



An
Bord
Pleanála

Inspector's Report

ABP-319739-24

Development	10-year permission for 62 houses and 40 apartments and associated site development works.
Location	Site at Greenville Road, Listowel, Co. Kerry
Planning Authority	Kerry County Council.
Planning Authority Reg. Ref.	24/60/120
Applicant(s)	Mathew O'Connell
Type of Application	Large - Scale Residential Development (LRD)
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	<ol style="list-style-type: none">1. Christina O'Flaherty2. Anne and Bobby Sheehy3. Eoin Murphy
Observer(s)	None

Date of Site Inspection

12th July 2024

Inspector

Irené McCormack

Table of Contents

1.0 Site Location and Description.....	4
2.0 Proposed Development	4
3.0 Planning Authority Pre-Application Opinion.....	7
4.0 Planning Authority Decision.....	7
5.0 Planning History.....	13
6.0 Policy Context.....	13
7.0 The Appeal	19
8.0 Assessment.....	22
9.0 Environmental Impact Assessment Screening	41
10.0 Appropriate Assessment Screening	46
11.0 Recommendation.....	48
12.0 Recommended Order.....	48

1.0 Site Location and Description

- 1.1.1. The appeal site is located on Greenville Road at the western side of Listowel's urban area, 1.2-1.5km from Listowel town centre. The site has a stated site area of 3.3ha.
- 1.1.2. The site was previously partially developed as part of a permitted housing development, with some infrastructure still in-situ. The site is a brownfield site and is currently being used as construction yard for the Listowel Bypass (recently completed).
- 1.1.3. The site is immediately adjacent to agricultural grassland on all sides and bounded by treelines and hedgerows. The roadside frontage is bounded either side by detached family homes on large plots. A continuous footpath also connects the southern site boundary via Greenville road to the town centre. The main vehicular entrance location for the site is off a Greenville road.
- 1.1.4. The 'Mill Stream' adjoins the northern boundary of the site and there are two artificial drainage ditches bordering the west and east of the site. Each of the drains run in a south-north direction and join the Mill Stream.
- 1.1.5. There are three plots of land under separate ownership within the site.

2.0 Proposed Development

- 2.1.1. In summary, the development will consist of the provision of a 10-year planning permission is sought for the following development:
 - The construction of 102 No. residential units comprising 22 No. 1-bedroom apartments, 18 No. two bedroom apartments, 27 No. 3-bedroom terraced townhouses, 2 No. four-bedroom terraced townhouses, 24 No. three-bedroom semi-detached houses, 8 No. four-bedroom semi-detached houses and 1 No. four-bedroom detached house.
 - The construction of 223 No. car parking spaces including 6 No. accessible spaces, and 260 No. bicycle spaces throughout the site. Ducting will be provided throughout the site to all carparking spaces to facilitate the installation of EV chargers.
 - The associated site and infrastructural works include provision for water services; foul and surface water drainage and connections; attenuation proposals; all landscaping works; boundary treatment; internal roads and footpaths; amenity areas;

waste storage areas, electrical services, all ancillary development and associated site works.

2.1.2. Unsolicited further information was submitted 17/04/2024. The submission seeks to respond to the third-party observations received, in particular, Wild Ireland Defence CLG.

2.1.3. Development Parameters:

Proposed Development																																									
Site Area	3.3ha.																																								
No. of Units	<p>Total 102</p> <p>Houses – 62 Total</p> <p>Apartments – 16 Total</p> <p>Duplex units - 24 Total</p> <table border="1"> <thead> <tr> <th>Unit type</th> <th>1 – bed</th> <th>2 – bed</th> <th>3 – bed</th> <th>4 – bed</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Apartment</td> <td>22</td> <td>18</td> <td>-</td> <td>-</td> <td>40</td> </tr> <tr> <td>Townhouse</td> <td>-</td> <td>-</td> <td>27</td> <td>2</td> <td>29</td> </tr> <tr> <td>Semi-Detached</td> <td>-</td> <td>-</td> <td>24</td> <td>8</td> <td>32</td> </tr> <tr> <td>Detached</td> <td>-</td> <td>-</td> <td>-</td> <td>1</td> <td>1</td> </tr> <tr> <td>Total</td> <td>22</td> <td>18</td> <td>51</td> <td>11</td> <td>102</td> </tr> </tbody> </table>					Unit type	1 – bed	2 – bed	3 – bed	4 – bed	Total	Apartment	22	18	-	-	40	Townhouse	-	-	27	2	29	Semi-Detached	-	-	24	8	32	Detached	-	-	-	1	1	Total	22	18	51	11	102
Unit type	1 – bed	2 – bed	3 – bed	4 – bed	Total																																				
Apartment	22	18	-	-	40																																				
Townhouse	-	-	27	2	29																																				
Semi-Detached	-	-	24	8	32																																				
Detached	-	-	-	1	1																																				
Total	22	18	51	11	102																																				
% Unit Mix	<ul style="list-style-type: none"> ▪ 1-Bedroom apartment- 22 no. units = 22% ▪ 2-Bedroom apartment- 18 no. units = 18% ▪ 3- Bedroom dwellings - 51 no. units = 51% ▪ 4-Bedroom dwellings - 11 no. units = 3% 																																								
Building Height	2 Storeys																																								
Dual Aspect	<p>58% Apartment and Duplex units’ dual aspect</p> <p>50% (12 No.) of the apartments in ‘Apartment Building A’ are Dual Aspect with of 25% (4 No.) South Facing and 25% (4 No.) East or West Facing.</p> <p>100% of the units in the Duplex Blocks are Dual Aspect.</p>																																								
Density	31 u/ha.																																								
Plot Ratio	0.273																																								

Site Coverage	16.25%
Public Open Space	Public Open Space- 9,570sqm (29%)
Car Parking	213 spaces Houses - 2 Spaces + 0.5 Visitor Space /House x 62= 155 spaces Apartments - 1 Space / Bedroom x 58 Bedrooms = 58 spaces
Cycle Parking	190 no. Bicycle Spaces Houses - 2 Spaces /House x 62 = 132 spaces Apartments - 1 Space / Bedroom x 58 Bedrooms = 58 spaces

2.1.4. In addition to the standard plans and particulars, the application is accompanied by the documents and reports which include inter alia:

Cover Letter

Application form and LRD Form 19

Consistency

Architectural & Urban Design Statement

Transport and Traffic Impact Assessment

Housing Quality Assessment

Road Safety Audit-RSA 14.

Greenville LRD Apartments: Matrix Analysis

Greenville CEMP - Construction and Environmental Management Plan

Greenville LRD Housing Matrix Analysis

Greenville LRD Flood Risk Assessment

Greenville Buildings Life Cycle Assessment Report

Civil Utilities Planning Report

Landscape Design Strategy and Masterplan

Greenville EIA Screening Report
Ecological Impact Assessment
Greenville LRD

Arboricultural Tree Report

Screening for Appropriate Assessment

Archaeological Impact Assessment Report

Greenville RWMP – Outline Resource and Waste Management Plan

DMURS & Parking Assessment

Household Waste Management Plan

Planning Report & Statement of

3.0 Planning Authority Pre-Application Opinion

3.1.1. A section 32 Consultation Meeting took place on the 22nd of November 2023 with representatives of the applicant and planning authority in attendance.

A Large-Scale Residential Development (LRD) Opinion issued on the 14th of December 2023. This set out that the documentation submitted constituted a reasonable basis for an application for permission for the proposed LRD under Section 34 of the Act having regard to:

- Location of the site within the development boundary of Listowel
- The 'R2 Existing Residential' and 'R1 Proposed Residential Zoning' of the land
- The planning history on site
- The existing vehicular access to the site from Greenville Road
- The feasibility of connection of the development to public water supply and public foul sewerage networks
- The draft layout of the proposed development
- The density and housing mix proposed
- The distance of the site from the nearest Natura 2000 Site
- The topography of the site and its location from the town centre

4.0 Planning Authority Decision

Decision

Kerry County Council issued a decision to grant permission subject to 25 no. conditions.

4.1. Planning Authority Reports

4.1.1. Planning Reports

Planner Report (25th April 2024)

The report provides site description and a summary of the relevant planning history and pre-planning consultation. The report reviews the characteristics of the site and the proposed development and various national policies and provisions of the development plan.

The recommendation within the report of the Planning Officer reflects the decision of the Planning Authority and can be summarised as follows:

Principle of Development

- The proposed development is consistent with the 'R1' and 'R2' - *Proposed and Existing Residential* zoning objectives for the site as set out in the Kerry County Development Plan 2022-2028 and Chapter 3 Core Strategy and Chapter 4 Towns and Villages.

Density

- The proposed density at 31 uph is in accordance with the Compact Settlement Guidelines.

Development Standards

- The apartment floor areas are considered in accordance with the Apartment Guidelines 2023
- The unit mix is in accordance with Policy Objective KCDP 6 -17 of the KCDP.

Private Open Space - in accordance with the Compact Settlement Guidelines.

Public Open Space

- 29% Open Space noted
- Design proposal concept 'Garden City Estate' welcomed.
- Additional tree planting recommended
- Biodiversity corridor, linear park, connectivity and permeability noted, in addition to an indicative 'Potential Future Watercourse Walkway' to the north as part of the nature woodlands near the Listowel bypass

Design and Layout

- Variety of house types, architectural finishes and pockets of residential development interspersed with green spaces and layout overlooking open space acceptable.
- Semi-detached houses designed to offer lifetime flexibility
- One way system and priority pedestrian crossings will act as traffic calming along with 2m footpaths and off-street parking.

Impact on Residential Amenity

- The layout protects the amenity of existing neighbouring residents and future occupants
- The height and scale of development is appropriate in the site context
- The development provides for adequate set back from dwellings within the site and as well as neighbouring properties.
- Obscure glazing is inserted on gable windows opposite site boundaries to prevent overlooking and address privacy.
- The development is compliance with the KCDP 2022-2028.

Archaeology

- Archaeological Impact Assessment and mitigation noted

Construction and Demolition Waste Management Plan

- Noted. Final CEMP to be conditioned.

Part V

- Housing seeking engagement re. Part 5

Transportation and Access

- Contents of TTA noted. No concerns raised.
- DMURS Statement of Consistency submitted.
- Listowel Roads Office recommend grant with conditions

Flooding

- Site located in Flood Zone C.
- Report from Coastal and Flooding unit of KCC noted confirming conclusion of FRA.

Drainage

- Uisce Eireann report noted
- Condition re. ongoing SUDs maintenance required

Sustainability

- Building Life Cycle Report submitted. All buildings have A1 BER rating and designed to meet latest NZEB standards.

Ecology

- No concerns noted. Elements of the project are likely to make a positive contribution to biodiversity in the area.

Conclusion

Based on the zoning of the site, the planning history of the site, the positive reports received from relevant stakeholders in the business units of Kerry County Council, Subject to compliance with the conditions set out, it is considered that the proposed development would be consistent with the KCDP 2022-2028.

The planning authority decision to grant of permission subject to 25 no. conditions. These are broadly standard in nature. Conditions of note include:

- **No. 7.** Stipulates the applicant enter into an agreement in accordance with 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...
- **No. 9.** Relates design and construction details as per submitted plans and particulars received on 1/03/2024
- **No. 11.** Refers to boundary treatment.
- **No 13.** Relates to Storm Water Drainage (SUDs)
- **No. 15.** Relates to Public Lighting
- **No. 16** Refers to Environmental Mitigation Measures
- **No. 17.** Relates to details of northern site boundary to be submitted and agreed
- **No. 18** Refers to Environmental Mitigation Measures
- **No. 20** Relates to compliance with DMURS
- **No. 23** Relates to independent certification of design and quality of works undertaken prior to occupation
- **No 25.** Relates to landscaping, tree, and hedgerow planting.

4.1.2. **Internal departmental reports:**

Ecologist (23/04/2024). No objection subject to conditions.

Archaeologist (11/03/2024). Monitoring condition recommended

Housing (2/04/2024). Meeting required with developer to agree Part V. Standard Part V condition to apply.

Housing Estates Unit (19/03/2024). No objection raised. Report queries aspect of the layout including how portions of site in separate ownership will be addressed.

Environment Section (24/04/2024). No objection subject to conditions.

Kerry National Roads Office (email 23/04/2024). Conditions including measures to address noise from the Listowel bypass and surface water management.

Listowel Roads Officer (23/04/2024). No objection subject to conditions including compliance with DMURS standards.

4.2. **Prescribed Bodies**

The planning authority referred to the application to the following prescribed Bodies:

HSE (27/03/2024) - No objection. Necessary control measures using best available technology to be undertaken during the development of the site.

Uisce Éireann - No objection in principle.

The applicant has engaged with Uisce Éireann via a Pre-Connection Enquiry and Uisce Éireann can confirm that a Confirmation of Feasibility has been issued to the applicant advising that (water/ wastewater) connection(s) are feasible.

It is noted that a Statement of Design Acceptance (SODA) has not been applied for by the applicant. Please note that the applicant needs to apply for and receive a SODA prior to the submission of their Connection Application.

Uisce Éireann respectfully requests any grant of permission be conditioned as follows; The applicant shall enter into a Connection Agreement(s) with Uisce Éireann to provide for a service connection(s) to the public water supply and/or wastewater collection network and adhere to the standards and conditions set out in that agreement.

Uisce Éireann's Standard Condition(s):

The applicant shall enter into a Connection Agreement(s) with Uisce Éireann to provide for a service connection(s) to the public water supply and/or wastewater

collection network and adhere to the standards and conditions set out in that agreement. *All development shall be carried out in compliance with Uisce Éireann's Standard Details and Codes of Practice.*

Uisce Éireann does not permit Build Over of its assets. Where the applicant proposes to build over or divert existing water or wastewater services the applicant shall have received written Confirmation of Feasibility (COF) of Diversion(s) from Uisce Éireann prior to any works commencing. Reason: To provide adequate water and wastewater facilities.

Transport Infrastructure Ireland (TII) (8/04/2024). The development shall be undertaken in accordance with the recommendations of the Transport Assessment the National Road Network DoECLG guidelines 2012.

Inland Fisheries Ireland (IFI) (25/03/2024) -On going maintenance and management of SUD's to be clarified.

4.3. **Third Party Observations**

A number of submissions were made from local residents and others. Issues raised in the submissions included inter alia the following:

- Density excessive
- Impact on adjoining residential amenities
- Flood risks noting history of flooding
- Impact on sewage and storm water infrastructure - network capacity
- Traffic concerns
- Parking provision
- No NIS
- Questions if the Ecological Impact Assessment is intended to be NIS but mislabelled.
- Queries re. Bat Survey, no assessment of Margaritifera, adherence Water Framework Directive
- No ecological corridors
- Health hazard to adjoining residents

5.0 Planning History

Subject Site

KCC 07/404030 – Permission granted for the construction of 3 no. 2 storey, part dormer detached four-bedroom houses with off-street car parking at sites, 29, 30 and 31 of the proposed housing estate for ref. no. 06/4030.

KCC 06/444030 (extension of Duration) - Construct 41 no. dwellings and associated roads and services including foul effluent pump station to accommodate 46 no. houses

KCC 06/404030 - Permission granted Construct 41 no. dwellings and associated roads and services including foul effluent pump station to accommodate 46 no. houses

KCC Ref. No. 05/40400 - Permission granted for the construction of 43 no. dwelling and associated roads and services to accommodate 48 houses.

6.0 Policy Context

6.1. National

The National Planning Framework – Project Ireland 2040, (2018).

This document sets out the Governments strategic national plan for shaping the future growth and development of Ireland for the period up to 2040.

Of note National Strategic Outcome 1 (Compact Growth), sets out the focus on pursuing a compact growth policy at national, regional, and local level.

Housing for All – A New Housing Plan for Ireland to 2030, 2021.

The government’s housing plan to 2030. The overall objective is that every citizen in the State should have access to good quality homes:

- To purchase or rent at an affordable price.
- Built to a high standard in the right place.
- Offering a high quality of life.

Climate Action Plan, 2024.

Implements carbon budgets and sectoral emissions ceilings and sets a roadmap for taking decisive action to halve our emissions by 2030 and reach net zero no later than 2050. By 2030, the plan calls for a 40% reduction in emissions from residential buildings and a 50% reduction in transport emissions. The reduction in transport

emissions includes a 20% reduction in total vehicle kilometres, a reduction in fuel usage, significant increases in sustainable transport trips, and improved modal share.

Section 28 Ministerial Guidelines

Having considered the nature of the proposed development sought under this application, its location, the receiving environment, the documentation contained on file, including the submission from the Planning Authority, I consider that the following guidelines are relevant:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)

- 3.3 relates to **Settlements, Area Types and Density Ranges**

Section 3.4 relates to **Refining Density**

Section 4.0 relates to **Quality Urban Design and Placemaking**

Section 5.0 relates to **Development Standards for Housing**

- SPPR 1 - Separation Distances
- SPPR 2 - Minimum Private Open Space Standards for Houses
- Policy and Objective 5.1 - Public Open
- SPPR 3 - Car Parking
- SPPR 4 - Cycle Parking and Storage
- DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2023) (the 'Apartment Guidelines').
- Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the 'Building Height Guidelines').
- Childcare Facilities – Guidelines for Planning Authorities (2001)
- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999.

- The Planning System and Flood Risk Management (including associated Technical Appendices) 2005
- Urban Development and Building Heights – Guidelines for Planning Authorities, 2018.
- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment, August 2018 (updated 2019)
- EPA Guidelines on the Information to be contained in Environmental Impact Assessment Reports 2022

Other relevant documents

- Design Manual for Urban Roads and Streets (DMURS) December 2013) (as updated)

6.2. Local

Kerry County Development Plan 2022-2028

- The site is within Listowel Town Development Boundary.
- The site is zoned R1- New/Proposed Residential and R2- Existing Residential
- There are no features of archaeological importance within the site, or no structures listed on the RPS

Residential uses are ‘Permitted in Principle’ under this zoning as per the Zoning Matrix for the Listowel Town Plan as included in Volume 2 of the Kerry County Development Plan 2022-20289.

Chapter 2 - Climate Change & Achieving a Sustainable Future

Chapter 3 – Core Strategy

Section 3.10.2 Settlement Hierarchy

Listowel is identified as Regional Town in the Development Plan - *Towns which provide a housing, employment, or service function serving a local region within the county. The category is broad and ranges from large commuter towns to more peripheral towns.*

Zoning Maps for Listowel are included in Volume 2 of the Kerry County Development Plan 2022-2028. As per Table 3.7, the Zoned Land Required, has been determined based on the Settlement Capacity Audit contained in Volume 2 for these settlements.

Chapter 4– Towns and Villages

Section 4.2.4 Placemaking

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.

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 service.

KCDP 4-18 To prioritise walking routes and to deliver a high level of priority and **permeability** for walking, cycling and public transport modes, in accordance with the principles of movement, place and permeability as laid out in the Design Manual for Urban Roads and Streets 2019, to ensure the creation of accessible, permeable links to places of work, retail, services, educational and community facilities

KCDP 4-22 Protect, enhance and ensure that existing and proposed developments located within or adjacent to areas of **Green Infrastructure** incorporate any important biodiversity features into the overall development in a sustainable manner.

Section 4.3 Active Land Management -Objective KCDP 4-26 - KCDP 4-39

Section 4.4.4.1.2 Regional Towns

Chapter 6 Sustainable Communities / Chapter 7 – Housing for All

Section 6.2.3 *Housing for Sustainable Communities* and section 7.3 *Housing Policies*

Include, It is a policy of Kerry County Council to:

- Encourage and foster the creation of attractive mixed-use sustainable communities which contain a variety of housing types and tenures with supporting community facilities, public realm and residential amenities.

- Require a high standard of design in all new residential schemes that are built in a style and scale that is appropriate to the landscape/urban setting.

Volume 2 -Town Development Plans

Section 3 Listowel

Section 3.2.2 Housing Land Requirement

LIS 11 Facilitate the development of 415 residential units within the town boundary.

LIS 12 Facilitate the provision of a range of housing solutions, to cater for the diverse housing demand within the town, catering for individuals and families at appropriate scales and attractive alternatives to urban generated housing in rural areas.

Section 3.3.2 Biodiversity /Section 3.3.2.1 Green and Blue Infrastructure

LIS 15 Strengthen Listowel's existing Green and Blue Infrastructure, subject to environmental assessment, and facilitate its expansion in line with The EU's Biodiversity Strategy 2030. Provide an Activity Facilities Hub (trailhead, campervan park, outdoor performance area etc.) at the interface between the Green and Blue Infrastructure (i.e., at Neodata and Council Depot).

LIS 16 Protect existing biodiversity features in the town and where appropriate enhance biodiversity with regard to the National Biodiversity Action Plan 2017-2021 and actions identified in the All-Ireland Pollinator Plan.

Section 3.3.4 Flood Risk

LIS 23 Protect the town's existing floodplains and wetlands from inappropriate development in recognition of their function as attenuators and conveyors of flood water.

Section 3.9 Heritage & Built Environment

Section 3.10.2 Blueway

With an increased interest nationally in outdoor activity, and water sports, Kerry County Council recognises the potential of creating a "blueway" in the River Feale at Listowel having regard to the environment designations in the area. As such it is supportive of a feasibility study for the development of the River Feale Blueway and how this would be linked to the Greenways incorporating a Trail head at the designated Outdoor Facility Hub (at the Neodata site and Council Depot site) The Blueway and

associated infrastructure projects will be required to demonstrate compatibility with the conservation objectives of the Lower River Shannon SAC within which the River Feale is located.

Recreation, Amenity & Open Space Objectives LIS 73 – LIS 85

Section 3.11.2 Active Travel

LIS 93 Sustainably create a link from the existing greenway to the Town Square and onto the old railway line at Greenville/Curraghatoosane.

Section 3.11.3 Roads & Infrastructure

Section 3.12 Land Use Zoning, Zoning Maps and Flood Map

LIS 99 Ensure that a 15m buffer area is maintained free from development to the north of the woodland located within the Lower River Shannon, as shown on the land use zoning map. This buffer area may be incorporated within an active or passive open space area associated with a proposed residential development

LIS 100 Not to permit highly vulnerable development within Flood Zone A and B, and not to permit less vulnerable development within Flood Zone A.

Volume 2 - Section 6 Settlement Capacity Audit

Density and Potential Housing Yield

The Plan provides strengthened policy support for sustainable higher densities, facilitates compact growth targets aligned with the National Policy Objectives of the NPF, the renewal of vacant brownfield sites and regeneration of opportunity sites amongst other initiatives.

The Planning Authority is required to have regard to Section 28 Guidelines with respect to densities and compact growth and in particular to the Specific Planning Policy Requirements (SPPR), set out in the Urban Development and Building Heights Guidelines for Planning Authorities, (2018) and the Apartment Guidelines (2018). The plan also had reference to circular letter NRUP 2/2021 regarding residential densities in towns and villages

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. **The Town Plans for Tralee, Killarney and Listowel do not limit the consideration of higher densities to certain areas such as opportunity sites. Therefore, it is not considered necessary to specify specific locations outside of the town centre where higher densities may be suitable as doing so may exclude some suitable areas.**

The planning authority will also ensure that **residential densities reflect the density of appropriate adjoining developments.**

Volume 6 – Development Management

Section 1.4 Design General

Section 1.5 Residential Development

Section 1.5.1 Urban Design /Section 1.5.1.1 Design Statements

Section 1.5.2 Density

Section 1.5.4 General Residential Development Design Standards

Section 1.5.4.2 Estate Design

6.3. Natural Heritage Designations

The appeal site is not located within or adjacent to any European Designed sites or pNHA, NHA.

7.0 The Appeal

7.1. Third Party Appeals

Three no. third party appeal has been received in respect of Kerry County Council's recommended decision to grant permission from:

1. Christina O'Flaherty, Greenville Cottage, Listowel, Co. Kerry.

The grounds of appeal are summarised as follows:

- Overdevelopment of the site, far too dense for a minor road.
- The site has been subject to flooding.
- Inefficient green area/spaces for the scale of the development.

2. Anne and Bobby Sheehy, Islandganniv, Greenville, Listowel, Co. Kerry.

The grounds of appeal are summarised as follows:

- The site is adjoining a flood plain
- Lands adjoining flooded in June last year (2023)
- Existing surface water network not adequate on Greenville road and has caused flooding to properties on Greenville road. The surface water is proposed to discharge to the watercourse to the north of the site which has flooded in recent past and which the applicant will only maintain where it bounds his site however the watercourse is shared by many other adjoining landowners and there is no onus on the adjoining landowner to maintain which may lead to block up over time and flood into adjoining properties.
- Capacity of foul mains along Greenville road not adequate, has backed up and flooded properties.
- Third parties' property is not screened off from the development appropriately and condition no. 11 is ambiguous
- Traffic movements need to be properly accounted for in the Road Safety Audit with appropriate safety measures implemented.

3. Eoin Murphy, 8 Islandganniv, Greenville, Listowel, Co. Kerry.

The grounds of appeal are summarised as follows:

- Traffic – Kerry CC accept that the site is not suitable for large development, adding a condition that the developer contribute to the upgrade of infrastructure. There is no timeline for any work to be completed and will these funds be used for the purposes collected? Request funds are ring fenced for the conditions set out in the PA's recommendation.
- The TTA is flawed and to assume the bypass opening will alleviate any congestion is inaccurate and baseless and it may in fact increase traffic congestion.
- Concerns about pollution and nuisance. No guarantee that the development will be carried out in a timely manner. The scale of development increases the risk of the developer stopping which would leave an unfinished and unsightly mess as happened previously.

- The FRA does not address the potential of flooding on lands adjacent to the site. Reference to flooding in June 2023 which was not addressed in the FRA.

7.2. First Party Response to Third Party Appeals

Response from John Phelan Architects on behalf of Matthew O’Connell (Dated 7th June 2024).

The response can be summarised as follows:

- The site is a brownfield residentially zoned site and was taken over in March 2022 for the construction depot associated with the New Listowel Bypass.
- Redeveloping this heavily disturbed site will result in a positive environmental outcome.
- The layout and density of the scheme has had regard to national guidance. The site is within walking distance of Listowel and provides a good balance between density and amenity and caters for a mix of residential unit types.
- Malachy Walsh and Partners undertook A Flood Risk Assessment and found that “the OPW maps show the site is located outside flood extents for all probable flood events....” The site is in Flood Zone C.
- Referring to the 2023 June and July flooding events, it is set out that the Site Manager in charge of the bypass compound was consulted and confirmed that:
 - The adjoining flooding did not affect the site, which is on average 1.4m-2m above the adjoining lands to the west
 - The lands to the west have been subject to localised shallow field flooding associated with the Mill Stream, a minor water course as has been identified on KCDDP Local Flood Maps.
 - It is set out that the June/July event were extreme flash flood events exacerbated by a blockage of the stream 200-300m downstream of the site.
 - The stream had become heavily overgrown with vegetation leading to reduced flows. This length of the stream has since been cleared and there has been no flooding despite the wettest Autumn/Winter/Spring season on record.

- SuDs proposals have been designed to absorb stormwater run-off and limit any discharge to greenfield run-off rates. No stormwater will enter the foul sewer system.
- Uisce Eireann assessed the capacity for both Mains Water and Foul Systems capacity and confirmed adequate capacity.
- It is set out that the TTA has been reviewed and the calculations and conclusions remain unchanged
- The connection of Greenville Road to the bypass will improve access and egress for all residents.
- Regarding the Ecological Impact Assessment, it is set out that the site is a disturbed brownfield unfinished estate which for the past two years has been an active heavy construction site. No significant ecological constraints or impacts were identified during baseline surveys and a recent site inspection in April 2024 confirmed the original survey findings.
- The AA screening report determined Stage 2 AA is not required
- Kerry County Council raised no environmental concerns
- Regarding the Water Framework Directive, it is set out that the project proposes no work to the Mill Stream. The development is set back from the stream in accordance with the Irish Fisheries Guidelines which will contribute to the ecological improvements and re-wilding of the stream.

7.3. **Planning Authority Response**

None

7.4. **Observations**

None

8.0 Assessment

- 8.1.1. This assessment considers the proposed development in the context of the plan for the area, as well as national policy, regional policy and relevant guidelines, including section 28 guidelines. I have reviewed the application and appeal documentation, and

I am aware of the planning provisions relating to the site and the proposed development.

8.1.2. I address Environmental Impact Assessment and Appropriate Assessment separately in sections 9 and 10 below and propose to address the remaining issues under the following headings.

- The Principle of Development
- Design Strategy
- Traffic Impacts
- Drainage and Flood Risk
- Other Matters

Note: The Board may consider ‘Design Strategy’ a New Issue.

8.2. Principle of Development

Introduction

8.2.1. The proposed development comprises a 10-year permission for 62 houses and 40 apartments and associated site development works. The site was previously the subject of a residential planning application with much of the infrastructure from the previous unfinished development on the site. As part of the current application this infrastructure will be removed from the site before construction begins.

Zoning

8.2.2. The subject site is located within the development boundary of Listowel. Zoning Maps for Listowel are included in Volume 2 of the Kerry County Development Plan 2022-2028. As per Table 3.7, the Zoned Land Required, has been determined based on the Settlement Capacity Audit contained in Volume 2 for these settlements.

8.2.3. The site is subject to two land use zonings, R1- New/Proposed Residential and R2- Existing Residential. The proposed residential units are ‘Permitted in Principle’ on residentially zoned ‘R’ lands.

8.2.4. Section 3.10.2 *Settlement Hierarchy* of the Kerry County Developmental 2022-2028 establishes that Listowel is identified as a ‘Regional Town’ in the Development Plan –

'Towns which provide a housing, employment, or service function serving a local region within the county'.

8.2.5. In addition, the provision of residential development on lands zoned 'R1' and 'R2' would be consistent with the policies of the Planning Authority as set out in section 4.3 *Active Land Management* of the Development Plan and Policy Objective KCDDP 4-27 to *prioritise the regeneration of underused town centre and brownfield / infill lands in order to achieve the sustainable delivery of new housing within the existing urban footprint of settlements in the County.*

8.2.6. Therefore, having considered the available information, including the site context, I am satisfied that the overall principle of residential development is considered in accordance with the zoning objectives. I note the PA raised no concerns in this regard.

Density

8.2.7. The proposed development will introduce 102 no. new residential units into the site at a density of 31 units per hectare. The submissions from the third parties consider the development represent overdevelopment of the site and raise serious concerns about the quantum of development given the sites context.

8.2.8. The Development Plan does not set out any numerical limitations on density rather the CDDP (Volume 6 – Section 1.5.2) establishes that in general, the number of units to be provided on a site should be determined with reference to the Guidelines for Planning Authorities on 'Sustainable Residential Development in Urban Areas' (2009) or any update thereof. It is set out that the Plan seeks to promote the development of 'live work' communities by promoting sustainable development by creating compact, high-quality developments. Higher residential densities will be encouraged within walking distance of town and village centres and public transport infrastructure

8.2.9. I refer the Board to the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) which replaced the 'Sustainable Residential Development in Urban Areas' (2009). Table 3.6 *Areas and Density Ranges Small to Medium Sized Towns* of the Compact Settlement Guidelines set out that the edge of small to medium sized towns are the lower density housing areas constructed around the centre, while urban extension refers to greenfield lands at the edge of the built-up area that are zoned for residential or mixed-use (including residential) development. It is a policy and objective of these Guidelines that densities

in the range 25 dph to 40 dph (net) shall generally be applied at the edge of small to medium sized towns.

- 8.2.10. Appendix 2, Section 3.2.2 *Housing Land Requirement* sets out that the Core Strategy envisages a population growth of 529 persons over the lifetime of the plan. This population growth equates to 415 residential units. Volume 1, Chapter 3 (Core Strategy) and Chapter 4 (Towns & Villages) establishes a plan led approach to residential development. While I note a principal tenet of this is the need to adopt a sequential approach extending outwards from the centre of an urban area, in line with the provision of infrastructure, I note the Plan has provided additional headroom of 20% to allow for the provision of competition, the avoidance of market monopoly and the non-availability of zoned lands. The majority of lands are centrally located, within walking distance to the town centre. I consider the subject site to be one such site.
- 8.2.11. In my opinion, the proposed residential density would be acceptable having regard to the need to balance the design with the characteristics of the site, in particular, the transition between the adjacent detached dwellings on standalone sites, the location of the site 1.2-1.5km from Listowel town centre accessible by public footpath and the Listowel Bypass which now complete redefines the town's edge.
- 8.2.12. Therefore, I am satisfied that the density of 31uph is consistent with the Compact Settlement Guidelines 2024 and the provisions of Volume 2 Section 1.5.2 *Density* of the Development Plan and will not represent overdevelopment of the site.
- 8.2.13. I further note site coverage is 16.25%, this is well below the 65% allowable under section 1.5.4.8 *Maximum Site Coverage* of Volume 6 of the CDP.

Conclusion

- 8.2.14. The principle of the proposed development is in accordance with the zoning objective for the site. In summary, the site of the proposed development is on serviceable lands, within the development boundary of Listowel. It is considered that the proposed development would be of a sufficiently high density to provide for an acceptable efficiency in serviceable land usage and suburban transition. Overall, It is considered that the proposed development would be consistent with objective of the Core Strategy as set out in Chapter 3 of the Plan and the National Planning Framework which aims to achieve compact growth through effective density and consolidation rather than more sprawl of urban development

8.3. Design Strategy

Design, Form and Layout

- 8.3.1. An architectural design statement is submitted with the application which sets out the overall architectural rationale and approach.
- 8.3.2. It is argued that the layout of the development reflects the suburban context of the Greenville Road. The scheme is essentially divided into three sections:
- To the front of the site the layout provides for the retention of the original estate entrance and the provision of two-storey semi-detached housing in traditional materials reflecting the surrounding suburban context.
 - To the rear of same (centre of development) the layout provides for a series of semi-detached homes centred around a green space. Within this area there are two sections of the site that are in separate ownership and not part of this application.
 - The third section of the site is located to the north of the site and reflects a two-storey apartment building overlooking a green space flanked either side by residential terrace type housing terminating with the introduction of 2 Storey 'triplex corner' buildings. Of note a central portion of the eastern terrace is also in separate ownership and not part of this application.
 - Beyond the apartment building to the extreme north of the site is a landscape buffer zone identified as a native woodland with paths. The northern site boundary is defined by an existing watercourse – The Mill Stream. The Listowel Bypass is located further north.
- 8.3.3. The Development Plan establishes that applications will be required to adhere to the guidance contained in the 'Urban Design Manual - A Best Practice Guide' (Department of the Environment, Community and Local Government, 2009) and the design of schemes should promote best practice in architectural design, consistent with the aims of the 'Government Policy on Architecture 2009-2015' (Department of Environment, Community and Local Government, 2009) to support good architectural quality. I note the applicant has submitted a statement addressing the 12 key principles of good urban design are set out in the Urban Design Manual.
- 8.3.4. The Compact Settlement Guidelines (2024) replace the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities issued as Ministerial

guidelines under Section 28 of the Act in 2009 and whilst the accompanying manual to the Compact Settlement Guidelines has yet to be published the Guidelines establish a renewed focus on the 'renewal of existing settlements and on the interaction between residential density, housing standards and quality urban design and placemaking to support sustainable and compact growth'.

- 8.3.5. In the context of the proposed design, I have serious concerns about the design and layout of the development as it relates to the principles of good urban design as set out in the Compact Settlements *Guidelines for Planning Authorities (2024)* in particular, section 4.0 *Quality Design and Placemaking* and Section 5.0 *Development Standards for Housing* and accompanying Appendix D checklist including; Sustainable & Efficient Movement, Mix & Distribution of Uses, Green & Blue Infrastructure and Responsive Built Form **and** Chapter 4– Towns and Villages (Policy KCDP 4-10, KCDP 4-18 and KCDP 4-22), Section 4.2.4 *Placemaking*, Section 6.2.3 *Housing for Sustainable Communities* and Section 7.3 *Housing Policies* of the Development Plan to 'require a high standard of design in all new residential schemes that are built in a style and scale that is appropriate to the landscape/urban setting'. This is further reinforced in Appendix 6 Development Management Standards & Guidelines of the CDP Section 1.5.4.2 Estate Design.
- 8.3.6. Quality design and layout is a key principle in the creation of sustainable neighbourhoods. As regards the proposed layout, there is a disconnect between the overall layout and proposed building forms. This disjointed layout is compounded by the failure to appropriately integrate the three portions of the site in separate ownership. While the applicant has provided an indicative masterplan for the site to include these lands clarity on what happens in the intervening period has not been provided. In not forming part of the development the quality of design and placemaking is compromised resulting in the incremental and/or piecemeal development of the site.
- 8.3.7. The siting of the apartment building severs any visual connection to the landscape buffer - native woodlands and paths the north of the site and appears to 'dead-end' the development with the exception of a through road vehicular route. This lack of visual connection is further compromised by the extension of the terrace units' either side of the apartment block. The architectural design of the apartment building offers little in terms of variety, interest, and innovative design to the scheme to allow it to stand out over and above the domestic scale of the houses proposed. Furthermore,

the length and uniform building line of Block B, the western townhouse terrace of units at ca. 100m long is excessive in my opinion in the context of this suburban site. There is no context for such a streetscape approach at this outer suburban location.

Open Space/Permeability

- 8.3.8. I note one third party raised concerns about open space provision relative to the size of the development and while the quantum of amenity space has been satisfied on site (29% open space proposed) as regards qualitative provision and movement, in my opinion the proposed amenity spaces are not meaningfully connected.
- 8.3.9. Section 5.3.3 *Public Open Space* of the Compact Settlement Guidelines sets out that public open spaces should form an integral part of the design and layout of a development and provide a connected hierarchy of spaces, with suitable landscape features and should integrate and protect natural features of significance and green and blue infrastructure corridors within the site. This is reinforced Appendix 6 Section 1.5.4.4 Public Open Space and Section 1.5.4.5 Landscape Plans of the CDP and Policy in KCDP 4-22 to '*Protect, enhance and ensure that existing and proposed developments located within or adjacent to areas of Green Infrastructure incorporate any important biodiversity features into the overall development in a sustainable manner*'.
- 8.3.10. The creation of a neighbourhood that is well connected and permeable for pedestrians and cyclists is of paramount importance. The Compact Settlement Guidelines establish as a key principle 'new developments should, as appropriate, include a street network (including links through open spaces) that creates a permeable and legible urban environment, optimises movement for sustainable modes (walking, cycling and public transport) and is easy to navigate'. In failing to facilitate safe open space interconnectedness, I consider the qualitative open space provision poor and contrary to Policy in KCDP 4-22. I do not consider the development has succeeded in this respect.

Public Realm/Movement/DMURS

- 8.3.11. Section 5.3.4 *Car Parking – Quantum, Form and Location* of the Compact Settlement Guidelines sets out that the form and location of car parking in residential developments has an impact on the built environment. The quantum of car parking in new developments should be minimised in order to manage travel demand and to

ensure that vehicular movement does not impede active modes of travel or have undue prominence within the public realm.

- 8.3.12. DMURS defines a hierarchy of places based on place-context and place-value, including • Greater levels of connectivity; • Higher quality design solutions that highlight place; • Catering for and promotion of higher levels of pedestrian movement; • A higher level of integration between users to calm traffic and increase ease of movement for vulnerable users. The stated objective of DMURS is to achieve better street design in urban areas. This will encourage more people to choose to walk, cycle or use public transport by making the experience safer and more pleasant. Whilst permeability has been provided through the design, I have a number of concerns regarding general qualitative compliance with DMURS within the scheme including poorly designed parking, junctions, not clear what priority line is, and as noted I consider the quality of internal site connectivity poor, particularly in the context of the homezones and the associated organisation of car parking proposed and potential conflicts with vehicular turning movements and pedestrian/cyclist's movements notwithstanding the DMURS Statement submitted with the application which I do not consider addresses these issues..
- 8.3.13. The proposed development is dominated by a vehicular access route and linear rows of perpendicular curtilage parking which has resulted in the isolated green spaces being surrounded by car parking. The Design Manual for Urban Roads and Streets (DMURS) places pedestrians at the top of the user hierarchy and indicates a preference for on-street car parking as part of a package of traffic calming measures. Where off-street or in-curtilage parking is provided it should be designed to integrate into the block layout and building envelope in order to maximise efficiency, enable future adaptability to other use and to reduce the visual impact of parked cars. This is not the case in the context of the proposed design.
- 8.3.14. Of significance, the Road Safety Audit submitted sets out a number of problems with respect to on-street car parking, parking obscuring forward visibility to crossings, the failure to provide a dedicated footpath for pedestrians (who will include mobility impaired people and parents walking young children) to the west side of Greenville Avenue between the main access and the dwellings in Block B and proposed planting obscuring junction or crossing visibility. These problems have not been resolved in

the proposed design and I do not consider these can be addressed by way of condition. Similarly, I do not consider the one-way system alleviates these concerns.

8.3.15. I consider that the proposed development has not adequately applied the design standards with particular regard to the priority hierarchy (as reinforced in Appendix 6 section 1.5.4.14 1 *Pedestrian & Vehicular Movement* of the CDP). In particular, the Board will note that in order to access the public open space areas to the north of the site, pedestrians will have to navigate crossing the estate road most of which accommodates perpendicular parking to the front of the proposed residential terraces. Similarly, parallel parking has been provided with side of 'Greenville Green'. While identified pedestrian priority zones are also car parking dominated and appear to be a token addition to the layout. There has been no attempt to minimise the impact of curtilage parking within the development in order to improve the safety and quality of pedestrian movements and connectivity of open spaces within the development. It is clear that the layout as proposed does not have regard to the priority hierarchy of road users to ensure compliance with DMURS.

8.3.16. While I am satisfied that vehicular access and car parking has been addressed by the applicant, I consider that the development as proposed, does not adequately comply with DMURS or the principle of the Compact Settlement Guidelines which reinforce the principles of DMURS and the resulting layout does not seek to calm traffic and create street networks that feel safe and comfortable for pedestrians and cyclists.

8.3.17. **The Board may consider this a new issue and the Board may wish to seek the views of the parties.**

8.3.18. Conclusion

8.3.19. On balance, I consider the proposed development contrary to placemaking principle of the Kerry County Development Plan 2022-2028 as set out in Chapter 4– Towns and Villages, Section 6.2.3 *Housing for Sustainable Communities* and section 7.3 *Housing Policies* and the Compact Settlement Guidelines as regards the design and layout of the development. The proposed development does not appropriately respond to criteria as regards 'Sustainable and Efficient Movement, Green and Blue Infrastructure' and is not 'Responsive Built Form' as set out in the Compact Settlement Guidelines.

The Guidelines and Development Plan establish that there is a need to focus on the overall quality, amenity value and biodiversity value of public open spaces. The spaces should integrate and protect natural features of significance and green and blue infrastructure corridors within the site and should support the conservation, restoration and enhancement of biodiversity with suitable landscape features, including seating and provision for children's play. The layout has failed to appropriately integrate the green buffer space to the north of the site and the wider open spaces proposed as part of the development, the integration of the green network is compromised further by the quality and design of the proposed built forms, in particular the apartment block Block A and terrace design Block B and the three sections of the land parcels that do not form part of the proposed development.

The proposed development would not be conducive to creating a people friendly environment, would not provide a sufficient qualitative standard of amenity space and facilities to conveniently serve the needs of future residents of the development.

DMURS is intended to lower traffic speeds, reduce unnecessary car use, and create a built environment that promotes healthy lifestyles and responds more sympathetically to the distinctive nature of individual communities and places. The implementation of DMURS is intended to enhance how we go about our business; enhance how we interact with each other and have a positive impact on our enjoyment of the places to and through which we travel. The creation of a neighbourhood that is well connected and permeable for pedestrians and cyclists is of paramount importance. The failure to appropriately address the hierarchy of spaces and movement and integrate the public open spaces to provide a connected hierarchy of spaces is contrary to DMURS.

The fact that the site is an unfinished estate is not a relevant consideration as it is proposed to remove infrastructure previously constructed from the site before construction begins.

8.4. Residential Amenity

Standard of Accommodation/Internal Standards

- 8.4.1. The application is accompanied by a Housing Quality Assessment. The Housing Quality Assessment (HQA) document outlines compliance of the proposed apartments with the relevant quantitative standards required under the Apartment Guidelines as

incorporated into the CDP 2022-2028 and the Compact Settlement Guidelines 2024. The drawings have also been prepared with regard to the requirements of the Apartment Guidelines, summary of the key points from this is set out below detailing how the scheme compiles with the Specific Planning Policy Requirements set out in the Sustainable Urban Housing Design Standards for New Apartments, Guidelines for Planning Authorities.

- SPPR 3 refers to minimum apartment sizes -The overall average size of apartments in Apartment Building 'A' is 119sqm with an average of 19% over the minimum requirement. For the Duplex Block each apartment unit either meets the minimum requirement or exceeds it by up to 4%.
- SPPR 4 of the Apartment Guidelines 2023 establishes that in suburban or intermediate locations it is an objective that there shall generally be a minimum of 50% dual aspect apartments in a single scheme. 50% (12 No.) of the apartments in 'Apartment Building A' are Dual Aspect with of 25% (4 No.) South Facing and 25% (4 No.) East or West Facing. 100% of the units in the Duplex Blocks are Dual Aspect.
- Standards are also set out for private amenity space. All of the proposed apartments have a balcony that complies with the required size.
- In terms of communal open space, the scheme does not provide for a defined communal open space. However, a significant quantum of public open space is proposed.
- A Life Cycle Report is submitted in accordance with section 6.12 of the guidelines.

I consider the development is consistent with the Sustainable Urban Housing Design Standards for New Apartments – Guidelines for Planning Authorities (2023) and will provide an appropriate standard of amenity for future residents.

8.4.2. As set out in the Housing Quality Assessment 88.2%, or 90 out of 102 Units have Own Door ground level or level lift access. The remaining 11.8%, or 12 Units have provision for a future Part M compliant lift for level access, which means 100% of the units can be made fully accessible

8.4.3. The development also includes a number of housing units. All of the houses comply with the qualitative and quantitative standards set out in the Delivering Homes, Sustaining Communities and the accompanying Best Practice Guidelines – Quality

Housing for Sustainable Communities and the CDP 2022-2028. All house within the scheme includes private open space. Rear gardens for semi-detached houses range from 50m² - 80m² and townhouses have rear gardens of 51m² and therefore consistent with the "Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities"

Impact on Adjoining Residential Amenity

- 8.4.4. Concerns were raised that third party property is not screened off from the development appropriately and condition no. 11 is ambiguous. In this regard, I note that the only properties directly impacted by the development of the site are located to the immediate east and west of the site directly fronting the public road. In this respect, I note the landscape plan indicates a 3m wide wildlife landscape buffer along a portion of the eastern and the entirety of the western site boundary with the retention of existing mature trees along the western site boundary. The layout further identifies the retention of the existing 1.8m high boundary wall along the shared boundary between the site and adjoining house to the east. This property currently benefits from mature screen planting along its site boundaries and the property to the west is removed from the immediate shared boundary by a large lawned area. I am satisfied that the development will not have a detrimental impact of the adjoining residential amenity and the shared boundaries have been appropriately addressed.

Nuisance and Disturbances

- 8.4.5. One third party raised concerns about nuisance and that there is no guarantee that the development will be carried out in a timely manner. It is argued that the scale of development increases the risk of the developer stopping which would leave an unfinished and unsightly mess as happened previously.
- 8.4.6. In this instance, I note the applicant is seeking a 10-year planning permission, I do not consider the application to be particularly large in scale to justify a 10-year planning permission, and in the event that the Board is minded to grant planning permission, I would consider a standard 5-year planning permission appropriate in this instance. Thus reducing the potential for prolonged impact on adjoining residential amenities (noting the previous planning history and the on-going use of the site as a construction compound).

- 8.4.7. It is my view that the operational phase of the development would not give rise to levels of noise or nuisance that would be inappropriate in a residential context within a suburban area.
- 8.4.8. Regarding concerns raised that the scale of development increases the risk of the developer stopping construction, this is not a matter for the Board.
- 8.4.9. Overall, it is my view that the proposed scheme would not negatively impact on existing residential amenities in terms of undue noise, light overspill or disturbance during the operational phase. The issue of construction related traffic is addressed in section 8.5 below.

Conclusion

- 8.4.10. It is considered that the proposed development in terms of floor areas, privacy, aspect, natural light and ventilation and private open space would be acceptable and in accordance with Development Plan standards and the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, March 2023. The Planning Authority have raised no issues in this regard.

Having regard to the established site boundaries and the separation distance from existing dwellings, it is reasonable to conclude that the proposed development will not have significant adverse impact on established amenity as a result of overlooking, overshadowing or overbearing impact

8.5. Traffic Impacts

- 8.5.1. Third party have raised concerns regarding the increased in traffic generated by the proposed development. It is set out that traffic movements need to be properly accounted for in the Road Safety Audit with appropriate safety measures implemented. One third party contends that Kerry CC accept that the site is not suitable for large development by adding a condition that the developer contribute to the upgrade of infrastructure and request funds are ring fenced for the conditions set out in the PA's recommendation.

Traffic Impact/Connections

- 8.5.2. A Traffic & Transport Assessment accompanied the application. The impact of the proposed development traffic generation on the surrounding road network is predicted to be negligible. It is envisaged that the development will experience an impact of less

than 10% in both the AM and PM peak periods for all future demand scenarios. This partnered with the development traffic being on the minor road (and stop-controlled) at the junction of the site access road and Greenville Road, it is not envisaged to have any noticeable impact on the surrounding network transport infrastructure. In response to the appeal the first party reiterate that the calculations and conclusions set out in the TTA have been reviewed and remain unchanged.

8.5.3. The site also benefits from the recently completed Listowel Bypass ca. 800m to the west of the site accessed via a roundabout. One third party argues that the TTA is flawed and to assume the bypass opening will alleviate any congestion is inaccurate and baseless and it may in fact increase traffic congestion. I do not agree and note the TII on their website (reviewed 16/07/2024) note that the Listowel Bypass project will provide much needed relief of congestion and improvements in road safety and journey times for the town stating that 'It will reduce journey times by up to 6 minutes and reduce traffic volumes by up to 40%' and will significantly improve road access and connectivity in north Kerry'. I am satisfied that the development will benefit from the Bypass and will result in a reduction in unnecessary traffic on Greenville road and any increase in traffic generated by the development will on balance not represent a detrimental impact on traffic safety and the 10% increase envisaged is not significant on zoned serviced lands accessible to Listowel town centre.

8.5.4. A footpath connects the site to the town centre via Greenville road to the east and to the bypass to the west.

Construction Works

8.5.5. A Preliminary Construction Environmental Management Plan (CEMP) has been prepared. The CEMP is with reference to the proposed 10-year planning permission as regards phasing and vehicular movements (I refer the Board to section 8.4.6 above). With regards to access and egress for construction vehicles, access will be via Greenville Road. In general, the impact of the construction period will be temporary in nature. Working hours will be limited to 8am-6pm Monday to Friday and 8am to 2pm on Saturdays. No work permitted on Sundays and Bank Holidays without the prior permission from the Local authority. It is estimated that there will initially be 10 – 30 staff on site on a typical day, however during peak construction periods this will fluctuate from time to time as different phases of the construction take place and

specialist services such as electricians or landscaping are required.

- 8.5.6. In the event that the Board is minded to grant planning permission, it is recommended that condition requiring a Traffic Management Plan is prepared by the contractor and agreed with Kerry County Council's Transportation Department & TII, to mitigate any impact of construction on the surrounding road network.
- 8.5.7. Section 7 Environmental Management Plans of the Construction and Environmental Management Plan (CEMP) sets out mitigation measures for managing the impacts of Construction Activities associated with the Project. I refer the Board to Pg. 20 of the CEMP and accompanying EMP-1 to EMP-15. The mitigation measures will be further expanded and detailed by the appointed contractor in the final CEMP and further details to be agreed with KCC.
- 8.5.8. The CEMP includes a number of measures to be employed to reduce noise and dust. I am satisfied that subject to adherence to same the noise impact will be acceptable.
- 8.5.9. Construction plant used on site will comply with the relevant Irish regulations in relation to noise and vibration requirements.
- 8.5.10. Construction work is of a temporary nature and the resulting noise levels and large vehicular movements are usually acceptable, subject to typical management and time control procedures which are common to most urban based development projects and therefore acceptable.

Access

- 8.5.11. The proposed development will be accessed from the proposed permanent access site on Greenville Road. All construction vehicles can enter the Greenville Road by the roundabout located west of the development from the Listowel bypass. I have no concerns regards the access proposed as this has been long established. I note the PA raised no concerns in this regard.

Car Parking

- 8.5.12. The Kerry County Development Plan (2022-20288) Volume 6 sets out parking requirements for different types of developments. The proposed development is in Area 3 as it is located on the outskirts of the town centre. The proposed car parking is broken down as follows:

- 22 no. 1 bedroom apartments at 1 space per bedroom: 22 spaces

- 18 no. 2 bedroom apartments x 2: 36 spaces
- 27 no. 3 bedroom townhouses x 2.5: 67.5 spaces
- 2 no. 4 bedroom townhouses x 2.5: 5 spaces
- 24 no. 3 bedroom semi-D houses x 2.5 spaces: 60 spaces
- 9 no. 4 bedroom semi-D houses x 2.5 spaces: 22.5 spaces

Therefore, a total of 213 parking spaces are required for the development. A total number of 223 parking spaces are provided. I have set out in section 8.3 above my concerns as regards the design and layout of the scheme including car parking proposed.

Infrastructure Contribution

- 8.5.13. Regarding the contention that Kerry CC accept that the site is not suitable for large development by adding a condition that the developer contribute to the upgrade of infrastructure. The imposition of a contribution in this regard is facilitated by the Kerry County Council Development Contribution Scheme and is standard practice. How KCC spend development contributions is not within the remit of the Board to condition.

Conclusion

- 8.5.14. On balance, the proposed development is located at a suburban location close to a variety of amenities and facilities. The traffic generated by the development is acceptable in the context of the sites location and the site will benefit form the new Listowel bypass.

I refer the Board to the concerns raised in section 8.3 above as regarding compliance with the RSA and DMURS.

8.6. Drainage and Flood Risk

- 8.6.1. A Civil Utilities Planning Report and a Site-Specific Flood Risk Assessment accompany the planning application.

Foul Water Drainage

- 8.6.2. The proposed development will be provided with a foul drainage network to collect foul flows from all the residential units. A 225mm diameter foul sewer is located adjacent to the site on Greenville Road. Irish Water advised in their confirmation of feasibility

that connection is feasible without the need for infrastructure upgrade. The proposed development will be served by a gravity system which drains to the existing foul sewer manhole located near the entrance of the site located on Greenville Road.

- 8.6.3. Some third-party concerns were raised about the capacity of the public sewer. Uisce Eireann have raised no objection to the proposed development and future connection will be subject agreement with UE. Therefore, any impact from the increased wastewater flows on the existing drainage network are considered acceptable.

Storm and Surface Water Drainage

- 8.6.4. The proposal includes a new stormwater sewer system within the development, discharging into the "Millstream" along the northwest boundary, which flows into the "River Feale." The site design ensures attenuation of greenfield runoff for 1-year, 30-year, and 100-year return periods, which is in compliance with the Greater Dublin Strategic Drainage Strategy meeting the Greater Dublin Strategic Drainage Strategy's requirements. An emergency overflow is incorporated in case of hydrobrake blockage.
- 8.6.5. The SUDs Management Train proposed for this site is evaluated from the point where rain falls, through the conveyance network through to how it is discharged within the site. The Greenville Road site was divided into several sub catchments, each catchment was designed to manage its own individual run off. These were chosen to regulate the flow as close to the place where rain falls as possible, rather than concentrating the flow to one spot on the site for attenuation
- 8.6.6. Bioretention Raingarden/Tree pits have been provided in the design of the proposed development as they have the ability to contribute to the storm water management strategy while also adding to the aesthetic value of the overall development. Where possible, water infiltrates directly into the ground. Any excess water will flow into the surface overflow and directed along a perforated land drain with a flow control fitted at outlets to maximize infiltration potential. 2 No. of swales are proposed at the centre of the site along the access road. These dry swales work by capturing sheet flow off the road surface. At 10-20m intervals, stone check dams will be placed along the length of the swale to assist in reducing flow velocities. These dams will act as a screening mechanism to remove any pollutant load in the runoff. Beneath the swale a filter drain will help to maximise infiltration capacity. The filter drain will also increase the

attenuation volume capacity. Petrol interceptors will be placed in the primary storm drain system

- 8.6.7. The site will contain one attenuation tank of approximately 400m² and 1.2m deep. Cellular attenuation storage tanks have been chosen to maximise the allowable volume of water which can be stored on site. Manholes immediately upstream and downstream of the tanks will have catch pits in order to prevent silt building up within the tanks. No drainage concerns were raised by the PA.

Water

- 8.6.8. There is an existing 150mm diameter uPVC watermain along Greenville Road, to the south of the site. A Pre-connection enquiry was submitted to Uisce Eireann. UE have advised that the connection is feasible without the need for infrastructure upgrade in their Confirmation of Feasibility (COF) letter. A service enquiry was carried out to determine the location of the existing network. It is proposed to connect the development to the existing watermains in the public road via a 150mm diameter connection.
- 8.6.9. Whilst I note the concerns raised by the third parties regarding capacity, UE have raised no concerns in this regard. I am satisfied that the site can be served by suitable water supply.

Flood Risk

- 8.6.10. A Site-Specific Flood Risk Assessment Report has been submitted with the planning application. The Flood Risk Assessment has been undertaken by reviewing information from the Office of Public Works (OPW) National Flood Hazard Mapping (www.floods.ie) and the Eastern CFRAM Study and has been carried out in accordance with the OPW's Guidelines for Planning Authorities – The Planning System and Flood Risk Management (November 2009).
- 8.6.11. All areas where development is proposed is located in Flood Zone C as defined by the requirements of “The Planning System and Flood Risk Management, Guidelines for Planning Authorities” and its Technical Appendices. The site backs directly onto the “Millstream” watercourse and a riparian buffer zone of 20m has been provided at this location as per the IFI guidance document “Planning for Watercourses in the Urban Environment”

- 8.6.12. Flood Zones A & B are restricted to the lands to the south and west of the site. No development will be located in Flood Zone A or B. The River Feale is located ca. 460m to the south of the site. The FRA sets out that the topography around the area shows the site is at a higher level than the river in accordance with OD and therefore the risk of fluvial flooding is low. The site is outside the extent for the 0.1% AEP or 1 in 1000 for both river and coastal. Given that the site is approximately 13.13km from the coast and its elevations are in excess of 13.025mOD, coastal flooding from coastal sources is highly unlikely on this site.
- 8.6.13. The third parties all raised concerns regarding risk of flooding on site noting the adjoining lands to the immediate west of the site flooded in June and July 2023. The existing land drain, known as the 'Mill Stream' adjoins the northern boundary of the site. This drainage feature is culverted under the new bypass road and also receives inflow from a recently constructed Kerry County Council attenuation pond associated with the bypass, located immediately adjacent to the site's northeastern boundary. The 'Mill Stream' flows in a south-westerly direction before eventually draining to the River Feale.
- 8.6.14. In response to the appeals the first party set out that the lands to the west were subject to localised shallow field flooding associated with the Mill Stream and that this flooding did not affect the site, which is on average 1.4m-2m above the adjoining lands to the west. The first party state that the June/July events were extreme flash flood events exacerbated by a blockage of the stream 200-300m downstream of the site. The stream had become heavily overgrown with vegetation leading to reduced flows. This length of the stream has since been cleared and there has been no flooding despite the wettest Autumn/Winter/Spring season on record.
- 8.6.15. Regarding the above, I refer the Board to the unsolicited further information submitted by the applicant in April 2024 including the photographic evidence of clearance works to the Mill Stream adjacent to the northern site boundary. The submission notes that the Mill Stream was found to be heavily silted in October 2023 and carrying a heavy suspended solids loads most likely associated with the bypass construction. The hydro morphological character of the stream has been affected by the construction of the bypass, with the installation of culverts where it has been crossed by the road. Plate 4 of the submission relates to relates to the Mill Stream and denuded banks ca. 1km downstream of the site on 9th April 2024.

8.6.16. The topographic survey for the site shows levels on the site ranging between 13.759mOD in the northwest to 12.154mOD in the southwest, the levels on the site fall steadily from northeast to southwest. The topography and the sites elevated nature ensures that the lowest proposed floor level in the development of 13.025 will be positioned above any potential flood levels in the area. There is no record of previous flooding occurring on the site and the site has been identified in Flood Zone C. As set out above SuDs proposals have been designed to absorb stormwater run-off and limit any discharge to greenfield run-off rates. No stormwater will enter the foul sewer system. I am satisfied that the proposed residential units are not at risk of flooding. I note the PA raised no concerns in this regard.

8.6.17. Some third-party concerns were raised as regards the maintenance of the stream beyond the subject site, the stream maintenance is the responsibility of the OPW and not individual landowners.

Conclusion

8.6.18. I note that no objection to the proposals have been raised by Kerry County Council. I note the third parties raised some concerns as regards the capacity of water and sewerage. However, the submission by Uisce Eireann raised no objection to the water supply and foul drainage proposals. I further note that the Civil Utilities Planning Report identified no hazards to development on the site. I consider the proposed site services and surface water proposals satisfactory in this regard. I am also satisfied that the residential units are not at risk of flooding.

8.7. Other Matters

Childcare Provision

8.7.1. By way of information for the above, regarding the provision of a childcare facility, it is proposed that apartment Block A will be used as sheltered accommodation. Accordingly, removing the sheltered Apartment Block A reduces the number of childcare qualifying interests to (102-16=) 86 units. Removing the 1-bedroom apartments in the 6 Corner Duplex Blocks reduces the total number childcare qualifying units to (86-12=) 74 units. It is considered that the provision of a childcare facility is not required because the total number of qualifying dwellings is less than 75 dwellings. I note the PA raised no concerns in this regard.

9.0 Environmental Impact Assessment Screening

9.1.1. The application addresses the issue of EIA within an EIA Screening Report that contains information to be provided in line with Schedule 7A of the Planning Regulations. I have had regard to same in this screening assessment. The EIA Screening Report identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

9.1.2. This proposed development is of a class of development included in Schedule 5 to the Planning Regulations. Schedule 5 to Part 2 of the Planning Regulations provides that mandatory EIA is required for the following classes of development:

- Class 10(b)(i) construction of more than 500 dwelling units,
- Class 10(b)(iv) urban development, which would involve an area greater than 2 ha in the case of a business district*, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.
- Class 10 (dd): All private roads which would exceed 2000 metres in length.

*a 'business district' means a district within a city or town in which the predominant land use is retail or commercial use.

- Class 15 of Schedule 5 relates to any project listed in Part 2 of Schedule 5 which does not exceed a quantity, area or other limit specified in Part 2 in respect of the relevant class of development, but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

9.1.3. A detailed description of the development is outlined in section 2 of the report. In summary, it is proposed to construct 102 housing units and all associated site works on a site area of c. 3.3Ha. Having regard to classes 10(b)(i), 10(b)(iv) and 10 (dd) of Schedule 5 to Part 2 of the Planning Regulations, the proposed development is subthreshold in terms of the mandatory submission of an EIA. The nature and the size of the proposed development is below the applicable class 10(b) and 10 (dd) thresholds for EIA. I concur with the conclusion of section 3.2 Mandatory EIA - Annex I and II/Schedule 5 of the Screening for Environmental Impact Assessment Report submitted.

9.1.4. As outlined above, the criteria at Schedule 7 to the Planning and Development Regulations 2001 (as amended) are relevant to the question as to whether the

proposed sub-threshold development would be likely to have significant effects on the environment that should be the subject of environmental impact assessment. I would note that the requirement for EIA has not been suggested by any of the submissions or reports connected to the application and appeal.

9.1.5. The criteria within Schedule 7 to the Planning Regulations are relevant in considering whether this proposed development would be likely to have significant effects on the environment that could and should be the subject of EIA. The residential use proposed would be similar to the surrounding land uses in the area. The proposed development would not increase the risk of flooding and it would not give rise to significant use of natural resources, the production of waste, pollution, nuisance or a risk of accidents. The development would be served by municipal foul wastewater drainage and water supplies. I note that the site is not designated for the protection of the landscape or of natural heritage. With mitigation measures in place, including pre-development testing and monitoring of groundworks, I am satisfied there will be no significant impact on archaeology (I refer the Board to section 7.2 of the accompanying Archaeological Appraisal Report). There are no Protected Structures on the Record of Protected Structures (RPS) on the proposed development site and the site is not within an Architectural Conservation Area (ACA) site is not located within an Architectural Conservation Area. There are a number of Protected Structures in the wider area, in particular, within the town centre, the site is removed from same, and I am satisfied that there will be no detrimental loss of cultural heritage and no significant detrimental impact on Protected Structures as a result of the development.

9.1.6. The site does not support substantive habitats or species of conservation significance, as highlighted in the Ecological Impact Assessment submitted with the application. The main habitats within the proposed project site comprise existing buildings (temporary site compound structures) and artificial surfaces, hedgerow and treeline, amenity grassland/grass verge, recolonising bare ground, spoil and bare ground and drainage ditches. No rare or protected species of flora were identified during the ecological field surveys. No non-native/invasive species of flora were identified during the ecological field surveys. No badger setts or signs of badger were noted during the multi-disciplinary ecological walkover surveys. No otter holts or signs of activity were recorded during either the multi-disciplinary ecological walkover surveys or the targeted otter survey undertaken along the corridor of the 'Mill Stream', bounding the

proposed development site to the north. During the on-site survey, the following common bird species were recorded; raven (*Corvus corax*), swift (*Apus apus*), wren (*Troglodytes troglodytes*), blackbird (*Turdus merula*), hooded crow (*Corvus cornix*), robin (*Erithacus rubecula*) and a female pheasant (*Phasianus colchicus*) which was flushed. Common frog has a widespread distribution in Ireland. Smooth newt is widespread in Ireland but locally distributed. Newts and frogs are amphibious, breeding in freshwater and utilising woodland, damp grassland, marsh and scrub for foraging. Neither species were observed during the multidisciplinary ecology walkover. The habitats encompassed within the site are considered suboptimal for amphibians and reptiles and the loss of habitat will not be significant in the context of more suitable locations within the surrounding areas

9.1.7. No bat species were recorded during presence/absence surveys. No roosts were found on site. Potential indirect impacts on bats resulting from construction activity (vegetation removal) will comprise the loss of foraging and commuting habitats/features (hedgerow, treeline and woodland edge) utilised by bats. There will be permanent loss of some vegetation including 5 trees at the proposed site. However, all perimeter hedgerows and treelines surrounding the proposed development site are proposed to be retained. Loss of suitable bat foraging/commuting habitat will be restricted to the removal of individual trees to be removed to facilitate the development. On the basis of the habitat foraging/commuting habitat evaluation rating assigned to each feature to be removed, it was estimated that the proposed development will result in the loss of five trees of 'High' value habitat for foraging/commuting bats. Subject to the implementation of the additional landscaping proposed and mitigation measures as outlined in section 9 of the Ecological impact Assessment report, this impact is not considered to be significant. No invasive species recorded during the site survey at the proposed site.

9.1.8. It is noted that the fluvial habitats of the Mill Stream are classified as largely unsuitable for salmonid spawning. No spawning habitat occurs within the study area due to a lack of diversity of substrate and flow. The small size of the Mill Stream is unsuitable for holding large salmonids: there are no pools present considered sufficiently large for large trout and adult salmon throughout the year. For spawning, lampreys have similar habitat requirements to small trout. There are inadequate silt deposits in the Mill Stream, a requirement for juvenile lamprey larvae, and as for salmonids, the spawning

habitats within the stream are generally poor. This is considered the limiting factor for lampreys in the watercourse. The probability of migratory lampreys occurring in the study area is very low taking account the sluice gate in the lower reach of the watercourse and likely avoidance of these reaches by lampreys.

- 9.1.9. Connectivity of the site with protected areas and their associated qualifying interest species is considered further below in section 10 of this report. The nature and the size of the proposed development alongside this existing development remains below the applicable class 10(b) thresholds for EIA.
- 9.1.10. The reports submitted with the application address a variety of environmental issues and the environmental impacts of the proposed development. The reports demonstrate that, subject to the various recommended construction and design-related mitigation measures, the proposed development would not have a significant impact on the environment. I have had regard to the characteristics of the site, the location of the proposed development, and the type and characteristics of the potential impacts. Having regard to the Schedule 7A information, I have examined the sub-criteria and all submissions, and I have considered all information that accompanied the application and appeal. In addition, noting the requirements of Article 103(1A)(a) of the Planning Regulations, the first party has noted how the available results of other relevant assessments have been taken into account on the effects of the project on the environment carried out pursuant to European Union legislation other than the EIA Directive.
- 9.1.11. Table 4 of the EIA screening information prepared by the first-party appellant addresses Schedule 7 Criteria Assessment and the Characteristics of the proposed development including cumulative impacts. The report concludes that the development would not be likely to have significant effects on the environment. I am satisfied that all other relevant assessments have been identified for the purposes of screening for EIA. I have had regard to all of the reports detailed above and I have taken them into account in this assessment, together with the Strategic Environmental Assessment of the Development Plan. I am satisfied that the information required under Article 103(1A)(a) of the Planning Regulations has been submitted.
- 9.1.12. I have completed an EIA screening assessment of the proposed development with respect to all relevant considerations, as set out in Appendix A to this report. I am

satisfied that the location of the project and the environmental sensitivity of the geographical area would not justify a conclusion that the proposed development would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects that would be rendered significant by their extent, magnitude, complexity, probability, duration, frequency or reversibility, and this opinion extends to my conclusion that the proposed development is subthreshold in terms of the mandatory submission of an EIA based on Class 15 of Part 2 of Schedule 5. In these circumstances, the application of the criteria in Schedule 7 of the Planning Regulations to the proposed subthreshold development demonstrates that it would not be likely to have significant effects on the environment and that an EIA is not required should a decision to grant planning permission for the project be arrived at. This conclusion is consistent with the EIA screening information submitted with the subject application and the opinion of the Planning Authority. A Screening Determination can be issued confirming that there is no requirement for an EIA Report to be prepared for the project based on the above considerations.

10.0 Appropriate Assessment

10.1. I refer the Board to Appendix B -AA Screening Determination.

Screening Determination Conclusion

Overall Conclusion- Screening Determination

10.1.1. I am satisfied the potential for significant effects, as a result of surface generated during the construction and operational stages, on the qualifying interests of the applicable Natura 2000 site, the Lower River Shannon SAC can be excluded having regard to the following:

- During the construction stage best practice standards, environmental guidelines and mitigation measures will be adhered to in order to avoid impacts on surface water.
- Should a pollution event occur during the construction phase, due to the accidental spillage or release of contaminants, this would not be of such magnitude so as to have a significant adverse effect on downstream water quality in the River Feale (Lower River Shannon SAC) due to the level of separation and the dilution arising from the volume of water between the sites.

- There will be an improvement in surface water run-off during the operational phase, relative to the existing situation, as surface water will be attenuated/ part treated within the site.

10.1.2. There is no potential for impacts on the qualifying interests due to noise and other disturbance impacts during construction and operational phases given the level of separation between the sites. While there is a potential risk of noise and disturbance during construction to ex-situ qualifying species, no significant effects are predicted as it is unlikely that the qualifying species will use habitats within the subject lands and in any case the proposed development is not likely to result in a significant increase in noise and disturbance over the existing levels.

Summary

10.1.3. No significant water quality impacts are not predicted, habitat loss/alteration within the Lower River Shannon SAC are not foreseen, and significant disturbance or displacement of any of the qualifying interest species is not expected to ensue. Taking account of the temporary nature of the construction works, the potential ecological impacts which have been identified, it is concluded that there will be no significant direct or indirect habitat loss/alteration to the nearby Lower River Shannon SAC as a result of the proposed development. In addition, the proposed works will not result in significant disturbance/displacement impacts to species protected within any Natura 2000 site.

10.2. It is evident from the information before the Board that on the basis of the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, submissions on file, the information submitted as part of the applicant's Appropriate Assessment Screening report that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on the Lower River Shannon SAC (002165)) or an European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

10.3. In reaching my screening assessment conclusion, no account was taken of measures that could in any way be considered to be mitigation measures intended to avoid or

reduce potentially harmful effects of the project on any European Site. In this project, no measures have been especially designed to protect any European Site and even if they had been, which they have not, European Sites located downstream are so far removed from the subject lands and when combined with the interplay of a dilution affect such potential impacts would be insignificant. I am satisfied that no mitigation measures have been included in the development proposal specifically because of any potential impact to a Natura 2000 site.

11.0 Recommendation

Having regard to the foregoing, I recommend that permission be refused for the proposed development for the reasons and considerations set out hereunder.

12.0 Recommended Draft Board Order

Planning and Development Acts 2000 to 2022

Planning Authority: Kerry County Council

Planning Register Reference Number: 24/60/120

Appeal by Christina O’Flaherty, Anne and Bobby Sheehy and Eoin Murphy against the decision made on the 25th of April 2024, by Kerry County Council to grant permission for the proposed development.

Proposed Development:

The development will consist of a 10-year planning permission is sought for the following development:

- The construction of 102 No. residential units comprising 22 No. 1-bedroom apartments, 18 No. two bedroom apartments, 27 No. 3-bedroom terraced townhouses, 2 No. four-bedroom terraced townhouses, 24 No. three-bedroom semi-detached houses, 8 No. four-bedroom semi-detached houses and 1 No. four-bedroom detached house.
- The construction of 223 No. car parking spaces including 6 No. accessible spaces, and 260 No. bicycle spaces throughout the site. Ducting will be provided throughout the site to all carparking spaces to facilitate the installation of EV chargers.

- The associated site and infrastructural works include provision for water services; foul and surface water drainage and connections; attenuation proposals; all landscaping works; boundary treatment; internal roads and footpaths; amenity areas; waste storage areas, electrical services, all ancillary development and associated site works.

Decision

Refuse permission for the above proposed development based on the reasons and considerations set out below.

Reasons and Considerations

1. It is considered that the design and layout of the proposed development is contrary to the Compact Settlements *Guidelines for Planning Authorities (2024)* in particular, section 4.0 *Quality Design and Placemaking* and Section 5.0 *Development Standards for Housing* and accompanying Appendix D **and** Chapter 4– Towns and Villages (Policy KCDP 4-10, KCDP 4-18 and KCDP 4-22), Section 4.2.4 Placemaking of the Kerry County Development Plan 2022-2028 to ‘*require a high standard of design in all new residential schemes that are built in a style and scale that is appropriate to the landscape/urban setting,*’ having regard to the following:
 - (a) The proposed development results in a poor design concept that is substandard in its form and layout; fails to establish a sense of place; would result in a disjointed layout, compounded by the failure to integrate the three portions of the site in separate ownership, all of which would lead to conditions injurious to the residential amenities of future occupants.
 - (b) The desire to increase connectivity falls short in terms of the qualitative provision within the scheme and in failing to facilitate safe open space interconnectedness and actively assimilate the ‘landscape buffer - native woodlands and paths the north’ into the site, the qualitative open space provision is lacking with resulting poor quality placemaking.
 - (c) The layout of the proposed scheme, being dominated by roads and car parking, is contrary to the provisions of the Design Manual for Urban Roads and Streets (DMURS) December 2013 (as updated) and in failing to incorporate the

recommendations of the Safety Audit, it is considered that the development would endanger public safety and traffic safety.

It is considered that the proposed development would, therefore, seriously injure the residential amenities of future occupants, would endanger public safety by reason of traffic hazard, and would be contrary to the proper planning and sustainable development of the area.

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.

Irené McCormack

Senior Planning Inspector

19th July 2024

Appendix A - EIA- Screening Determination

A. CASE DETAILS		
An Bord Pleanála Case Reference (319739-24)		
Development Summary	Construction of 62 houses and 40 apartments and associated site development works	
	Yes / No / N/A	Comment (if relevant)
1. Was a Screening Determination carried out by the PA?	Yes	EIA not required
2. Has Schedule 7A information been submitted?	Yes	
3. Has an AA screening report or NIS been submitted?		An Appropriate Assessment Screening Report was submitted with the application. An Ecological Impact Assessment was also submitted with the application.
5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA		SEA and AA were undertaken in respect of the Kerry County Development Plan 2022-2028

B. EXAMINATION	Where relevant, briefly describe the characteristics of impacts (i.e. the nature and extent) and any Mitigation Measures proposed to avoid or prevent a significant effect (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)		
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	The proposed development would provide for a new residential development at an outer urban location that consist predominately of detached family homes on large sites. However, it is not regarded as being of a scale or character significantly at odds with the surrounding pattern of development having regard to the design approach employed.	No
1.2 Will construction, operation, decommissioning or demolition works causing physical changes to the locality (topography, land use, waterbodies)?	The proposed residential development has been designed to logically address the topography on site, resulting in minimal change in the locality, with standard measures to address potential impacts on surface water and groundwaters in the locality.	No
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	Construction materials will be typical for an urban development of this nature and scale.	No
1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?	Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Use of such materials would be typical for construction sites. Any impacts would be local and	No

	temporary in nature and the implementation of the standard construction practice measures outlined in the Outline CEMP would satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.	
1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?	Construction activities will require the use of potentially harmful materials, such as fuels and other similar substances and give rise to waste for disposal. The use of these materials would be typical for construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature, and with the implementation of the standard measures outlined in the Construction Phase Environmental Management Plan, the project would satisfactorily mitigate the potential impacts. Operational waste would be managed through a waste management plan to obviate potential environmental impacts. Other operational impacts in this regard are not anticipated to be significant.	No
1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?	Operation of the standard measures listed in the Construction Phase Environmental Management Plan, will satisfactorily mitigate emissions from spillages during construction and operation. The operational development will connect to mains services and discharge surface waters only after passing through fuel interceptors and SUDS. Surface water drainage will be separate to foul services within the site.	No
1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	There is potential for construction activity to give rise to noise emissions. Such emissions will be localised and short term in nature, and their impacts would be suitably mitigated by the operation of standard measures listed in the Construction Phase Environmental Management Plan.	No

<p>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</p>	<p>Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of standard measures within the Construction Phase Environmental Management Plan would satisfactorily address potential risks on human health. No significant operational impacts are anticipated for the piped water supplies in the area.</p>	<p>No</p>
<p>1.9 Will there be any risk of major accidents that could affect human health or the environment?</p>	<p>No significant risk is predicted having regard to the nature and scale of the development. Any risk arising from demolition and construction will be localised and temporary in nature. The site is not at risk of flooding.</p>	<p>No</p>
<p>1.10 Will the project affect the social environment (population, employment)</p>	<p>Development of this site would result in an increase in population in this area. The development would provide housing that would serve towards meeting an anticipated demand in the area.</p>	<p>No</p>
<p>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p>	<p>No</p>	<p>No</p>
<p>2. Location of proposed development</p>		
<p>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ul style="list-style-type: none"> a) European site (SAC/ SPA/ pSAC/ pSPA) b) NHA/ pNHA c) Designated Nature Reserve d) Designated refuge for flora or fauna e) Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan 	<p>The nearest European sites are listed in Appendix B of this report and other designated sites are referenced in the application AA Screening Report. Protected habitats or habitats suitable for substantive habituating of the site by protected species were not found on site during ecological surveys. The proposed development would not result in significant impacts to any protected sites, including those downstream.</p>	<p>No</p>

<p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be significantly affected by the project?</p>	<p>The proposed development would not result in significant impacts to protected, important or sensitive species</p>	<p>No</p>
<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>The site is not within an area of archaeological potential. However, any impact will be mitigated by Archaeological monitoring on site. Adjoining Protected Structures are removed from the site. The impact of the development is not anticipated to be significant.</p>	<p>No</p>
<p>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</p>	<p>No such features are in this urban location, with the site separated from agricultural areas by intervening urban lands and road infrastructure</p>	<p>No</p>
<p>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</p>	<p>The development will implement SUDS measures to control surface water run-off. The development would not increase risk of flooding to downstream areas with surface water to discharge at greenfield runoff rates.</p>	<p>No</p>
<p>2.6 Is the location susceptible to subsidence, landslides or erosion?</p>	<p>No</p>	<p>No</p>
<p>2.7 Are there any key transport routes(eg National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?</p>	<p>The site is served by a local road network. No significant contribution to traffic congestion is anticipated to arise from the proposed development.</p>	<p>No</p>
<p>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be significantly affected by the project?</p>	<p>The site is in close proximity to hospitals and schools. However, there is no negative impact anticipated as a result of the proposal.</p>	<p>No</p>

3. Any other factors that should be considered which could lead to environmental impacts

3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	No existing or permitted developments have been identified in the immediate vicinity that would give rise to significant cumulative environmental effects with the subject project.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	No
3.3 Are there any other relevant considerations?	No	No

C. CONCLUSION

No real likelihood of significant effects on the environment.	Agreed <input type="checkbox"/>	EIAR Not Required
Real likelihood of significant effects on the environment.	<input type="checkbox"/>	[REDACTED]

D. MAIN REASONS AND CONSIDERATIONS

Having regard to

- the nature and scale of the proposed development, which is below the threshold in respect of classes 10(b)(i), 10(b)(iv) and 14 of Part 2 to Schedule 5 of the Planning and Development Regulations 2001-2022;
- the location of the proposed residential units on lands zoned within the Kerry County Development Plan 2022-2028 as *R1- New/Proposed Residential and R2- Existing Residential*, and the results of the Strategic Environmental Assessment of the Development Plan;
- the nature of the existing site and the pattern of development in the surrounding area;
- the availability of mains water and wastewater services to serve the proposed development;

- the location of the development outside of any sensitive location specified in Article 299(C)(1)(a)(v) of the Planning and Development Regulations 2001, as revised.
- 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 revised, and;
- the features and measures proposed by the applicant that are envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified to be provided as part of the project Construction & Environmental Management Plan, the Outline Resource & Waste Management Plan, the Archaeological Assessment and the Engineering Services Report. It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not, therefore, be required.

Inspector

Date

Appendix B – Appropriate Assessment Screening Determination

Screening for Appropriate Assessment Screening Determination

1: Description of the project

I have considered the Greenville Road LRD in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

There are no European sites in the immediate vicinity of the proposed development site. The closest European site to the proposed development is the Lower River Shannon SAC is the closest Natura 2000 site which is located approximately 0.3km southeast of the proposed development site.

The proposed development comprises the construction of 62 houses and 40 apartments and associated site development works.

The site is suburban urban in nature. Landcover at the proposed project site is classified as 'Pastures' (Code: 231) The predominant land use surrounding the proposed project site is classified as 'Pastures' (Code: 231) and "Artificial Surfaces" (Code:112)

There are no Annex I habitats present within the proposed development site or immediate environs. The main habitats within the proposed project site comprise existing buildings and artificial surfaces, hedgerow and treeline, amenity grassland/grass verge, recolonising bare ground, spoil and bare ground and drainage ditches. The habitat types are described in greater detail in the Ecological Impact Assessment Report accompanying this application.

The 'Mill Stream' adjoins the northern boundary of the site. **The 'Mill Stream' flows in a south-westerly direction before eventually draining to the River Feale**, a 6th order watercourse, approximately 1.8 km downstream. The River Feale, located 0.4 km south-east of the site boundary at the closest overland point, eventually drains to the mouth of the Shannon Estuary. There are two artificial drainage ditches bordering the west and east of the site. Each of the drains run in a south north direction and join the Mill Stream.

In relation to hydrology, the AA Screening Report notes the proposed project site is located within the Galey_SC_020 subcatchment (ID: 23_1). While the proposed project site itself is in this subcatchment the drain to the north of the site connects with the waterbody Feale_090. The Feale_090 was designated as "moderate" water quality status in the 2013-2018 monitoring period. The waterbody was assessed as being "At Risk". A more recent monitoring result is available from a monitoring station upstream of the proposed development - RS23F010725. This monitoring station records a Q Value of 4 (Good) in 2023. In line with Cycle 2 of the WFD, the EPA on 20th September 2022 prepared a subcatchment assessment for the Feale_SC_0405. This report contains a list of all

significant pressures identified in the subcatchment, with hydromorphology and land drainage identified as the significant pressures identified on the waterbody.

In relation to hydrogeology, the AA Screening Report notes that the underlying GSI bedrock aquifer is categorised as a 'Locally Important Aquifer - Bedrock which is Moderately Productive only in Local Zones' (LI) with the underlying bedrock aquifer to the south of the proposed development site categorized as a 'Regionally Important Aquifer - Karstified (diffuse)' (Rkd). The groundwater vulnerability of the aquifer is recorded as 'Low'.

Submissions and Observations

The planning authority referred to the application to the relevant prescribed Bodies. The submission for Inland Fisheries Ireland is noted in section 4.2 of the main report above.

2. Potential impact mechanisms from the project

Zone of Influence

All of the European sites present in the vicinity of the proposed development are shown on Figure 3 of the AA screening report submitted and the QIs/SCIs of the European sites in the vicinity of the proposed development are provided in Table 1 and Table 2.

In carrying out my assessment I have had regard to the nature and scale of the project, the distance from the site to Natura 2000 sites, and any potential pathways which may exist from the development site to a Natura 2000 site, aided in part by the EPA Appropriate Assessment Tool (www.epa.ie), as well as by the information on file, and I have also visited the site.

- The application site is not located within or adjacent to any European site. The nearest waterbody to the subject site is the Mill Stream which defines the northern site boundary. The proposed development at its nearest point is identified 34m south of the stream. There is an indirect hydrological connection to this waterbody via surface water drainage (during construction and operation) to the Lower River Shannon SAC (Site code 002165) via the proposed surface water drainage strategy.
- I am satisfied that there is no potential for direct, indirect or cumulative effects on any other European site identified in Table 1 and Table 2 of the AA Screening Report submitted and these sites can be screened out at Stage 1 on the basis that there will be no direct or indirect effects due to lack of hydrological connectivity, thus no complete source-pathway-receptor chain and / or no habitat present for the relevant species (including breeding and foraging habitat), also distance and intervening land uses between the development site and the relevant European Site. I conclude that it is reasonable to conclude on the basis of the available information that the potential for likely significant effects on these sites can be excluded at the preliminary stage.

- In addition, I note that there is a minimum separation distance of 5km from the appeal site to the nearest SPA. On this basis, I do not consider that the proposed development has the potential for disturbance of qualifying species, by reason of noise, vibration, dust, human activity, or otherwise. Furthermore, based on the site habitat and the site surveys completed, I would agree that the site is not a significant ex-situ foraging or roosting site, and no significant effects are likely for the species of qualifying interest from any of the SPAs.

Having regard to the foregoing, my screening assessment will focus on the impact of the proposal on the conservation objectives of the Lower River Shannon SAC (Site code 002165). I am satisfied that no other European Sites fall within the possible zone of influence.

Conclusion on the extent of the Zone of Influence

Using the source-pathway-receptor model, surface water from the proposed development will ultimately drain to the Lower River Shannon SAC to the south of the site, and therefore may indirectly have an impact. Therefore, the European site with qualifying interests, which are potentially linked to the proposed development is Lower River Shannon SAC (Site code 002165)

Having regard to the foregoing, my screening assessment will focus on the impact of the proposal on the conservation objectives of the European Sites and their qualifying interests as summarised in the table 1 below. I am satisfied that no other European Sites fall within the possible zone of influence.

3. European Sites at risk

Having regard to the potential ZOI and the submitted AA document, the following Natura 2000 site is identified as requiring further consideration for potential impacts due to possible indirect hydrological connections between the development and the European Site:

- **Lower River Shannon SAC (Site code 002165)**

The Qualifying Interests of the Lower River Shannon SAC (Site code 002165) are described under Table 1 below. A brief description is also provided.

Table 1 European Sites at risk from impacts of the proposed project			
Effect mechanism	Impact pathway/Zone of influence	European Site(s)	Qualifying interest features at risk

<p>Habitat degradation as a result of hydrological impacts</p> <p>Habitat Loss and Fragmentation</p>	<p>Indirect pathway via Mill Stream. ca. 1.8km – hydrological distance ca 0.3km – straight line distance</p>	<p>Lower River Shannon SAC (Site code 002165)</p>	<p>1029 Freshwater Pearl Mussel <i>Margaritifera margaritifera</i> 1095 Sea Lamprey <i>Petromyzon marinus</i> 1096 Brook Lamprey <i>Lampetra planeri</i> 1099 River Lamprey <i>Lampetra fluviatilis</i> 1106 Atlantic Salmon <i>Salmo salar</i> (only in fresh water) 1110 Sandbanks which are slightly covered by sea water all the time 1130 Estuaries 1140 Mudflats and sandflats not covered by seawater at low tide 1150 *Coastal lagoons 1160 Large shallow inlets and bays</p> <p>1170 Reefs 1220 Perennial vegetation of stony banks 1230 Vegetated sea cliffs of the Atlantic and Baltic coasts 1310 <i>Salicornia</i> and other annuals colonizing mud and sand 1330 Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) 1349 Bottlenose Dolphin <i>Tursiops truncatus</i> 1355 Otter <i>Lutra lutra</i> 1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>) 3260 Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation 6410 <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) 91E0 *Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>)</p>
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Lower River Shannon SAC (site code: 002165)

This This very large site stretches along the Shannon valley from Killaloe in Co. Clare to Loop Head/ Kerry Head, a distance of some 120 km. The site thus encompasses the Shannon, Feale, Mulkear and Fergus estuaries, the freshwater lower reaches of the River Shannon (between Killaloe and Limerick), the freshwater stretches of much of the Feale and Mulkear catchments and the marine area between Loop Head and Kerry Head. Rivers within the sub-catchment of the Feale include the Galey, Smearlagh, Oolagh, Allaughaun, Owveg, Clydagh, Caher, Breanagh and Glenacarney. Rivers within the sub-catchment of the Mulkear include the Killeenagarrieff, Annagh, Newport, the Dead River, the Bilboa, Glashacloonaraveela, Gortnageragh and Cahernahallia.

Freshwater rivers have been included in the site, most notably **the Feale** and Mulkear catchments, the Shannon from Killaloe to Limerick (along with some of its tributaries, including a short stretch of the Kilmastulla River), the Fergus up as far as Ennis, and the Cloon River. These systems are very different in character: the Shannon is broad, generally slow flowing and naturally eutrophic; the Fergus is smaller and alkaline; while the narrow, fast flowing Cloon is acid in nature. **The Feale and Mulkear catchments exhibit all the aspects of a river from source to mouth. Semi-natural habitats, such as wet grassland, wet woodland and marsh occur by the rivers, but improved grassland is the most common habitat type.** One grassland type of particular conservation significance, *Molinia* meadows, occurs in several parts of the site and the examples at Worldsend on the River Shannon are especially noteworthy. Here are found areas of wet meadow dominated by rushes (*Juncus* spp.) and sedges (*Carex* spp.), and supporting a diverse and species-rich

vegetation, including such uncommon species as Blue-eyed Grass (*Sisyrinchium bermudiana*) and Pale Sedge (*C. pallescens*).

I refer the Board to www.npws.ie/sites/default/files/protected-sites/synopsis/SY002165.pdf for complete Site Synopsis.

4.. Likely significant effects on the European site(s) ‘alone’

I refer the Board to Section 4.9 of the AA which details the *Assessment of Effects on European Sites*

Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on the Lower River Shannon SAC relate to:

- Surface water run-off containing silt, sediments and/or other pollutants into the Mill Stream from the proposed development site during the construction and operational phases.
- Habitat Loss and Fragmentation including loss of potential ex-situ feeding/roosting grounds by species listed as SCI species or associated with the nearby SAC/SPAs.

Table 2: Could the project undermine the conservation objectives ‘alone’

European Site and qualifying feature	Conservation objective	Could the conservation objectives be undermined (Y/N)?	
		Habitat degradation as a result of Hydrological	Habitat Loss and Fragmentation
Lower River Shannon SAC (site code: 002165)	www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002165.pdf		
1029 Freshwater Pearl Mussel <i>Margaritifera margaritifera</i>	To restore the favourable conservation condition (RFC)	N	N

1095 Sea Lamprey <i>Petromyzon marinus</i>	RFC		
1096 Brook Lamprey <i>Lampetra planeri</i>	To maintain favourable conservation condition (MFC)	N	N
1099 River Lamprey <i>Lampetra fluviatilis</i>	MFC	N	N
1106 Atlantic Salmon <i>Salmo salar</i> (only in fresh water)	RFC	N	N
1110 Sandbanks which are slightly covered by sea water all the time	MFC	N	N
1130 Estuaries	MFC	N	N
1140 Mudflats and sandflats not covered by seawater at low tide	MFC	N	N
1150 *Coastal lagoons	RFC	N	N
1160 Large shallow inlets and bays	MFC	N	N
1170 Reefs	MFC	N	N
1220 Perennial vegetation of stony banks	MFC	N	N
1230 Vegetated sea cliffs of the Atlantic and Baltic coasts	MFC	N	N
1310 <i>Salicornia</i> and other annuals colonizing mud and sand	MFC	N	N
1330 Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>)	RFC	N	N
1349 Bottlenose Dolphin <i>Tursiops truncatus</i>	MFC	N	N
1355 Otter <i>Lutra lutra</i>	RFC	N	N
1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>)	RFC	N	N

3260 Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation	MFC	N	N
6410 Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae)	MFC	N	N
91E0 *Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae)	RFC	N	N

Assessment of Likely Significant Effects on Designated Sites

Habitat Loss and Fragmentation including loss of potential ex-situ feeding/roosting grounds by species listed as SCI species or associated with the nearby SAC/SPAs

- Given the distance between the proposed development and the marine QIs of the SAC and the attenuation potential of the River Feale, it is not considered that there will be any likely significant effect on the marine type qualifying interests. With regard to the freshwater type habitats, it was noted during the field survey that none exist within the Mill Stream due to heavy siltation and consistent disturbance to the substrate due to dredging being undertaken as part of the arterial drainage works.
- Therefore, with regard to salmon, lampreys, and freshwater pearl mussel, there will be no significant direct disturbance/displacement impacts on these aquatic QIs of the Lower River Shannon SAC given the distance from the proposed development and negligible water quality impacts. It is concluded therefore that there will be no impacts on salmon, lampreys, and freshwater pearl mussel
- There are no records of 91E0 - *Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno- Padion, Alnion incanae, Salicion albae), nor was the habitat type noted in the vicinity of the proposed development during the field survey. Similarly, there are no records of 3260 - Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion within the vicinity of the proposed development and it was not noted during the field survey.
- As regards Otter, I note that no otter holts or signs were noted in the field survey of the proposed development site. There is a sluice gate preventing any moderately sized aquatic species from

swimming up the Mill Stream from the River Feale. As such the Mill Stream cannot contain sufficient biomass to sustain otters. The prey items of otter would not be affected so neither would otter.

- Therefore, the proposed development will not result in significant indirect disturbance / displacement impacts (poor habitat/reduction in prey items, etc.) on the species protected within the Lower River Shannon SAC. I agree with the AA Screening report that the proposed development site and environs do not provide suitable conditions for any QI's of the Lower River Shannon SAC.
- Similarly, having regard to separation from European sites, construction or operational activity thereon will not result in any disturbance or displacement of qualifying interests of the identified sites. No ex-situ impacts on qualifying species are therefore considered likely. Any potential pathway is via discharges to the surface water drainage network.

Surface water run-off containing silt, sediments and/or other pollutants into the Mill Stream from the proposed development site during the construction and operational phases

- During the construction phase of development all construction phase water will be directed to the drainage system. Best practice standards, environmental guidelines and mitigation measures will be defined in the CEMP and adhered to in order to avoid impacts on soil quality; therefore, overall, significant effects from pollution impacts on the existing land and soils environmental are not anticipated during the construction phase.
- The drainage design for the proposed development has been designed in accordance with the principles of Sustainable Urban Drainage Systems (SUDS) as per the recommendations of the Greater Dublin Strategic Drainage Study (GDSDS) which have been incorporated into the project at design stage, such as tree pits, bioretention rain gardens and soak-aways throughout the site to enhance storm water infiltration. Surface water from the operational phase of the proposed development will ultimately be discharged at a controlled rate to the Mill Stream. The implementation of appropriate control measures (including an emergency spill response plan) and best management practices will reduce the risk of accidents from polluting substances entering soil and groundwater. The risk of disasters (typically considered to be natural catastrophes e.g., very severe weather event) or accidents (e.g., fuel spill, traffic accident) is considered low.
- These SuDS measures are proposed to reduce the quantity of surface water discharge from the site, and to improve discharge water quality. These installations have not been introduced to avoid or reduce an effect on any effect on any Natura site and would be introduced as a standard measure on such housing developments, regardless of any direct or indirect hydrological

connection to a Natura 2000 site. They constitute the standard approach for construction works in an urban area. I am satisfied that the surface water design features proposed at operational stage will ensure the quality of surface water run-off will be sufficient so as not to result in any likely significant effects on any Natura 2000 within the River Shannon SAC, or any other Natura 2000 sites, having regard to the sites' conservation objectives. Notwithstanding, and even if these standard work practices were not employed, or should they fail for any reason, and pollutants enter the River Shannon SAC indirectly via the surface water network, I am satisfied that any such contaminants would be sufficiently dispersed and diluted within the surface water network such that likely significant effects on those Natura 2000 site can be ruled out.

As noted the SFRA identified the site in Flood Zone C. The primary flood source to the site will be from pluvial sources. The topography and the sites elevated nature ensures that the lowest proposed floor level in the development will be positioned above any potential flood levels in the area.

I refer the Board to section 4.9 *Assessment of Significance of Potential Impacts* of the AA screening report. I agree with the conclusion presented therein.

5: Where relevant, likely significant effects on the European site(s) 'in-combination with other plans and projects'

In combination or Cumulative Effects

Section 4.6 of the AA Screening Report identifies Other Projects, Plans Or Activities. The applicant's AA Screening Report has considered cumulative / in-combination impacts (section 4.10). In particular, the Screening Report addresses the impacts and activities with high effect on the Lower River Shannon SAC as outlined in the sites Natura 2000 Standard Data Form. These are limited to 'Medium' and 'Low' ranking threats and pressures; I refer the Board to Table 5 of the AA Screening Report. The main threats to the site, ranked as medium include agriculture (fertilisation, grazing), urbanisation, residential and commercial development, and reclamation of land. Lesser threats include invasion by non-native species, sylviculture, forestry and removal of beach materials. The main potential impact of the proposed development is water quality impacts. I have addressed this in the foregoing section. The report concludes and I would agree that no projects or plans would act in-combination with the proposed development to cause any likely significant effects on any European sites.

While I acknowledge that there would be a cumulative effect with other developments as a result of increased wastewater loading. It is proposed that wastewater from the operational development will discharge to the existing public foul system and from there to Listowel Urban Wastewater Treatment (UWWT) plant (D0179). This UWWT plant discharges treated effluent (following secondary treatment) into the River Feale. Uisce Eireann have raised no concerns in this regard.

I am satisfied that there would be no potential for significant cumulative / in-combination effects on the River Shannon SAC as a result of wastewater loading.

Regarding the cumulative effect in relation to surface water discharge all other developments will be required to incorporate appropriate construction management measures and to incorporate GSDS requirements to suitably manage the quantity and quality of surface water discharge. Accordingly, I am satisfied that there would be no potential for significant cumulative / in-combination effects on the River Shannon SAC a result of surface water.

The Kerry County Development Plan 2022-2028 includes a range of objectives intended to protect and enhance the natural environment, including those relating to European Sites, wastewater management, and surface water management. These objectives have themselves been subject to Appropriate Assessments, which have concluded that their implementation would not adversely affect the integrity of European sites.

It is reasonable to conclude that on the basis of the information on the file, which I considered 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 the Lower River Shannon SAC (Site Code 002165) or any European site, in view of the sites' conservation objectives.

Overall Conclusion- Screening Determination

I conclude 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. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is not required.

I am satisfied the potential for significant effects, as a result of surface generated during the construction and operational stages, on the qualifying interests of the applicable Natura 2000 site, the Lower River Shannon SAC can be excluded having regard to the following:

- During the construction stage best practice standards, environmental guidelines and mitigation measures will be adhered to in order to avoid impacts on surface water.
- Should a pollution event occur during the construction phase, due to the accidental spillage or release of contaminants, this would not be of such magnitude so as to have a significant adverse effect on downstream water quality in the River Feale (Lower River Shannon SAC) due to the level of separation and the dilution arising from the volume of water between the sites.
- There will be an improvement in surface water run-off during the operational phase, relative to the existing situation, as surface water will be attenuated/ part treated within the site.

There is no potential for impacts on the qualifying interests due to noise and other disturbance impacts during construction and operational phases given the level of separation between the sites. While there is a potential risk of noise and disturbance during construction to ex-situ qualifying species, no significant effects are predicted as it is unlikely that the qualifying species will use habitats within the subject lands and in any case the proposed development is not likely to result in a significant increase in noise and disturbance over the existing levels.

Summary

No significant water quality impacts are not predicted, habitat loss/alteration within the Lower River Shannon SAC are not foreseen, and significant disturbance or displacement of any of the qualifying interest species is not expected to ensue. Taking account of the temporary nature of the construction works, the potential ecological impacts which have been identified, it is concluded that there will be no significant direct or indirect habitat loss/alteration to the nearby Lower River Shannon SAC as a result of the proposed development. In addition, the proposed works will not result in significant disturbance/displacement impacts to species protected within any Natura 2000 site.

No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.