



An
Bord
Pleanála

Inspector's Report ABP-320357-24

Development	Outline permission for 38 houses and associated site works.
Location	The Farm, Clash West, Tralee, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	24/192
Applicant(s)	Thomas King
Type of Application	Outline Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Thomas King
Observer(s)	Eamon Deegan
Date of Site Inspection	25 th November 2024
Inspector	Emma Gosnell

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1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 1.63 hectares (ha) and is located on the west side of Clash Road (L-2016) in the north-east environs of Tralee town.
- 1.2. The site forms part of a larger residentially zoned landholding of approx. 15.56ha which extends as far as the Racecourse Road to the north, being enclosed by the Ard Na Li residential estate to the west and by Clash Road the east.
- 1.3. Clash Road is a 2-lane carriageway which features pedestrian pathways on both sides with a cycle lane (inbound) on its east side only. The pathway on the west side adjoining the site is relatively narrow with intermittent street lighting. There is a pedestrian crossing located circa 10m to the north-east of the site.
- 1.4. The site adjoins the Coláiste Gleann Lí (Tralee Community College) complex and 2 no. large detached residential properties to the south, an open space serving the Ard Na Lí residential estate to the west, with a detached residence and further agricultural buildings and fields to the north. The Clash Industrial Estate is located directly across the road from the site to the east.
- 1.5. The site is generally rectangular in shape and comprises of greenfield agricultural lands enclosed by ditches and hedgerows. The east side of the site, which adjoins Clash Road, is enclosed metal fencing and features stands of mature trees together with farm machinery and 2 no. farm buildings which are proposed to be demolished.

2.0 Proposed Development

- 2.1 The proposed development comprises outline permission for the demolition of 2 no. existing out-houses (80sq.m) and the construction of 38 no. 2-storey residential dwelling units and associated areas of communal/ public open space, with a mix of in-curtilage and shared resident parking, visitor and disabled parking and a new estate entrance off Clash Road (L-2016), together with a further partial access road to facilitate the future development of lands to the north and all ancillary site works.

3.0 Planning Authority Decision

3.1. Decision

Outline permission refused for 5 no. reasons:

“1. In the absence of a masterplan for the site and adjoining landholding in accordance with the policies, objectives and Development Management Standards set out in Volume 6, Chapter 1 of the Kerry County Development Plan 2022-2028 and guidelines issued under Section 28 of the Planning and Development Act, it is considered that that proposed development would be premature. It is considered that the proposal would result in piecemeal and haphazard development resulting in in adequate provision of social and physical infrastructure and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. On the basis of the information submitted, in relation to the proposed junction onto the L-2073 Clash Road, the Planning Authority is not satisfied that the proposed development would not endanger public safety, pose a traffic hazard or otherwise. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3. In the absence of an Archaeological Impact Assessment for the proposed development, the Planning Authority is not satisfied that the proposed development would not injure or interfere with the archaeological heritage of the area. The proposed development would contravene Objective KCDP 8-24 of the Kerry County Development Plan 2022-2028, to secure the preservation in situ of all sites, features, protected wrecks and objects of archaeological interest within the county. Therefore, the proposed development would therefore be contrary to the proper planning and sustainable development of the area.

4. In the absence of an Ecological Impact Assessment or Biodiversity Impact Assessment for the proposed development, the Planning Authority is not satisfied that the proposed development would not contravene Volume 1, Section 11 and Objectives KCDP 11.1, KCDP 11.4, KCDP 11.21, KCDP 11.22, KCDP 11.25, KCDP 11.42, and KCDP 11.44 of the Kerry County Development Plan 2022-2028. It is considered, the proposed development would cause significant adverse effect to, or, interfere with the

ecology and biodiversity of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

5. In the absence of a Surface Water Management Plan for the proposed development, the Planning Authority is not satisfied that the proposed development would comply with the requirements of Sections 11.5 and 13.24; and, Objectives 11-69 and 13.21 of the Kerry County Development Plan 2022-2028. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

3.2.1. Planning Reports

A planning report (dated 10/07/2024) formed the basis of the planning authority's (PA) assessment and recommended that outline permission be refused. The report considered the following:

- Principle of infill development and compliance with residential zoning objective was deemed acceptable.
- Pre-application consultation (PAC) discussions re: site zoning, applicability of LRD versus normal planning process, and non-acceptability of outline or piecemeal residential development proposals given extent of applicant's zoned landholding.
- Policy/ guidelines on high quality residential development not addressed and lack of detail provided on future residential amenities (public/ private open space).
- Proposed design and layout based on 2003 masterplan, does not adhere to KCDP and Section 28 Guidance or meet contemporary standards.
- Need updated/ detailed masterplan for entire landholding as part of LRD process.
- Proposal's visual impact and insufficient details on future scheme visual amenity.
- Insufficient assessment of proposal's likely ecological and biodiversity impacts.
- No Archaeological Impact Assessment (AIA) undertaken, concern about impact.
- Likely traffic impact/ hazard arising from vehicular access onto Clash Road.
- Difficulty assessing traffic impact due to absence of masterplan for full landholding.

- Surface-water management via attenuation tanks non-compliant with KCDP policy.

3.2.2. Other Technical Reports

- County Archaeologist (31/05/2024) – notes no recorded monuments in vicinity of site. Given that site is over 0.5ha, recommends AIA including pre-development archaeological testing requested by way of further information (FI).
- Drainage Planning (15/07/2024) – recommends FI on surface/ storm water management policy compliance.
- Flooding and Coastal Protection Unit (17/06/2024) – requests a site-specific flood risk assessment due to pluvial flood risk/ risk of site drainage system failure and seeks that discharge to greenfield rates maintained by developer.
- Roads, Transport and Marine Department (25/06/2024) – recommends requesting FI on development masterplan for full landholding to be accompanied by a traffic impact assessment, road safety audit, detailed L-2073 junction proposals, active travel proposals, mobility impact assessment and detailed stormwater management plan.
- Housing Estates Unit (11/06/2024) – recommends FI sought in on sightlines, public realm, boundary treatments, road markings and finishes, traffic signage, road safety audit, fire hydrants, public lighting, drainage and parking and circulation proposals. Recommends conditions attached in respect to DMURS, planning bond, safeguarding of public footpath and site development works standards.
- Environmental Assessment Unit (05/07/2024) – recommends that the applicant be requested to submit a surface-water management plan and a concise ecological impact assessment (to incl. a bat impact assessment) via FI.

3.3. Prescribed Bodies

- #### 3.3.1.
- Uisce Eireann (UE) (19/06/2024) – advises that applicant submit a new Pre-Connection Enquiry (PCE) to it in order to assess feasibility of connection to public infrastructure. Outcome to be submitted to PA as FI.

3.3.2. Department of Housing, Local Government and Heritage (21/06/2024) – recommends bat survey undertaken prior to works commencing.

3.3.3. An Taisce (20/06/2024) – recommends preparation and implementation of a Biodiversity Management Plan and a Building Lifecycle Report. Raises concerns with predominance of hardstanding and implications for sustainable drainage.

3.4. **Third Party Observations**

None.

4.0 **Planning History**

4.1. **Site**

P.A. Ref. 08/396653 – Permission refused on 30th October 2008 for an extension to the duration of the permission granted under P.A. Ref. 03/306653 for 1 no. reason: the PA not satisfied that substantial works had been carried out pursuant to the permission in compliance with Section 42(1) of the 2000 Planning Act.

P.A. Ref. 03/306653 – Permission granted on 12th February 2004 for (a) outline permission for development of 48 no. 2-storey dwelling houses and (b) full permission for roads and services with connection to public sewers and services and new entrance road onto Clash Road to serve the development, subject to standard conditions. [I wish to draw the Board's attention to the fact that this permission related to a larger area (2.5ha) of land which included the appeal site].

Residential Zoned Land Tax

ABP Ref. VU08.320398 – First party appeal in respect to the inclusion of lands at Clash West, Tralee, Co. Kerry (including the appeal site) on the Residential Zoned Land Tax (RZLT) Final Map – Board confirmed the determination of the PA, Kerry County Council (KCC), on 20th September 2024.

ABP Ref. VY08.316833 - First party appeal in respect to the inclusion of lands at Clash West, Tralee, Co. Kerry (including the appeal site) on the RZLT Draft Map - Board confirmed the determination of KCC on 19th September 2023.

4.2. Neighbouring Sites

Lands to North (off Racecourse Road)

P.A. Ref. 17/165 – Permission granted on 25th August 2017 for the construction of 8 no. 2-storey dwellings and service road and all associated works at Cluain Ri, Racecourse Road subject to 25 no. conditions.

Lands further to the North (Muing East Townland, Clash)

P.A. Ref. 2460695 – Permission granted for 256 no. residential units (138 no. 2-storey houses and 118 no. maisonette units) with creche, landscaping and all ancillary works with new entrance off Clash Road ('Clash Road LRD') subject to 33 no. conditions. Decision is currently subject to live 1st and 3rd party appeals under ABP Ref. LH08.321298 with the case due to be decided by 21/03/2025.

It is noted that the applicant/ 1st party appellant on this appeal appears to be one of the 3rd party appellants in respect of the PA's decision on this LRD application and raises issues in respect to the safety of site access/ egress arrangements, the adequacy of sightlines and future residential amenity.

5.0 Policy Context

5.1. National Policy

5.1.1. National Planning Framework (2018)

- NSO 1: Compact Growth
- NSO 4: Sustainable Mobility
- NSO 9: Sustainable Management of Water, Waste and Environmental Resources
- NPO 57: Enhance Water Quality and Resource Management.

5.1.2. Section 28 Guidance/ Other National Guidance

The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (DoHLGH, 2024)

- Section 5.3.3 Public Open Space
- Policy and Objective 5.1 - Public Open Space

Nature Based Management of Urban Rainwater and Urban Surface Water Discharges - A National Strategy (DoHLGH, 2024)

Design Manual for Urban Roads and Streets (DoHLGH, 2019)

Spatial Planning and National Roads Guidelines for Planning Authorities (DoECLG, 2012)

The Planning System and Flood Risk Management - Guidelines for Planning Authorities and Technical Appendices (DoHLGH, 2009) and Circular PL2/2014

Quality Housing for Sustainable Communities Best Practice Guidelines for Delivering Homes and Sustaining Communities (2007)

5.2. **Kerry County Development Plan 2022-2028 (KCDP)**

Volume 1 – Written Statement

Chapter 2 - Climate Change & Achieving A Sustainable Future

- Objectives KCDP 2-5 & KCDP 2-10 (nature-based solutions), KCDP 2-11 (active travel), KCDP 2-18 (sustainable drainage)

Chapter 4 - Towns and Villages

- Objectives KCDP 4-10, 4-15 (DMURS), 4-18 (Active Modes) & KCDP 4-40 (S. 28 Guidance)

Chapter 8 – Gaeltacht Areas, Culture & Heritage

- Objectives KCDP 8-24 & 8-27 (archaeology)

Chapter 11 – Environment

- Objectives KCDP 11-21 (habitat map), 11-22 (hedgerows), 11-66 (flood risk) & 11-69 (storm water attenuation)

Chapter 13 - Water and Waste Management

- Sections 11.5 (Land Use & Flood Risk Management) and 13.2.4 (Storm Water Management). Objectives KCDP 13-21 (sustainable drainage) & 13-24 (SuDS)

Volume 2 - Town Development Plans

1 – Tralee - Tralee Town Maps B (Zoning and Flood Risk)

Volume 4 – Maps

1 - Tralee, Killarney & Listowel Zoning Maps

- Tralee town zoning map illustrates how easternmost portion of site adjoining Clash Road is zoned 'R2: Existing Residential' while remainder of site is zoned 'R1: New/ Proposed Residential'. Also, national monument located to north-west of site.
- The 15.56ha Clash West landholding is identified in the settlement capacity audit under the Tralee Town Plan (R1 zoned lands identified as T-7) and is determined to have the potential to deliver 350-420 residential units excluding the R1 zoned portion adjoining Clash Road.

Volume 6

1- Development Management Standards & Guidelines

- Section 1.3.2 (Development in Existing Residential/Built Up Areas (R2/M2/M4))
- Section 1.5.1.1 (Design Statements)
- Section 1.5.4 (General Residential Development Design Standards)

All applications for residential developments shall include a phasing plan. Phasing proposals shall ensure that open space and infrastructure to serve dwellings in a given phase for example public lighting, footpaths, and community facilities such as crèches and playgrounds are completed to the satisfaction of the Planning Authority prior to the initiation of the succeeding phase.

- Section 1.5.4.4 (Public Open Space)

Public open space should be provided at a minimum rate of 15% of total site area. The open space should be designed to complement the residential layout and be informally supervised by residents. The spaces should generally be centrally located within groupings, and be visually and functionally accessible, of a suitable gradient, useable and overlooked by a maximum number of dwellings. Incidental pieces of unusable land shall not be considered to fulfil or partially fulfil the 15% requirement; for example, narrow tracts of open space, which are difficult to manage, will not be acceptable.

- Section 1.5.4.13 (Phasing)

The Council will require a detailed phasing plan to be submitted with any planning application for residential or mixed-use development. The Phasing Plan shall indicate

how each phase shall be completed satisfactorily, in terms of roads/lighting/landscaping, etc. prior to an additional phase commencing.

- Section 1.5.10.5 (Entrance)

The application must demonstrate safe vehicular access to and from the proposed dwelling, in terms of visibility from the proposed entrance, but also in terms of the impact on traffic safety through the turning and stopping movement of vehicles entering or leaving the site. Should any remedial works be required on land outside the ownership of the applicant, letters of consent from the relevant landowners will be required, similarly if utility poles are to be relocated, letters of consent from utility providers shall be provided.

All applications should include (at a minimum scale of 1:500) comprehensive details of how adequate sightlines and stopping distances can be achieved according to the road category. Where satisfactory sightlines can only be achieved by removing extensive hedgerows, trees, ditches or stone walls and an alternative site should be sought.

Entrance gates shall be recessed 4.5m. behind the line of roadside hedgerow, with side boundaries splayed at an angle of 45 degrees to the public road carriageway. Opportunities for shared use of access or combining access points should be availed of.

5.3. Tralee Municipal District Local Area Plan (LAP) 2018-2024

- Built Environment Objectives - TR-BE-04 (DMURS)
- Natural Environment Objectives - TR-NE-02 (Flood Risk)

5.4. Natural Heritage Designations

The appeal site is not located within or adjoining any designated site.

The nearest European Sites and Natural Heritage Areas in close proximity to the appeal site are as follows:

- Tralee Bay Complex SPA (Site Code 004188) – approx. 2.5km to south-west.
- Tralee Bay and Magharees Peninsula, West to Cloghane SAC (Site Code 002070) approx. 2.6km to south-west.

- Tralee Bay And Magharees Peninsula, West To Cloghane pNHA (Site Code 002070) approx. 2.6km to south-west.

5.5. EIA Screening

See completed Form 2 (Preliminary Examination) in Appendix 2 which concludes that there is no real likelihood of significant effects on the environment based on the nature, size and location of the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal submission was received. The grounds of appeal can be summarised as follows:

Principle of Development/ Assessment Issues

- Site zoned for residential development, is adequately serviced/ accessible and its physical condition (re: archaeology) would not preclude the provision of housing.
- PA reasons for refusal contradict KCC's RZLT determination reasoning.
- Requirement for detailed assessments was not flagged by PA during the pre-planning application consultation (PAC) process and outline permission should not require same.

Masterplan/ Prematurity and Piecemeal Development

- 2003 masterplan was presented at 2024 PAC meeting and was referenced in applicant's cover letter.
- Site ecology, biodiversity and surface water management were all addressed in 2003 masterplan.
- Refusal on basis of prematurity/ piecemeal development not consistent with the phased development approach taken by PA on P.A. Ref. 17/165.

Traffic

- Proposal will not give rise to traffic hazard or endanger public safety due to the existing character of Clash Road and on basis that it has adequate sightlines.
- The Dept. of Education have long term plans to relocate from Clash Road and therefore, school traffic should have no bearing on traffic surveys/ traffic impact.
- Traffic on Clash Road has recently reduced due to closure of 3 no. large industrial employers in vicinity and the opening of the Tralee-Listowel bypass.

The appellant submits various documentation in support of their appeal including:

- Copy of decision order and agent's cover letter submitted with 2024 application.
- A letter dated 30/07/2024 from the applicant's agent 3DS Designs.
- Details of PAC consultation undertaken with PA in April 2024 and June 2003.
- 2024 RZLT determination from KCC and 2023 RZLT determination ABP.
- A copy of the Tralee Town Draft Development Plan 2009-2015 with appeal site and Dept. of Education site to south indicated.
- Undated extract (section on environmental effects) from 2003 Masterplan document prepared by Aspen Designs.
- Copy of October 2003 fax from Remac Limited re: stormwater attenuation drawing and calculations for a 15ha landholding at Clash, Tralee. No drawing provided.
- Masterplan layout and storm and foul sewer layout drawing dated November 2003.
- Partial copy of decision order in respect to P.A. Ref. 1882/95 (relocation and development of Regional Technical College Tralee on phased basis) and related 2016/ 2020 media articles.

6.2. Planning Authority Response

None received.

6.3. Observations

- 6.3.1 1 no. observation was received from Eamon Deegan of 43 no. Springfield Court, Cellbridge, Co. Kildare on 24th August 2024. The observer raises the following issues:

- Need for/ viability of proposal.
- Lack of supporting infrastructure/ amenities.
- Impact on wildlife and character of area.
- Local traffic impact.
- Concerns re: fire risk, quality of build, demolition/ construction phase impacts.

6.4. Further Responses

None received.

7.0 Assessment

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

- Principle of Development
- Masterplan/ Premature and Piecemeal Development
- Open Space (New Issue)
- Traffic/ Access
- Other Issues

7.1. Principle of Development

7.1.1. The observer on the appeal notes that the proposed development is not required and that the site/ Tralee is not a suitable location for such development.

7.1.2. The grounds of appeal contend that KCC's decision to refuse permission contradicts their own RZLT determination reasoning, given that the site is zoned for residential development with potential to deliver much needed housing.

7.1.3. The RZLT process is a separate process under Part 22A of the Taxes Consolidation Act 1997 (TCA) and does not prejudice subsequent planning applications which are assessed on their own merits under the Planning and Development Act (2000) as

amended. Notwithstanding, having reviewed the RZLT letter the applicant received from the PA in March 2023, it is clear to me that it simply lists the standard qualifying criteria for inclusion on KCC's Final RZLT Map (as per the TCA and Residential Zoned Land Tax - Guidelines for Planning Authorities (2022)) i.e. that the land is zoned for residential development, is serviced/ capable of being serviced and is not physically affected by matters such as archaeological remains to such an extent that it would preclude its residential development, rather than providing bespoke or site-specific comments. Furthermore, I do not agree with the applicant's contention that the PA's decision on the application (and specifically their refusal on the basis of archaeology and traffic/ access) contradicts the RZLT Determination as the decision reasoning clearly states that the PA were not satisfied, due to the substandard nature of the information submitted on potential traffic and the non-provision of an AIA, that the proposal would not interfere with or injure the archaeological heritage of the area or would not endanger public safety or give rise to traffic hazard. I am also of the view that the PA's concerns, as articulated in refusal reasons No's 2 and 3, do not equate to a sterilisation of the site for development on archaeological, servicing or access grounds.

- 7.1.4. Given that the proposed development is located on lands zoned for residential development (R1: New/ Proposed Residential and R2 – Existing Residential), I consider the principle of their development for residential purposes to be acceptable, subject to the detailed considerations below.

Level of Assessment

- 7.1.5. The appellant raises an issue in principle with the level of detail sought by the PA given that the application was for outline permission, and states that it is their intention to prepare a strategy for the development wider landholding following the granting of a permission on the appeal site.
- 7.1.6. I note that the objective of outline permission is to give consent in principle for a proposed development and that the applicant is required to provide the PA with enough information to make a decision about the siting, layout or other high level development proposals. However, I consider the level of detail provided by the applicant in respect to fundamental matters such as open space, surface-water

management and traffic access/ pedestrian safety to be insufficient for the reasons I set out in my assessment hereunder.

Surface Water Management

- 7.1.7. Concerns in respect to surface water management were raised by An Taisce and by the PA's Flooding and Coastal Protection Unit who requested a Site-Specific Flood Risk Assessment (SSFRA) due to the pluvial flood risk arising from the risk of a site drainage system failure. The PA's reason No. 5 for refusal cited the absence of a surface water management plan for the proposed development and non-compliance with Sections 11.5 (Land Use and Flood Risk Management), 13-21 and 13-24 (SuDS objectives) and 11-69 (storm water attenuation objective) of the KCDP.
- 7.1.8. The appellant contends that surface water management is not a factor that should be required to be addressed as part of an application for outline permission and states that surface water management was previously addressed as part of the 2003 masterplan.
- 7.1.9. I note that there has been a significant evolution in the overall approach to the management of stormwater and/ or surface water run-off in the last decade in response to climate change, water quality and flood risk issues. This evolution has necessitated a move away from the use of hard engineering and underground attenuation tanks and toward the use of sustainable drainage systems (SuDS) and nature-based solutions. This policy shift has occurred in line with the requirements of the Water Framework, Floods and Urban Wastewater Treatment Directives, and the guidance set out in the OPW Flood Management Guidelines (2009) and Nature Based Management of Urban Rainwater and Urban Surface Water Discharges - A National Strategy (DoHLGH, 2024).
- 7.1.10. Having regard to the aforementioned guidance together with that set out in Appendix C of the 2024 Compact Settlement Guidelines, I consider it best practice to produce a Surface Water Management Plan (SWMP) to guide the development of the appeal site. This SWMP would ensure the site's surface water is managed in a way that utilises and mimics natural processes, whilst protecting and enhancing the natural environment and mitigating against future pluvial flooding and climate change disruption.

7.1.11. Given the limited nature of the information submitted, a full assessment cannot be carried out to demonstrate compliance with national and KCDP policy guidance on sustainable drainage, SuDS, stormwater attenuation and flood risk as set out under objectives KCDP 11-66, 11-69, 13-21 and 13-24 of the plan. I also consider that the potential pluvial flood risk associated with the failure of the proposed storm drainage system within the site has not been adequately addressed by the appellant. On the basis of the aforementioned considerations, I consider that a refusal of permission on the basis of non-compliance with sustainable drainage policy and flood risk to be warranted.

Archaeology/ Ecology/ Biodiversity

- 7.1.12. The appellant is of the view that proposals for outline planning permission do not usually require the assessment of site archaeology, biodiversity and ecology and they note that the presence of archaeological remains should not preclude the development of the site for housing.
- 7.1.13. Having reviewed the file together with the requirements of objectives KCDP 8-24, 8-27, 11-21 and 11-22, I would agree that these matters would not necessarily preclude the development of the site for housing – particularly having regard to the existing agricultural character of the site, the applicant's commitment to retain existing hedgerows and the County Archaeologist's statement that there are no listed recorded monuments in vicinity of site.
- 7.1.14. An AIA, to establish whether there are any archaeological remains on site, could be addressed by condition. However, given that a grant of outline permission would result in the 'fixing' of the site's general arrangement, I consider that an assessment of features of ecological or biodiversity value on the site should have informed the proposed layout prior to the application being made. Having regard to the absence of detail on file in respect to potential features of ecological or biodiversity value (i.e. such as bat roosts, mature trees or important hedgerows etc.), it has not been clearly demonstrated how the proposal would comply with KCDP objectives 11-21 (habitat map) and 11-22 (hedgerows), notwithstanding that this is an application for outline planning permission.

7.2. Masterplan/ Premature and Piecemeal Development

- 7.2.1. The grounds of appeal refer to a 2003 masterplan for the development of the larger zoned landbank in Clash West which addressed the development of the overall landholding, assessed its ecological impact and provided a strategy for surface water management. I note that this masterplan for the site was prepared by the landowner, that it has no statutory basis and that it is not a site-specific or landbank-specific requirement of the current KCDP or the LAP. The appellant states that this masterplan was agreed with a KCC planning official in 2003, that it was presented to the PA during the 2024 PAC meeting and, was also referenced in the applicant's cover letter which accompanied their application for outline permission. As detailed in Section 6.1 of this report, an undated extract from this masterplan document was provided as part the appeal submission together with a masterplan layout and storm and foul sewer layout shown on the same 1:1000 drawing (dated November 2003). It appears to me that the 2024 layout proposed for the 38 no. houses and the proposed access is largely identical to that shown on the 2003 drawing.
- 7.3.1 This masterplan is not referred to in the PA's record of the 2024 PAC meeting, with the Planner stating in their report that the contents of the 2003 masterplan were not raised during the pre-planning stage. I note from the Planner's assessment that the 2003 masterplan was submitted with the original planning application (P.A. Ref. 03/306653) for the full Clash West landbank and that it has not been updated in the intervening period.
- 7.3.2 Given the 21 years that have elapsed between the preparation/ agreement of the 2003 masterplan and the current application for outline permission which is the subject of the current appeal before the Board, its validity and compliance with contemporary legislation and policy guidance has not been satisfactorily demonstrated (as detailed in Section 7.2 of this report). On this basis, I would have significant concerns about the applicant's reliance on this 2003 masterplan to guide the development of their site.
- 7.3.3 Having reviewed the Planner's report together with refusal reason No. 1, it's my understanding that the PA's concerns regarding prematurity and piecemeal/ haphazard development related to the applicant's lack of a contemporary masterplan or design statement to guide the integrated development of the entire 15.56ha residentially zoned landholding (the appeal site and the adjoining landholding which is also in the ownership of the applicant) at Clash West. I also note that for the same reasons, during the PAC process, the PA advised the appellant that a Large-Scale

Residential Development application for the entire landholding in Clash West should be pursued. Notwithstanding the PA's position, the preparation of a masterplan to guide the development of the lands is not a stated requirement under either the KCDP or the LAP.

7.3.4 The appellant also contends that the PA's refusal of outline permission on the grounds of prematurity/ piecemeal development is not consistent with the 2-phased development approach taken on PA Ref. 17/165. Having reviewed this planning file, I note that it related to a small scale residential development of 8 no. houses and a service road on a 0.35ha site directly adjoining Racecourse Road which had the benefit of previous permissions for similar housing development. Given its differing context and the fact that it was assessed under a previous Development Plan, I do not consider it to be relevant.

7.3.5 In conclusion, I would have a significant concern about the proposal's reliance on an outdated 2003 masterplan which has no statutory basis or standing under the KCDP and which does not address or respond to the aforementioned contemporary policies and standards. However, whilst the pursual of an integrated approach to the development of the Clash West landbank would generally be encouraged in line with best planning practice, I note that there is no specific policy or objective under the KCDP which requires the preparation of such a plan for the lands and, on this basis, it is my view that a refusal of permission on the basis of piecemeal or premature development is not justified.

7.3. Traffic/ Access

7.3.1. The applicant is proposing to provide for a new vehicular entrance to the site which would be positioned to the south of the existing access to the farm complex and to the immediate north of the adjoining residential property to the south-east of the site. I note from my site visit that this area of the site is densely vegetated with mixed scrub and a number of mature trees, existing hedgerows and ditches.

7.3.2. The appeal observer raises the issue of traffic congestion on account of the rural character of the area and notes the locality lacks amenities such as public transport. Clash Road is served by a number of bus routes connecting to various locations, with Tralee Train Station being located 1.2km to the south-west, I observe that the footpath

on its west side is relatively narrow, and it does not feature an outbound cycle lane. On this basis, I would agree with the observer that the pedestrian and cycle infrastructure serving the site is relatively poor and in need of upgrading.

- 7.3.3. The cover letter submitted with the application notes that the proposed entrance serving the housing estate will comprise of a 2-way carriageway with an overall width of 7.5m to include a defined 1.5m wide cycle lane on one side and 1.5m wide pedestrian footpaths on each side. I note that this detail is not provided on the submitted Site Layout Plan and that these provisions do not appear to be compliant with the requirements of the Design Manual for Urban Roads and Streets (2019) which specifies a minimum footpath width of 1.8m in areas of low pedestrian activity for example.
- 7.3.4. The PA raised concerns in respect to the suitability of the proposed vehicular access onto Clash Road given that it was to serve the 38 no. houses proposed in addition to an unknown quantum of future housing on the wider landholding that was proposed to be accessed via a continuation of the access road north along the east side of the site. Given this uncertainty, the PA's Roads, Transport and Marine Department sought a masterplan for the full Clash West landholding accompanied by a traffic impact assessment, road safety audit, detailed L-2073 junction proposals, active travel proposals and a mobility impact assessment. The PA concluded that the suitability of, and likely traffic impact and traffic hazard arising from, the proposed vehicular access onto Clash Road could not be fully assessed due to absence of a plan for the development of the full landholding. The PA proceeded to refuse permission on this basis, citing traffic hazard and endangerment of public safety in their reasoning.
- 7.3.5. The appellant contends that the proposal will not give rise to traffic hazard or endanger public safety on the basis that it has adequate sightlines onto Clash Road. The grounds of appeal also detail the character of Clash Road and note that traffic volumes on the road have recently reduced on account of the closure of 3 no. large industrial employers in vicinity and the opening of the Tralee-Listowel bypass road. In respect to the PA's contention that the potential impact of school traffic should be considered in traffic surveys in support of the application, the appeal notes that the Department of Education have long terms plans to relocate from Clash Road and it provides media articles in respect to same.

- 7.3.6. I note that the PA were primarily concerned about the traffic volumes and related traffic impacts or hazards that would arise from the proposed development together with the future development of the full 15.56ha Clash West landholding which would be enabled and/ or facilitated by the proposed continuation of the internal access road. Furthermore, having regard to the lack of information provided on the proposed estate access, together with the relatively poor-quality pedestrian and cycle infrastructure on the portion of Clash Road adjoining the appeal site. The PA also raised concerns about the applicant's failure to cater for active travel modes and lack of detailed proposals for the site's access onto Clash Road, with the HEU Dept. flagging the non-provision of sightlines, traffic signage and the need for a Road Safety Audit and to ensure a minimum width of 5.5m is provided for the entrance road to the estate, all of which could conceivably give rise to traffic hazard and endanger public safety.
- 7.3.7. Having reviewed Section 1.5.10.5 (Entrance), Volume 6 of the KCDP, I note it is a requirement that all applications provide comprehensive details of how adequate stopping distances, 45-degree visibility splays and sightlines can be achieved according to the road category. In the case of Clash Road, which has a design speed of 50km, 70m sightlines in each direction would be required to facilitate safe access and egress from the proposed estate. Providing these sightlines would require the removal of the existing boundary fencing and a substantial quantum of mature trees and hedgerows along the eastern boundary of the larger Clash West landholding. In this regard, Section 1.5.10.5 states that where satisfactory sightlines can only be achieved by removing extensive hedgerows, trees, ditches or stone walls and an alternative site should be sought, in accordance with the policy guidance set out under KCDP 11-22 which relates to the retention and creation of features of local biodiversity value such as hedgerows and earth banks.
- 7.3.8. Given the level of information provided by the applicant in respect to the design and layout of the proposed new vehicular access off Clash Road, together with the lack of information on file as to how the proposal would comply with Section 1.5.10.5 or provide for adequate sightlines (particularly given their ownership of the lands adjoining Clash Road to the immediate north of the site), I recommend a refusal of permission on the grounds of traffic hazard, public endangerment and non-compliance with Section 1.5.10.5 and objective 11-22 of the KCDP.

7.4 Open Space (New Issue)

- 7.4.1. Having reviewed the documents on file, I consider it appropriate to bring the Board's attention to the issue of compliance with the qualitative and quantitative public and private open space standards set out in the 2024 Compact Settlement Guidelines and KCDP.
- 7.4.2. The PA cited the lack of detail provided on future residential amenities (public/ private open space) and the proposal's failure to address policy/ guidelines on high quality residential development in their assessment, but I note that this issue was not subsequently cited in their reasons for refusal.

Public Open Space

- 7.4.3. The lack of details provided by the applicant in respect to open space provision (i.e. the square meterage of open space etc.) makes it difficult to fully assess the proposal's compliance with the applicable quantitative and qualitative standards. Notwithstanding, I consider the scheme's public open space to be non-compliant with the quantitative standards specified under Section 1.5.4.4 (Public Open Space) of Volume 6 of the KCDP (15% of total site area for new residential developments) and with Policy and Objective 5.1 of the 2024 Compact Settlement Guidelines (requires that a development's public open space be a min. 10% and max. 15% of net site area (to be determined by the PA)). In this regard, the Site Layout Map shows a central oval of public open space of c. 1000sq.m together with a number of smaller incidental green areas adjoining the scheme's footpaths and isolated areas of open enclosed by the internal road network. There is also a smaller c. 250sq.m L-shaped area of open space separating unit's 17-26 from their designated parking. I consider that the public open space as provided is of a substandard quality given its fragmented layout, with multiple incidental pieces of isolated, intermediate and left-over green spaces being evident. The proposed location of visitor and disabled parking within the scheme's central green space is also sub-optimal.
- 7.4.4. Section 5.3.3 (Public Open Space) and Policy and Objective 5.1 of the 2024 Compact Settlement Guidelines require a development's public open space to be of a good quality/ functionality whilst Section 1.5.4.4 (Public Open Space) of Volume 6 of the KCDP states that public open space should be centrally located with incidental pieces of unusable land not considered to fulfil or contribute toward the quantitative

requirement. Given the scale of the greenfield application site at 16,300sq.m, the quantum of public open space as proposed (when the non-compliant incidental and unusable pieces are excluded) represents a notable c.1,500sq.m shortfall on the 15% of total site area required for greenfield sites under Section 1.5.4.4 (Public Open Space) of KCDP.

7.4.5. The layout of open space within a development constitutes an important determinant of its general arrangement. I consider the public open space arrangements as proposed to be both qualitatively and quantitatively deficient and I am not satisfied that this fundamental matter of non-compliance could be addressed as part of a subsequent application consequent on a grant of outline permission i.e., given the fundamental rearrangement of the site layout that it would necessitate.

Private Open Space

7.4.6. Whilst no Housing Quality Assessment was provided by the applicant, the cover letter submitted with the application states that a mix of 3-4 bed semi-detached and terraced houses are proposed. In accordance with SPPR2 of the 2024 Density Guidelines, units of this size would give rise to minimum private open space standards of 40sq.m and 50sq.m respectively.

7.4.7. It appears from the site layout plan submitted that the scheme may not be meeting the minimum requirements for all units (see for example 4-bed type-B units no's 22-23 which appear to be delivering a shortfall of c. 8-10m on the 50sq.m required and 3-bed type-A unit no.38 which appears to be falling significantly short of the 40sq.m required). I note that the site would not qualify for a relaxation on compliance with SPPR2 on the basis that there is no equivalent quantum of suitable compensatory semi-private open space being provided or capable of being provided given the proposed site layout. Whilst non-compliance with private open space standards would need to be addressed, I do not consider that this matter would warrant a refusal of outline permission.

Conclusion

7.4.8. It is a requirement that an application for outline permission address all significant planning issues. These may include matters such as the siting and layout of buildings, means of access, details of any on-site waste water treatment and disposal system,

important landscaping requirements etc. I would have significant concerns about the level of information submitted on the design and layout of the proposed public open space and its compliance with quantitative and qualitative standards set out under national guidance and the KCDP, notwithstanding the applicant's contention that such detail is not warranted given that the application was for outline permission. I therefore recommend that permission is refused on this basis.

7.5 Other Issues

7.5.1 *Pre-application consultation advice issues*

The appellant contends that many of the issues raised in the assessment of their planning application, such as the requirement for detailed assessments on site archaeology, ecology and biodiversity, were not cited during the PAC process with KCC.

In respect to the scope of the PAC advice, I would draw the appellant's attention to Articles 247(2) and (3) of the Planning and Development Act (2000), as amended, and specifically the provision that "*The carrying out of consultations shall not prejudice the performance by a planning authority of any other of its functions under this Act, or any regulations made under this Act and cannot be relied upon in the formal planning process or in legal proceedings*" and I would note that many of these issues were only flagged by internal departments and statutory consultees (who were not privy to the PAC discussions) once the application was lodged.

7.5.2 *Impact on visual/ residential amenities*

Both the PA and the observer raised concerns in respect to the impact of the development on the character of the area and on existing residential amenities. Given that the proposal constitutes an application for outline permission, which means that a subsequent application for planning permission consequent on the grant of outline permission must be made and determined, I consider that this further application would allow ample opportunity for any detailed design issues – such as impacts on visual and residential amenities - to be comprehensively addressed.

7.5.3 *Demolition/ Construction issues*

Having considered the observer's concerns in respect to the demolition and construction phase, I am satisfied that these matters could be addressed via the

application of a standard construction management condition or conditions in the event of a subsequent grant of full planning permission i.e. given that no development can be carried out on foot of an outline permission.

7.5.4 *Fire/ Building Control Issues/ Fiscal concerns*

Building control matters, such as fire safety and the quality of building materials, are subject to a different statutory code and do not form part of this assessment. I also acknowledge the issue raised by the observer in respect to current geo-political instability and the potential for same to impact on the viability of the project, however such matters are beyond the scope of this assessment.

8.0 **AA Screening**

- 8.1. I have considered the proposal for outline permission at Clash West, Clash Road in light of the requirements of Section 177U of the Planning and Development Act 2000 (as amended).
- 8.2. The subject site is located on serviced lands and is not located within or adjacent to any European Site. The subject site is located approx. 2.5km to the north-east of the nearest European Site (Tralee Bay Complex SPA (Site Code 004188) where the qualifying interests are Whooper Swan (*Cygnus cygnus*) [A038], Light-bellied Brent Goose (*Branta bernicla hrota*) [A046], Shelduck (*Tadorna tadorna*) [A048], Wigeon (*Anas penelope*) [A050], Teal (*Anas crecca*) [A052], Mallard (*Anas platyrhynchos*) [A053], Pintail (*Anas acuta*) [A054], Scaup (*Aythya marila*) [A062], Oystercatcher (*Haematopus ostralegus*) [A130], Ringed Plover (*Charadrius hiaticula*) [A137], Golden Plover (*Pluvialis apricaria*) [A140], Grey Plover (*Pluvialis squatarola*) [A141], Lapwing (*Vanellus vanellus*) [A142], Sanderling (*Calidris alba*) [A144], Dunlin (*Calidris alpina*) [A149], Black-tailed Godwit (*Limosa limosa*) [A156], Bar-tailed Godwit (*Limosa lapponica*) [A157], Curlew (*Numenius arquata*) [A160], Redshank (*Tringa totanus*) [A162], Turnstone (*Arenaria interpres*) [A169], Black-headed Gull (*Chroicocephalus ridibundus*) [A179], Common Gull (*Larus canus*) [A182], Wetland and Waterbirds [A999].

The subject site is also located 2.6km south-east of Tralee Bay and Magharees Peninsula, West to Cloghane SAC (Site Code 002070) where the qualifying interests

are Estuaries [1130], Mudflats and sandflats not covered by seawater at low tide [1140], Coastal lagoons [1150], Large shallow inlets and bays [1160], Reefs [1170], Annual vegetation of drift lines [1210], Perennial vegetation of stony banks [1220], Vegetated sea cliffs of the Atlantic and Baltic coasts [1230], *Salicornia* and other annuals colonising mud and sand [1310], Atlantic salt meadows (*Glaucopuccinellietalia maritima*) [1330], Mediterranean salt meadows (*Juncetalia maritimi*) [1410], Embryonic shifting dunes [2110], Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes) [2120], Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130], Dunes with *Salix repens* ssp. *argentea* (*Salicion arenariae*) [2170], Humid dune slacks [2190], *Molinia* meadows on calcareous, peaty or clayey-silt-laden soils (*Molinion caeruleae*) [6410], Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) [91E0], *Lutra lutra* (Otter) [1355], *Petalophyllum ralfsii* (Petalwort) [1395].

- 8.3. The proposed development comprises of outline permission for 38 no. houses and a new estate access road together with all associated alterations, demolitions, site drainage, landscaping and ancillary works to facilitate same.
- 8.4. No nature conservation concerns, other than a general reference to impact on wildlife, were raised in the context of the appeal.
- 8.5. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
 - The nature and scale of the development.
 - The urban and serviced nature of the site.
 - The location-distance from the nearest European Site and lack of connections.
 - Taking into account the screening report/ determination by the PA.
- 8.6. I conclude that, on the basis of objective information, the proposed development would not be likely to have a significant effect on any European Site, either alone or in combination with other plans or projects.
- 8.7. Likely significant effects are excluded and therefore Appropriate Assessment (Stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

I recommend that outline permission be REFUSED for the reasons and considerations set out below.

10.0 Reasons and Considerations

1. It is considered that the proposed development would endanger public safety by reason of traffic hazard on account of the additional traffic turning movements the development would generate onto to Clash Road (L-2016) at a location where adequate sightlines have not been provided for as required by Section 1.5.10.5 (Entrance), Volume 6 of the Kerry County Development Plan 2022-2028. It is further considered that the site access arrangements as currently proposed would necessitate the removal of an extensive area of dense vegetation, ditches and mature trees and would also require the removal of a c. 70m stretch of hedgerow to the north-east of the proposed vehicular access which would not be in compliance with objective KCDP 11-22 of the Kerry County Development Plan 2022-2028.
2. It is considered that the proposed development, by reason of its proposed surface water management arrangements, gives rise to an unacceptable pluvial flood risk and therefore is not compliant with Sections 11.5 and 13.2.4 or Objectives KCDP 11-66, KCDP 11-69, KCDP 13-21 or KCDP 13-24 of the Kerry County Development Plan 2022-2028 which require the preparation of a surface-water management plan and the use of sustainable drainage systems to manage and reduce flood risk in line with the requirements of The Planning System and Flood Risk Management - Guidelines for Planning Authorities and Technical Appendices (DoHLGH, 2009) and Circular PL2/2014. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. The proposed development, by reason of its inadequate qualitative and quantitative provision of public open space, would conflict with the provisions of Volume 6, Section 1.5.4.4 (Public Open Space) of the Kerry County Development Plan 2022-2028 and with Section 5.3.3 (Public Open Space) and Policy and Objective 5.1 (Public Open Space) of The Sustainable Residential Development

and Compact Settlements Guidelines for Planning Authorities (DoHLGH, 2024). The proposed development would, therefore, 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.

Emma Gosnell
Planning Inspector

16th January 2025

Appendix 1

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-320357-24		
Proposed Development Summary	Outline permission for 38 houses, an estate access road and associated site works.		
Development Address	The Farm, Clash West, Tralee, Co. Kerry		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	✓
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	✓	Class 10(b)(i) (infrastructure – Dwelling Units)	Proceed to Q3.
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No	✓		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	✓	500 units – proposal is for 38 no. units.	Preliminary examination required (Form 2)
5. Has Schedule 7A information been submitted?			
No	✓	Pre-screening determination conclusion remains as above (Q1 to Q4)	
Yes		Pre-screening Determination required	

Inspector: _____

Date: _____

Appendix 2

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference Number	ABP-320357-24
Proposed Development Summary	Outline permission for 38 houses, an estate access road and associated site works.
Development Address	The Farm, Clash West, Tralee, Co. Kerry.
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
Characteristics of proposed development	<p>The proposed development requires the demolition of 2 no. agricultural outbuildings/ sheds in order to facilitate the construction of 38 no. houses.</p> <p>The standalone development does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance.</p> <p>The development, by virtue of its type and scale, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.</p>
Location of development	The development is situated on farm lands enclosed in part by hedges/ ditches and adjoining the built-up commercial/ residential hinterland of Tralee Town and within the town boundary. It is located at a remove from sensitive natural habitats, designated sites and landscapes of significance identified in the KCDP.
Types and characteristics of potential impacts	Having regard to the modest nature of the proposed development, its location relative to sensitive habitats/ features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.

Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	✓
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	
There is a real likelihood of significant effects on the environment.	EIAR required.	

Inspector:

Date: _____

DP/ADP: _____

(only where Schedule 7A information or EIAR required)

Date: _____