. The applicant confirmed that the pipeline will be contained within lands owned by Kerry County Council.
- 7.2.5. The report of the Listowel MD Roads Transportation & Marine Office dated the 10/2/2023 which assessed the further information response, recommended a grant of permission subject to the attachment of a number of conditions and specified in relation to surface water drainage that prior to commencement of development that the developer shall submit details of wayleave that are in place for the proposed storm water outfall to the watercourse from the relevant landowner. Accordingly, I note that the Planning Authority and the Listowel MD Roads Transportation & Marine Office were generally satisfied with the surface water drainage proposals subject to the confirmation of wayleave details. I consider this matter can be satisfactorily addressed by the attachment of a condition. Therefore, I conclude that the proposed scheme can be satisfactorily serviced in terms of surface water drainage.

Foul drainage

- 7.2.6. The Proposed Drainage Layout is illustrated on Drawing No:121018-PL-21. It is proposed that 1 no. dwelling within the scheme shall be drained by gravity to the existing foul manhole F100 within the Ashfield Estate. Due to the levels across the site it is proposed to collect flows from the other proposed dwellings and route them

to a new pumping station to be located in the north-west corner of the site. The rising main is proposed to convey the flow back to the new manhole F11 and a new section of foul main is proposed between manhole F11 and manhole F100. The pumping station will be constructed in accordance with IW Code of Practice and its design includes wet well, duty and stand by pumps a valve chamber and a 24 hour storage tank. The storage requirements are based on 446 litres/day per unit and with 24 no. units proposed the storage requirement is 10,704 litres. The capacity of the storage tank proposed is 12,500 litres which is in excess of the calculated requirements.

- 7.2.7. I note that the Planning Authority, Listowel MD Roads Transportation & Marine Office and Housing Estates Unit were satisfied with the foul drainage proposals and Uisce Éireann raised no concerns in relation to the proposed pumping station or foul infrastructure. Accordingly, I conclude that the proposed scheme can be satisfactorily serviced in terms of foul drainage.

7.3. Access and Traffic

- 7.3.1. The grounds of appeal refer to the matter of traffic hazard in relation to the proposed vehicular access to the development from the existing access road which serves the Ashfield Estate.
- 7.3.2. As part of the further information requested the applicant was required to review the road layout from a safety perspective & designed in accordance with DMURS. They were required to submit a Traffic and Transport Assessment, a Road Safety Impact Assessment and Road Safety Audits. In response to this a Traffic and Transport Assessment (TTA) and Road Safety Audit (RSA) were undertaken by Roadplan Consulting.
- 7.3.3. In relation to the TTA, the assessment concluded that the existing L1401 Greenville Road, Ashfield Estate junction operates within capacity with no queues and minimal delays during the am and pm peak hours. It was further concluded that the existing L1401 Greenville Road/Ashfield Estate priority junction will continue to operate within capacity with no queues and minimal delays when the development is potentially completed in 2024 and in 2039.

- 7.3.4. In relation to the RSA, it was recommended that priority be established at the junction of the new spine road and the existing estate road. That the location of the pedestrian crossing on the new spine road be revised to remove conflict with vehicles parking outside houses. That speed reducing measures be introduced along the new spine road and that adequate turning facilities be provided. These issues which were raised in the RSA have been incorporated into the roads design proposals as indicated on Drawing No:121018-PP-11.
- 7.3.5. I note that the Planning Authority and Listowel MD Roads Transportation & Marine Office were satisfied with the documentation and proposals submitted in response to the further information. Accordingly, in conclusion, I am satisfied with the proposed scheme in respect of access and traffic considerations.

7.4. Residential amenity

- 7.4.1. The grounds of appeal refer to concerns that the proposed development would negatively impact the existing residential amenities of the neighbouring properties in Ashfield. Reference is made to potential noise and disturbance from use of the proposed path within the open space. In relation to this matter, I would note that the existing dwellings are separated a minimum distance of 25m from the eastern section of the proposed path by and that the main section of the proposed amenity walkway is to the north of the dwellings proposed within the development. Accordingly, I do not consider that this would negatively impact the residential amenities of existing properties.
- 7.4.2. In relation to the 6 no. existing dwellings to the south of the site within Ashfield it was contended in the appeal that the provision of smaller sites for dwellings within the scheme would detract from the amenities of the area. In response to the matter the first party noted the concerns in relation to impact on amenity. They submitted that the proposed scheme represents a modest increase in the number of units under the current proposal from that previously permitted under Reg. Ref. 04/53. Therefore, the first party considered that this is immaterial in terms of potential impact on residential amenity and they highlighted that generous separation distances have been provided between the proposed units and adjoining dwellings. The separation distances proposed as detailed on the Proposed Site Layout Plan Incorporating

Landscaping Schedule drawing no:121018-PP-1001 indicate they are in excess of 22m and for a number close to 30m or in excess of 30m which I would consider to be a generous separation distance.

- 7.4.3. Accordingly, having regard to the siting and separation distances proposed between the dwellings along the southern boundary of the site and the neighbouring properties to the south within Ashfield, I am satisfied that the proposed development would not result in any undue impact upon the existing residential amenities.

7.5. Other issues

Validity of appeal

- 7.5.1. The response to the appeal refers to the validity of the appeal. It queries whether the appeal is valid based on it being made on behalf of the residents of Ashfield c/o Mary Deenihan of 70 Ashfield, Greenville Road, Listowel, Co. Kerry. In relation to this matter, I note that third party appeal was lodged to the Board by Ger O'Keeffe Consulting Engineers Ltd. on behalf of the residents of Ashfield referred to in the list of objectors which is attached to the appeal and which is c/o Mary Deenihan of 70 Ashfield, Greenville Road, Listowel, Co. Kerry.
- 7.5.2. In relation to this matter Mary Deenihan of 70 Ashfield, Greenville Road, Listowel, Co. Kerry made a submission/observation regarding the subject planning application Reg. Ref. 22/508. The appeal submission includes a copy of the acknowledgment of a receipt of submission or observation on a planning application from Mary Deenihan of 70 Ashfield, Greenville Road, Listowel, Co. Kerry which Kerry County Council received on the 13/06/2022 and a further submission/observation which Kerry County Council received on the 31/01/2023. Accordingly, the Board processed the third party appeal which was submitted on the 8th of March 2023 accompanied with the documentation as detailed above and the appeal was determined to be a valid appeal on the basis of the details submitted were in accordance with the legislative requirements.

Section 47 Agreement

- 7.5.3. The third party appeal queried the attachment of condition no. 4 by the Planning Authority which referred to the requirement of the applicant to enter into an agreement with the planning authority pursuant to Section 47 of the Planning and

Development Act 2000 that restricts all residential units permitted to first occupation by individual purchasers. The reason for the condition is stated as 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.

- 7.5.4. In relation to this matter the first party noted that this use of a Section 47 agreement requiring the applicant/developer to restrict the residential units to first occupation by individual purchases was introduced by the Minister in May 2021 to prohibit the bulk buying of units in new developments by commercial institutional investors and to increase the availability and choice of new homes available to individual purchasers including first time buyers. This matter refers to statutory guidance which was issued by the Minister under Section 28 of the Planning and Development Act 2000, whereby Planning Authorities and An Bord Pleanála must have regard to any guidelines issued. The specific guidelines are the Regulation of Commercial Institutional Investment in Housing which was issued in May 2021.
- 7.5.5. The grounds of appeal also suggested that Section 47 of the Planning and Development Act, 2000 should have been used in relation to the construction of the access roads and services in order to manage the maintenance of the infrastructure serving the development. In response to this matter the first party noted that the Planning Authority in the grant of permission attached condition no. 7 which specified that the developer lodge a bond of €332,000 to ensure the “satisfactory completion of any part of the development” (i.e. including infrastructure services). The first party submit that there is no requirement for a Section 47 agreement to manage/maintain the infrastructure serving the development. In relation to this matter, I note that provisions of the Development Management Guidelines for Planning Authorities, June 2007. The guidelines advise that it is essential that permissions for residential development are subject to a condition under which an acceptable security is provided by way of a bond, cash deposit or otherwise so as to secure its satisfactory completion. Accordingly, I would concur with the first party that this is the appropriate manner to condition regarding the satisfactory completion of the proposed development.

8.0 AA Screening

- 8.1.1. I have considered the housing scheme in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.1.2. The nearest Natura 2000 site is Lower River Shannon SAC (Site Code 002165), which is located approximately 445m to the south of the appeal site. Having regard to the topography of the area there is no direct pathway between the appeal site and the SAC.
- 8.1.3. The proposed development comprises 24 no. houses and associated works. No nature conservation concerns were raised in the planning appeal.
- 8.1.4. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- The residential nature of the development
 - The distance from the nearest designated site and lack of meaningful connections
 - Standard pollution controls that would be employed regardless of proximity to a European site and effectiveness of same
- 8.1.5. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.
- 8.1.6. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.
- 8.1.7. No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

9.0 Recommendation

- 9.1.1. I recommend that permission and outline permission be granted.

10.0 Reasons and Considerations (1)

Outline permission for 24 no. dwellings

- 10.1.1. Having regard to the provisions of the Kerry County Development Plan 2022 – 2028 and the Listowel Town Development Plan 2009-2015 (as extended and varied), and in particular the R1 – New/proposed Residential – Zoning Objective and the provisions of Residential Development Objective – LIS 11 of the Listowel Town Development Plan which seeks to facilitate the development of 415 residential units within the town boundary and having regard to the pattern of existing development in the area, the Settlement Capacity Audit for Listowel 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.

11.0 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 received by the planning authority on the 21st day of December 2022 and on the 18th day of January 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to 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. Details of the design of the houses shall be submitted by way of a separate application for permission consequent and shall incorporate the following requirements:

- (a) The design of the dwellings shall be two-storey with a concrete or native stone finish.

- (b) Roofs shall have a slate or slate effect tile finish of either black, dark grey or blue black colour.
- (c) A colour scheme for the dwellings shall be submitted at permission consequent stage for the agreement of the Planning Authority.

Reason: In the interest of visual and residential amenity.

- 3. The plans and particulars to be submitted by way of a separate application for permission consequent shall include the following:
 - (a) Cross sections through the site indicating the existing and proposed ground levels, the proposed finished floor levels and the service road levels.

Reason: To enable the application for permission consequent to be fully assessed.

4.

- (a) Prior to the commencement of 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, that restricts all relevant residential 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.
- (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

- (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

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.

5. 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 transfer of the land in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on the land in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended], unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall 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 for the area.

6. 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.

12.0 Reasons and Considerations (2)

Permission for access roads, footpaths and associated services including watermains, storm and foul drainage (including pumping station) and electrical utility services along with associated site works.

- 12.1.1. Having regard to the provisions of the Kerry County Development Plan 2022 – 2028 and the Listowel Town Development Plan 2009-2015 (as extended and varied), and in particular the R1 – New/proposed Residential – Zoning Objective and provisions of Residential Development Objective – LIS 11 of the Listowel Town Development Plan which seeks to facilitate the development of 415 residential units within the town boundary, the Settlement Capacity Audit for Listowel 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.

13.0 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 received by the planning authority on the 21st day of December 2022 and on the 18th day of January 2023, except as may otherwise be required in order to comply with the following conditions. Where

such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to 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 wastewater agreement(s) with Uisce Éireann.

Reason: In the interest of public health.

3. 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.

4. Prior to commencement of development, the applicant/developer shall submit details of wayleave that are in place for the proposed storm water outfall to the watercourse from the relevant landowner.

Reason: In the interest of orderly development.

5. The developer shall be responsible for any noise or visual screening mitigation measures deemed appropriate arising from the construction of the N69 Listowel Bypass. Prior to the commencement of development the developer shall liaise with the National Road Design Office of Kerry County

Council and submit the agreed measures for the written approval of the Planning Authority.

Reason: In the interest of residential amenity.

6. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:
 - (a) A plan to scale of not less than [1:500] showing –
 - (i) Existing trees, hedgerows specifying which are proposed for retention as features of the site landscaping
 - (ii) The measures to be put in place for the protection of these landscape features during the construction period
 - (iii) The species, variety, number, size and locations of all proposed trees and shrubs [which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder] [which shall not include prunus species]
 - (iv) Details of screen planting [which shall not include cupressocyparis x leylandii]
 - (v) Details of roadside/street planting [which shall not include prunus species]
 - (vi) Hard landscaping works, specifying surfacing materials, furniture [play equipment] and finished levels.
 - (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment
 - (c) A timescale for implementation [including details of phasing]

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

Reason: In the interest of residential and visual amenity.

7. A comprehensive boundary treatment scheme detailing all site boundaries fronting onto public areas shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.

Reason: In the interest of visual amenity.

8. 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.

9. 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.

10. 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.

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

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

12. 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 thereof 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.

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

24th October 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP 315990-23		
Proposed Development Summary	24 no. houses and associated site works.		
Development Address	Ashfield, Inlandganniv North, Greenville Road, Listowel, Co. Kerry.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	✓
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) 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]?			
		Threshold	Comment (if relevant)
		Conclusion	
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: _____

Appendix 2 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP 315990-23	
Proposed Development Summary	24 no. houses and associated site works.	
Development Address	Ashfield, Inlandganniv North, Greenville Road, Listowel, Co. Kerry.	
<p>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.</p>		
	Examination	Yes/No/ Uncertain
Nature of the Development Is the nature of the proposed development	The proposed development is a residential scheme of 24 no. residential units. The site at Ashfield, Greenville Road, Listowel is a greenfield site which	No

<p>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>is situated to the south and east of residential properties within the Ashfield housing estate. Therefore, proposal is not exceptional in this context.</p> <p>No significant emissions resultant.</p>	
<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 provision of 24 no. residential units. 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, or protected species?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area, including any protected structure?</p>	<p>It is located over 445m 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> <p>Having regard to the nature and scale of the proposal which comprises a residential scheme of 45 no. residential units 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>	No
<p style="text-align: center;">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)