



An  
Bord  
Pleanála

## Inspector's Report ABP-321298-24

<b>Development</b>	Demolition of existing structures, construction of 256 dwelling units, a childcare facility, and all associated site works
<b>Location</b>	Clash Road, Muing East (Townland), Tralee, Co. Kerry
<b>Planning Authority</b>	Kerry County Council
<b>Planning Authority Reg. Ref.</b>	24/60695
<b>Applicant(s)</b>	KPH Construction
<b>Type of Application</b>	Largescale Residential Development
<b>Planning Authority Decision</b>	Grant permission with Conditions
<b>Type of Appeal</b>	Third Party vs Decision
<b>Appellant(s)</b>	Thomas, Breda, and Mary King
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	19 <sup>th</sup> February 2025
<b>Inspector</b>	Phillippa Joyce

## Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Opinion .....	6
4.0 Planning Authority Decision .....	7
5.0 Planning History.....	11
6.0 Policy Context.....	12
7.0 The Appeal .....	21
8.0 Planning Assessment .....	23
9.0 Appropriate Assessment.....	35
10.0 Environmental Impact Assessment .....	36
11.0 Recommendation .....	39
12.0 Recommended Draft Board Order.....	39
Appendix 1: Appropriate Assessment – Screening Determination .....	42
Appendix 2: Environmental Impact Assessment – Pre Screening Form .....	53
Appendix 3: Environmental Impact Assessment – Screening Determination Form..	54

## 1.0 Site Location and Description

- 1.1. The appeal site is located on Clash Road (referred to as L2016 by the applicant, and L2073 by the planning authority) in the townland of Muing East, c.2km northeast of Tralee town centre. The site is rectangular in configuration and is indicated as measuring c.7ha. The site is an infill site, comprising a sizeable landbank within a wider residential block at an outer suburban location in the town.
- 1.2. The site's eastern boundary is staggered, comprising direct street frontage onto Clash Road, whilst also abutting detached residential properties addressing Clash Road, and adjoining a famine graveyard, God's Acre. The southern and western boundaries of the site are formed by detached residential properties located on Racecourse Road and Racecourse Lawn estate respectively. The latter includes three cul-de-sac roads which align perpendicularly with the site. The northern site boundary comprises an agricultural field, bound in turn by Bill Kinnerk Road.
- 1.3. The site is both greenfield and brownfield in nature. Predominantly, the site comprises several agricultural fields, defined by treelines, hedgerows and drainage ditches. These lands include overgrown grasses, scrub vegetation and rushes. The site includes a detached single storey dwelling, shed and curtilage (V92X8N3), which is accessed via an existing vehicular entrance on Clash Road. While the site is relatively flat in topography, ground levels slope notably from the northwest to southeast (decreasing from c.29.5m OD to c.21.5m OD).

## 2.0 Proposed Development

- 2.1. The proposed development comprises the construction of 256 residential units, a childcare facility, and all associated development works including the demolition of the dwelling and shed, site clearance works, and ground levelling.
- 2.2. The residential units comprise 138 two storey houses arranged in semi-detached pairs and terrace rows, and 118 two storey duplexes<sup>1</sup> sited in end-of-terrace row

---

<sup>1</sup>Note: These units are not described as duplexes, being referred to instead as 'maisonettes' and indicated on plans entitled 'House Types' D, D1, E, and E1. In identifying these units as duplexes, I have had regard to the definition for same in the Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities, 2024 (see section 6.0 Policy Context of this report).

locations. The childcare facility is a two-storey detached building, sited to the east/southeast of the site.

- 2.3. In terms of access, the proposal provides for three entrances onto Clash Road. These include a new vehicular entrance to the northeast of the site, the reconfiguration of the centrally-located existing vehicular entrance (serving V92X8N3), and a new pedestrian and cycle entrance in the southeastern corner onto Clash Road. The proposed development includes a setback of the site's eastern frontage along Clash Road to facilitate future cycle infrastructure.
- 2.4. Also included in the proposal are internal access roads, footpaths, cycle paths, car and bicycle parking/ stores, bin stores, public lighting, electrical services (substations), public open spaces, landscaping, boundary treatments, and all infrastructural works associated with water supply, wastewater drainage, surface water drainage (including connections to the public networks, SuDS features, and on-site attenuation storage).
- 2.4.1. The following tables present a summary of the principal characteristics, features, and floor areas of the components of the proposed scheme, which are extrapolated from the application forms, and plans and particulars (Architectural Design Statement, Schedule of Accommodation, Housing Quality Assessment).

**Table 1: Key Statistics**

<b>Site Area</b>	Total Area: c.7ha Net Developable Area: c.6.4ha
<b>Floor Areas (gross floor spaces)</b>	Total Floor Area: c.22,347sqm Residential: c.21,929sqm Childcare facility: c.418sqm
<b>Residential component</b>	Total: 256 residential units 138 houses (54%) 118 duplexes (46%)
<b>Net Density</b>	c.40dph
<b>Building Height</b>	Houses and Duplexes: 2 storeys
<b>Aspect (duplexes)</b>	Dual Aspect: 68 (58%)

<b>Open Space</b>	Public: c.9,657sqm (Zone 1: 7,719sqm, Zone 2: 896sqm, Zone 3: 476sqm, Zone 4: 566sqm) Communal: None provided Private: gardens, terraces, balconies (various sqm)
<b>Part V provision</b>	Total: 51 units (c.20%) 15 houses and 36 duplexes
<b>Car Parking</b>	Total: 391 spaces Residential: 360 spaces (Houses: 122 spaces in-curtilage, 120 spaces on-street; Duplexes: 118 spaces on-street) Other: 31 spaces (Childcare: 11 spaces, Visitor: 7 spaces, Accessible: 13 spaces)
<b>Bicycle Parking</b>	Total: 245 spaces Residential (duplexes): 186 stands (50 for 1 bed units, 136 for 2 bed units) Visitor: 59 stands

**Table 2(a): Summary of Residential Unit Mix**

<b>Houses (138 units, 54% of the scheme)</b>					
<b>Unit Type</b>	<b>1 bed</b>	<b>2 bed</b>	<b>3 bed</b>	<b>4 bed</b>	<b>Total</b>
<b>Total</b>	-	-	126	12	138
<b>% of Total</b>	-	-	91%	9%	100%
<b>Duplexes (118 units, 46% of the scheme)</b>					
<b>Unit Type</b>	<b>1 bed</b>	<b>2 bed</b>	<b>3 bed</b>	<b>4 bed</b>	<b>Total</b>
<b>Total</b>	50	68	-	-	118
<b>% of Total</b>	42%	58%	-	-	100%
<b>Overall Unit Mix as % of Total</b>					
	<b>1 bed</b>	<b>2 bed</b>	<b>3 bed</b>	<b>4 bed</b>	<b>Total</b>
	50	68	126	12	256
	19.5%	26.5%	49%	5%	100%

**Table 2(b): Summary of Unit Types and Bedspaces**

Unit Type B/ P	1 bed/ 2P	2 bed/ 3P	2 bed/ 4P	3 bed/ 5P	4 bed/ 7P	Total
Houses				126	12	138
Duplexes	50		68			118
Unit Type Total	50		68	126	12	256
Total Bedrooms	50		136	378	48	612
Total Bedspaces	100		272	630	84	1,086

- 2.5. The application includes a range of architectural, engineering, and landscaping drawings, and is accompanied by a range of reports and supporting documentation (full list in the applicant's Cover Letter, pgs. 3-4).

### 3.0 Planning Authority Opinion

- 3.1. A pre-application meeting under section 247 of the Planning and Development Act 2000, as amended (2000 Act) is indicated to have taken place on 26<sup>th</sup> January 2024 between the applicant and the planning authority.
- 3.2. A pre-application LRD meeting (Stage 2) in accordance with section 32C of the 2000 Act took place on 17<sup>th</sup> July 2024. The planning authority issued its LRD Opinion on 12<sup>th</sup> August 2024.
- 3.3. The Opinion indicates that the documentation, as submitted under section 32B of the 2000 Act at the Stage 2 pre-application meeting, constitutes a reasonable basis on which to make an application for permission for the proposed LRD.
- 3.4. The applicant was informed (in the minutes from the Stage 2 pre-application meeting accompanying the LRD Opinion) that the following issues would need to be addressed in the documentation submitted as part of an LRD application:
- Active Travel – cycle lanes along Clash Road, cycle lanes through the site
  - Traffic – timing of traffic and transport assessment baseline survey, sight lines at junctions with Clash Road

- Water Services – stormwater connection, SuDS infrastructure, a Maintenance Plan and Schedule, post-construction certification process
- Building Control – EV charging facilities
- Estates – naming and numbering, boundary treatment, access to God's Acre burial ground, car parking allocation, open spaces, play areas
- Environment – a CEMP including for construction waste, operational communal waste arrangements
- Planning – Part V arrangements
- Ecology – Biodiversity Management Plan, Tree Quality Assessment and Tree Survey Plan reports, Ecological Impact Assessment (EcIA) to include final bat survey results, treatment of wet grassland and open ditch habitats, in combination impacts with named projects, Environmental Impact Assessment (EIA) screening exercise and Water Framework Directive (WFD) compliance assessment advised
- Archaeology – post-consent and construction phase requirements

3.5. The applicant provides responses to the points of information requested by the planning authority in the Stage 2 pre-application meeting in the Planning Statement (Section 2.3) submitted with the application.

## 4.0 Planning Authority Decision

### 4.1. Summary of Decision

- 4.1.1. The planning authority granted permission for the proposed development on 7<sup>th</sup> November 2024, subject to 31 conditions. This is a third-party appeal against the planning authority's decision to grant permission.
- 4.1.2. The attached conditions are standard in nature (financial, procedural, construction, operational, and technical). Conditions of note or specific to the appeal include the following:

Condition 2: grants an appropriate period of 10 years in which to implement the permission.

Condition 4: requires a special development contribution of €150,000 'towards the cost of upgrading the L2073 Clash/ L2067 Racecourse Rd junction to ensure the safe movement for pedestrians and cyclists from the proposed development towards the town centre including installation and powering of the equipment, signing and lining (sic)'.

Condition 8: requires a section 47 agreement to establish a management company to manage and maintain the scheme.

Condition 9: specifies the number and type of residential units, finished floor levels, and external finishes of same.

Condition 10: removes exempted development provisions such that the use of any residential unit for overnight commercial guest accommodation is prohibited without a prior grant of planning permission.

Condition 11: specifies site boundary treatments to comply with requirements of Volume 6 of the CDP, screen walls (construction, height, finishes), and prior to commencement agreement on the boundary treatment and drainage proposals of the watercourse along the western boundary to the rear of dwellings along Racecourse Lawn.

Condition 14: specifies archaeological excavation under licence of the burnt mound/ fulacht fiadh uncovered in Trenches 18 and 19 and any associated features, monitor all other ground works, follow-up reporting process.

Condition 15: requires a prior to commencement review of the Drainage Impact Assessment and agreement of a plan to address the management and maintenance of the existing watercourse along the western boundary of the site, to the rear of the dwellings along Racecourse Lawn.

Condition 16: relates to the employment of a landscape consultant to manage the works, satisfactory completion of landscaping works (prior to occupation, establishment of effective screening), and certification of same.

Condition 18: requires environmental mitigation measures, including those in the EclA to be implemented, and employment of an environmental manager to manage the works and serve as contact point.



Condition 23: relates to Road Safety Audits, including the implementation of Stage 1 recommendations and completion of Stage 2.

Condition 24: relates to the design, construction, and completion of the footpath and cycling infrastructure of the site frontage along the L2073, including associated public lighting, ancillary works, and drainage arrangements (to link to the existing public storm water sewer system). All works to be in accordance with the requirements of the planning authority (including agreement of new kerb line) and NTA Cycle Design Manual.

Conditions 25-29: relate to construction traffic management arrangements and requirements, phased completion of site development works, design and standards for footpaths and pedestrian facilities, agreement on cycle parking provision.

## **4.2. Planning Authority Reports**

### **4.2.1. Planning Report**

The planner's report includes an assessment of the proposed development in respect of the following considerations:

- Principle of Development
- Density
- Housing Mix
- Development Standards
- Private Open Space
- Public Open Space
- Residential Amenity
- Childcare Facilities
- School Provision
- Archaeology
- Transportation, Access and Parking
- Design and Layout
- Flooding

- Water, Drainage, and Water Framework Directive Compliance
- Sustainability
- Ecology
- Construction and Demolition Waste Management
- Phasing
- Part V
- Development Levy and Bond
- Environmental Impact Assessment
- Appropriate Assessment

The planning authority found the proposal to be acceptable under all headings concluding that the proposed development complies with the national and local statutory context, is of an appropriate design, and would not be visually obtrusive or seriously injure the amenities of the area.

#### 4.2.2. Other Technical Reports

Housing Estates Unit: no objection subject to condition.

Roads and Transportation Section: no objection subject to condition.

Flooding and Coastal Protection Unit: no objection subject to condition.

Environment Department: no objection subject to condition.

Environmental Assessment Unit: no objection subject to condition.

County Archaeologist: no objection subject to condition.

National Roads Design Office: no objection, no condition.

Architectural Conservation Officer: no objection, no condition.

Assistant Chief Fire Officer: no objection, no condition.

#### 4.3. Prescribed Bodies Submissions

##### 4.3.1. Submissions were received from prescribed bodies as follows:

Uisce Eireann: requires the applicant to submit a pre-Connection Enquiry for water and wastewater infrastructure by way of further information/ prior to commencement condition.

Transport Infrastructure Ireland: requires the proposed development to be undertaken in accordance with the recommendations of the Transport (Traffic) Assessment and Road Safety Audit, and that additional works required from same shall be funded by the developer.

#### **4.4. Third Party Observations**

- 4.4.1. The planner's report indicates observations were received from several third parties during the assessment of the application and summarises the key issues raised. The planning authority identifies that several third party concerns relate to access to/ from Racecourse Lawn (adjacent residential estate to the west) and states these are unfounded as same is not proposed.
- 4.4.2. I have reviewed the observations on the case file and confirm the majority are concerned with and/ or oppose any access to Racecourse Lawn and the use of the open space and amenity area serving the established estate.
- 4.4.3. Other issues include the adverse impact of the proposal on availability of local services and facilities, increased traffic volumes and congestion on the local road network, lack of cycle infrastructure, safety concerns due to pedestrian routes, surface water drainage arrangements, and increased flood risk. Some of the issues raised therein form the basis of the appeal, which are outlined in detail in Section 7.0 below.

### **5.0 Planning History**

#### Appeal Site

There is no planning history at the site.

#### Lands to the South of the Site (Clash West)

*ABP 320398-24, PA Ref. KE-C18-RZLT-1*

On 20<sup>th</sup> September 2024, the Board confirmed the determination of the planning authority, as appealed by Thomas, Breda, and Mary King, to include the subject lands at Clash West, Tralee on the Residential Zoned Land Tax Final Map.

*ABP 320357-24, PA Ref. 24/192*

On 11<sup>th</sup> July 2024, the planning authority refused outline permission to Thomas King for 38 homes and associated site works at the subject site for five reasons (haphazard development, endanger public safety due to traffic hazard, and insufficient information on archaeology, ecology, and surface water management).

First party appeal by Thomas King against the decision to refuse outline permission lodged on 1<sup>st</sup> August 2024. At the time of assessment, a decision on the appeal has not been made by the Board.

*ABP 316833-23, PA Ref. KE-C6-RZLT-32*

On 19<sup>th</sup> September 2023, the Board confirmed the determination of the planning authority, as appealed by Thomas, Breda, and Mary King, to include the subject lands at Clash West, Tralee on the Residential Zoned Land Tax Draft Map.

## **6.0 Policy Context**

### **6.1. National Planning Context**

- 6.1.1. The national policy context guiding future growth in Tralee town is determined by frameworks, plans and guidelines including the National Planning Framework (NPF), Housing for All, Climate Action Plan, National Biodiversity Plan, and several section 28 Ministerial Guidelines.

National Planning Framework, Project Ireland 2040 (NPF)

- 6.1.2. Several national policy objectives (NPOs) are applicable to the proposed development, a new residential scheme within a built-up area of a county town. For the ease of reference, I direct the Board to the applicant's Statement of Consistency (pgs. 4-5) which cites several objectives.

- 6.1.3. I identify those objectives which support development in existing settlements such as Tralee town, NPO 3a, NPO 4, NPO 13, and NPO 35, as being applicable to the proposed development.

Housing for All 2021

- 6.1.4. Specifies four pillars by which universal access to quality housing options is to be achieved. Of relevance to the proposed development is the achievement of Pillar 1, increasing new housing supply.

Climate Action Plan 2024

- 6.1.5. Outlines measures and actions by which the national climate objective of transitioning to a climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy by 2050 is to be achieved. These include the delivery of carbon budgets and reduction of emissions across sectors of the economy. Of relevance to the proposed development, is that of the built environment sector. The Board must be consistent with the Plan in its decision making.

National Biodiversity Plan 2023-2030

- 6.1.6. Includes five objectives by which the current national biodiversity agenda is to be set and the transformative changes required to ensure nature is valued and protected is delivered. Of relevance to the proposed development, are the targets and actions associated with Objective 2 on achieving the conservation and restoration needs of environmental designations. Section 59B(1) of the Wildlife (Amendment) Act 2000, as amended, requires the Board to have regard to the objectives and targets of the Plan in the performance of its functions.

Section 28 Ministerial Planning Guidelines

- 6.1.7. Several national planning guidelines are applicable to the proposed development (consolidated growth in infill sites, increased residential densities with a greater mix of building heights and typologies in suburban locations, achievement of necessary standards for duplex developments).
- 6.1.8. Several of the guidelines include Specific Planning Policy Requirements (SPPRs), the application of which is mandatory.
- 6.1.9. The relevant guidelines include the following (my abbreviation in brackets):

- Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities, 2024, (Compact Settlement Guidelines). Applicable policy for the proposed development includes:
  - Section 3.3: requires that densities in the range of 30dph-50dph should be applied for sites in 'Key Town – Suburban/ Urban Extension' locations.
  - Section 3.4: outlines a two-step density refining process, based firstly on a determination of accessibility to public transport options and secondly on five site-specific criteria (impacts on character, historic environment, protected habitats and species, daylight/ sunlight of residential properties, and water services capacity).
  - Policy and Objective 3.1 requires that the recommended density ranges are applied and that, where appropriate, these density ranges are refined further using the site-specific criteria.
  - Policy and Objective 4.1 requires the implementation of principles, approaches and standards in the Design Manual for Urban Roads and Streets, 2013, including updates (DMURS).
  - Section 5.3: requires the achievement of residential standards:
    - SPPR 1 – Separation Distances requires a minimum of 16m between opposing windows serving habitable rooms at the rear or side of houses and duplexes above ground floor level.
    - SPPR 2 – Minimum Private Open Space specifies new standards for houses (3 bed 40sqm, 4 bed+ 50sqm), and private open space for duplexes remains as per the Apartment Guidelines (see below).
    - Policy and Objective 5.1 recommends a public open space provision of between 10%-15% of net site area.
    - SPPR 3 – Car Parking specifies the maximum allowable rate of car parking provision based on types of locations (e.g., 2 no. spaces per dwelling for intermediate and peripheral locations).
    - SPPR 4 – Cycle Parking and Storage requires a general minimum standard of 1 no. cycle storage space per bedroom (plus visitor spaces), a mix of cycle parking types, and cycle storage facilities in

a dedicated facility of permanent construction (within or adjoining the residences).

- Section 5.3.7 – Daylight indicates that a detailed technical assessment is not required in all cases, regard should be had to standards in the BRE 209 2022, a balance is required between poor performance and wider planning gains, and compensatory design solutions are not required.
- Appendix A includes a glossary of terms:
  - Duplex is defined as: ‘A building divided into two residential units. The units or apartments may be stacked one on top of the other on separate floors. Access to duplex units is generally direct ‘own door’ access from public or semi-public areas. However, access to an upper floor duplex unit may be via grouped access or communal areas.’
- Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities, 2023 (Apartment Guidelines). Applicable policy for the proposed development (i.e., duplexes) includes:
  - Section 3.0: Apartment Design Standards includes several SPPRs and design criteria for apartment and duplex units as follows:
    - SPPR 3 (minimum floor areas and, by reference to Appendix 1, minimum storage, private open space areas for 1 and 2 bedroom units), SPPR 4 (50% to be dual aspect units in intermediate/ suburban areas), SPPR 5 (minimum 2.7m requirement for ground level floor to ceiling height), and SPPR 6 (maximum of 12 apartments per floor level per core).
    - Private amenity space for ground floor units shall incorporate appropriate boundary treatment to ensure privacy and security.
    - Private amenity space should be located to optimise solar orientation and designed to minimise overshadowing and overlooking.

- Terraces/ balconies should adjoin and have a functional relationship with the main living areas of the unit.
- Apartment design should provide a sense of safety and security, by maximising natural surveillance of streets, open spaces, play areas and any surface bicycle or car parking. Buildings should overlook the public realm.
- Entrance points should be clearly indicated, well lit, and overlooked by adjoining dwellings.
- Particular attention should be given to the security of ground floor apartments and access to internal and external communal areas.
- Ground floor apartments located adjoining the back of a public footpath or other public area, should be provided with a 'privacy strip' (c.1.5m in depth).
- Section 4.0: Communal Facilities in Apartments includes applicable guidance on refuse storage, communal amenity space, children's play areas, car parking, and bicycle parking with storage (the two latter items are superseded by SPPR 3 and SPPR 4 of the Compact Settlement Guidelines).
  - Refuse storage areas should be of sufficient size to satisfy the three-bin system, not present any safety risks to users, be well-lit, not on the public street, visible to or accessible by the general public. Appropriate visual screening should be provided.
  - Communal amenity space, which is well-designed and maintained, will contribute to meeting the amenity needs of residents.
  - Accessible, secure and usable outdoor space is a high priority for families with young children and for less mobile older people.
  - Appendix 1 indicates the minimum required areas for public communal amenity space (1 bed as 5sqm, 2 bed (4 person) as 7sqm).



- In general, a clear distinction with an appropriate boundary treatment and/ or a 'privacy strip' should be between private and communal amenity space.
- Urban Development and Building Heights, Guidelines for Planning Authorities, December 2018 (Building Height Guidelines). Applicable policy for the proposed development includes:
  - SPPR 4 requires new residential development on greenfield sites in edge of town/ suburban locations to achieve the minimum density in the applicable section 28 Ministerial Guidelines, a greater mix of building heights and residential typologies, and the avoidance of mono-type building typologies (e.g. two storey or own-door houses only), particularly in developments of 100 units or more.
- Childcare Facilities, Guidelines for Planning Authorities, 2001 (Childcare Guidelines). Applicable policy for the proposed development includes:
  - Appendix 2 recommends the provision of a childcare facility with a capacity of 20 childcare spaces per 75 dwellings units.
  - Section 2.4 outlines the scale and/ or requirement for childcare facilities may depend on the nature of the proposed development (reiterated in Section 4.7 of the Apartment Guidelines which allows 1 and 2 bedroom units to be discounted from childcare demand calculations).
- The Planning System and Flood Risk Management, Guidelines for Planning Authorities, 2009 (Flood Risk Guidelines). Applicable policy for the proposed development includes:
  - Table 3.1 which provides a classification of vulnerability of different types of development (e.g. residential as highly vulnerable, local transport infrastructure as less vulnerable, amenity open spaces as water compatible).
- Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities, 2021, updated 2023 (Commercial Institutional Investment Guidelines).

- Section 3 requires restrictions on the first occupation of houses and duplexes to individual purchasers or persons eligible for social and/ or affordable housing, excludes corporate entities.

## **6.2. Regional Planning Context**

### Regional Spatial and Economic Strategy for the Southern Region 2020-2032 (RSES)

6.2.1. The RSES provides a development framework for the Southern Region. The region is divided into three sub-regional areas, including the south-west area within which Tralee is located. Reiterating NPF population projections, the RSES indicates a future population increase range for the sub-region of c.823,000-854,500 persons (extrapolated from Table 3.1).

6.2.2. Chapter 3 People and Places of the RSES includes a settlement hierarchy with different urban typologies. Tralee town is identified as a largescale Key Town (second highest level in the hierarchy) in the Region. Accordingly, RSES settlement strategy policy applicable to the proposed development includes:

- Largescale Key Towns are self-sustaining regional drivers, with considerable scope for future growth. Targeted population growth of more than 30% by 2040 is required (RPO 11).
- Specific to Tralee (RPO 15), the RSES identifies that the town has significant potential for economic, tourism, services and enterprise-based employment growth with an associated demand for residential development.

## **6.3. Local Planning Context**

### Kerry County Development Plan 2022-2028

6.3.1. The applicable development plan for the appeal case is the Kerry County Development Plan 2022-2028 (CDP), which is comprised of six volumes. For the Board's clarity, at the time of assessment, Proposed Variation No.1 to the CDP, relating to Tralee Municipal District Settlement Plan, is on public display until 21<sup>st</sup> March 2025. Due to its draft status, this does not affect the local policy context for the determination of this appeal case.

6.3.2. Volume One contains the main written statement and associated appendices. The written statement includes policy in several chapters that establish the context for the

proposed development (a residential scheme comprised of houses and duplexes, with a childcare facility, on lands with surface water features and of archaeological value). The Volume One Appendices of the CDP include a 'Landscape Review'.

- 6.3.3. Volume Two of the CDP contains the 'Town Development Plans', including a Tralee Town Development Plan. This town plan is more detailed in terms of policies on certain items (urban regeneration, sustainable land use development). This plan indicates the zoning and flood maps for the town. Volume Two of the CDP also contains a 'Settlement Capacity Audit' which identifies the carrying capacity of key sites for residential development.
- 6.3.4. Volume Four of the CDP includes a range of 'Maps' for the county, including the zoning map for Tralee town, which indicates the wider range of designations (than flood zones), and the 'Visually Sensitive Landscapes & Views/ Prospects' for the county.
- 6.3.5. Volume Six of the CDP contains the land use zoning objectives, use classes, zoning matrix, and development management standards.
- 6.3.6. Key map-based designations for the site include the following:
- The site is subject to two Zoning Objectives:
    - 'R1' New/ Proposed Residential: Provide for new residential development in tandem with the provision of the necessary social and physical infrastructure.
    - 'R2' Existing Residential: Provide for residential development and protect and improve.
  - Use classes of residential and creche are permitted in principle in the residential zonings (Zoning Matrix, Volume Six, pg. 62).
  - The site is located in Assessment Area 11 'Tralee and Castleisland' with a medium landscape sensitivity rating (Landscape Review, Volume One Appendices, pg. 207).
  - The site is located outside of the designated Flood Zones A and B and is therefore in Flood Zone C (Map A, Tralee Town Plan, Volume Two, pg. 6).

- The site is identified as part of site/ landbank 'T-5' in the Settlement Capacity Audit for Tralee town (Settlement Capacity Audit, Volume Two, pgs. 159-160).
- Archaeological monument, KE029-259 Enclosure, is located adjacent to the southeast of the site, and its zone of notification extends into the site.
- The site bounds a historic burial ground (famine graveyard), God's Acre, to the southeast of the site.
- The site is located outside of any Visually Sensitive Area and/ or Views and Prospects (Map F, Volume Four, pg. 16).

6.3.7. Key policy and objectives for the proposed development are included in the following<sup>2</sup>:

- Volume One, Section 3: Core and Settlement Strategy.
- Volume Two, Section 1: Tralee Town Development Plan.
- Volume Two, Section 6: Settlement Capacity Audit.
- Volume Six, Section 1.0: Development Management Standards.

➤ 1.5.4.4 Public Open Space:

Public open space should be provided at a minimum rate of 15% of total site area....In infill sites, a minimum of 10% may be provided as public open space...

➤ 1.5.5 Apartment Standards

....Communal open spaces should form an integral part of scheme design, be screened from full public view and public access, and should be restricted through design and/ or formal barriers.

➤ 1.5.5.3 Communal Open Space

...In addition to private open space...communal open space must also be provided for apartments, in accordance with the minimum standards set out in the Apartment Guidelines....The minimum required areas for public communal

---

<sup>2</sup>Note: this list is to be read in conjunction with the applicant's Planning Statement and Statement of Consistency (in particular, pgs. 19-42), and the planning authority's Planning Report (pgs.11-13), within which the policies and objectives are cited in full.

amenity space are set out in Appendix 1 of the Guidelines. While private and communal amenity space may adjoin each other, there should generally be a clear distinction with an appropriate boundary treatment and/ or a 'privacy strip' between the two. Communal open space is for the exclusive use of the residents of the development and should be accessible, secure, and usable outdoor space which is inclusive and suitable for use by those with young children and for less mobile older persons.

#### **6.4. Natural Heritage Designations**

- 6.4.1. The appeal site is not located in or immediately adjacent to a European site, a Natural Heritage Area (NHA) or a proposed NHA (pNHA).
- 6.4.2. The European site designations in proximity to the appeal site include (as measured at closest proximity between boundaries):
- Ballyseedy Wood SAC (site code: 002112) is c.2.41km to the southeast.
  - Tralee Bay Complex SPA (site code: 004188) is c.3.08km to the southwest.
  - Tralee Bay and Magharees Peninsula, West To Cloghane SAC (site code: 002070) is c.3.23km to the southwest.
  - Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (site code: 004161) is c.4.06km to the northeast.
  - Slieve Mish SAC (site code: 002185) is c.4.64km to the south.
  - Akeragh, Banna And Barrow Harbour SAC (site code: 000332) is c.10.40km to the west.
- 6.4.3. The pNHA designations in proximity to the appeal site include:
- Tralee Bay and Magharees Peninsula, West To Cloghane pNHA (site code: 002070) is c.3.23km to the southwest.
  - Akeragh, Banna And Barrow Harbour pNHA (site code: 000332) is c.10.40km to the west.

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

7.1.1. One third party appeal has been received by the Board against the planning authority's decision to grant permission for the proposed development. The appeal is made by Thomas, Breda, and Mary King, The Farm, Clash West, Tralee, V92CD8W. The appellant's property is c.530m to the southwest of the appeal site.

7.1.2. The key issues raised in the grounds of appeal can be summarised as follows:

#### Planning History

- Planning authority is issuing contradictory planning decisions.
- Permission is granted for the proposed development which includes new vehicular entrances onto Clash Road.
- Permission was refused for PA Ref. 24/192 (an application made by the appellant on lands to the southwest of the site). This application included an entrance onto Clash Road and a reason for refusal related to public safety and traffic hazard (copy of the decision enclosed with the third party appeal).

#### Traffic and Transportation

- Main concern relates to the health and safety of the proposed access/ exit to the site.
- The proposed development includes two accesses onto Clash Road, which does not have the necessary infrastructure (cycle lanes, footpaths) in place.
- These works are to be provided sometime in the future, but the planning authority has not indicated a timeline for when.
- The planning authority's LRD Opinion states sightlines at junctions with Clash Road are critical (section 2.3(2)(c) referenced).
- To achieve the necessary sightlines, will the front boundary walls of adjoining properties be required to be set back.

#### Residential Amenities

- Questions whether the proposed development has all necessary amenities for a largescale residential development, including green areas, recreational facilities, sports field etc.

### **7.2. Planning Authority Response**

7.2.1. No response was from the planning authority on the appeal.

### **7.3. Applicant's Response**

7.3.1. The applicant submitted a response to the appeal, in respect of the following issues:

- Request for Appeal Dismissal.
- KCC Ref. 24/192.
- Infrastructure on Clash Road.
- Supporting Amenities.
- Available Sightlines.
- Other Matters – commentary on certain planning conditions and several supplementary documents providing information on same (including Condition 11 relating to boundary treatments, Condition 13 to Uisce Eireann, Condition 15 to surface water management, Condition 17 to the CEMP, Condition 18 to environmental mitigation measures, and Condition 31 to site development works and building standards).

7.3.2. Key points in the applicant's response to the appeal, as relevant to the issues raised in the appeal grounds, are considered in section 8.0 Planning Assessment of this report.

### **7.4. Observations**

7.4.1. No valid observation was received by the Board within the applicable statutory timeline.

### **7.5. Further Responses**

7.5.1. No further responses have been received by the Board on the appeal.

## **8.0 Planning Assessment**

### **8.1. Introduction**

8.1.1. Having reviewed the appeal, examined all other documentation on the case file, inspected the site, and had regard to the relevant national, regional, and local policies and guidance, I consider that the main issues in the appeal to be as follows:

- Appeal Grounds
- Residential Density
- Design and Layout
- Future Residential Amenity
- Access, Transportation and Traffic
- Other Matters

I propose to address each item in turn below.

- 8.1.2. In respect of the proposed development, I have carried out a screening determination for Appropriate Assessment (AA) and a screening determination for Environmental Impact Assessment (EIA). These are presented in sections 9.0 and 10.0 below and are to be read in conjunction with Appendices 1-3 of this report.

## 8.2. **Appeal Grounds**

- 8.2.1. At the outset, I propose to address the applicant's request in the appeal response that the third party appeal should be dismissed by the Board. The applicant states the appellant's grievance is with the planning authority due to permission having been refused for the appellant's planning application, PA Ref. 24/192 (see section 5.0 of this report above).
- 8.2.2. The applicant contends the appeal is personally motivated, is without planning substance, and is of a nature that does not relate to the proposal but to a separate planning application decision made the planning authority.
- 8.2.3. The applicant submits the Board should reject the appeal in accordance with sections 138(1)(a) and (b) of the Planning and Development Act 2000 as amended (2000 Act). The sections allow the Board discretion to dismiss an appeal if it is considered to be vexatious, frivolous, without substance or foundation, or made with the sole intention of delaying development, or choose not to further consider an appeal due to the nature of the appeal made.
- 8.2.4. While I acknowledge the applicant's position, I consider legitimate and relevant planning considerations have been raised in the appeal grounds (summarised in section 7.0 of this report above). These relate to concerns regarding the proposed access arrangements onto Clash Road (safety, tie-in with infrastructure,



achievement of sightlines), and of the levels of amenity provided for future residents within the scheme (achievement of standards, open spaces, recreational facilities).

- 8.2.5. While I note that the appellant refers to their refused planning application, PA Ref. 24/192 in the appeal, I do not concur with the applicant that the appeal is personally motivated, intended to delay development, or is of such a nature which would justify the use of section 138(1) of the 2000 Act.
- 8.2.6. In my opinion, the appellant is highlighting that the proposed development and the development subject of PA Ref. 24/192 both include similar access arrangements, i.e., vehicular entrances onto Clash Road. In referring to their refused planning application, the appellant is highlighting that the planning authority found that the proposed entrance may endanger public safety and create of traffic hazard (which is the basis for one of the refusal reasons in PA Ref. 24/192). By extension/ association, the appellant raises concerns relating to the health and safety of the access arrangements in the proposed development. I consider endangerment of public safety and creation of traffic hazard to be legitimate planning considerations.
- 8.2.7. Should the Board disagree with this position, the Board may wish to request responses from the appellant and planning authority, as is allowed for in accordance with section 131 of the 2000 Act in the instance of LRD applications, on the applicant's contention that the appeal be dismissed due to its motivation and nature.
- 8.2.8. However, for the reasons I have outlined above, I do not recommend same to the Board as I consider that valid planning issues are raised, the Board has jurisdiction to determine the appeal, and there is sufficient information on the case file to allow an assessment of the proposed development.
- 8.2.9. Finally, in the interests of clarity for the Board, I highlight that the applicant's appeal response includes responses to the appeal grounds, and a subsection referred to as 'Other Matters' (Section 4.0, pg. 6). In this subsection, the applicant has taken the opportunity to analyse and provide commentary on several of the conditions attached to the grant of permission. In particular, there is extensive new information provided in relation to Condition 15 on surface water arrangements, drainage infrastructure, and SuDS operation and management.

- 8.2.10. In my opinion, the information provided does not relate or respond to any appeal grounds and is beyond the scope of the matters raised in the planning appeal. As such, I do not propose to analyse same as part of this appeal determination.

### Conclusion

- 8.2.11. In conclusion, I consider legitimate and relevant planning matters have been raised in the third party appeal, to which the applicant has responded. I do not agree with the applicant that the appeal should be dismissed by the Board in accordance with sections 138(1)(a) and (b) of the 2000 Act, and recommend instead the determination of the appeal case.

### **8.3. Residential Density**

- 8.3.1. While not expressly raised in the appeal grounds, I identify whether the proposed residential density complies with the applicable policy context and an assessment of the impacts associated with the population increase on the receiving area as relevant planning matters to be considered.
- 8.3.2. Arising from the Compact Settlement Guidelines (see section 6.0 of this report above), Tralee is designated as a 'Key Town', and I consider the site comes within the definition of suburban/ urban extension. Accordingly, the proposed density of 40dph is acceptable, being a mid-point within the indicated density range of 30-50dph. The site has limited access to public transport services and is not overly restrained by the site-specific criteria (impacts on character, historic environment, protected habitats and species, daylight/ sunlight of residential properties, and water services capacity) which would otherwise require the proposed density to be revised (i.e., refine above or below the indicated range). The proposed density of 40dph is an optimum residential density that should be achievable through an appropriate design solution, thereby providing a sustainable quantum of dwellings units at this zoned and serviced site.
- 8.3.3. In this regard, the proposed development similarly complies with the applicable CDP objective on Core Strategy and the provision of sustainable quantum of residential dwellings in Tralee, and Objective KCDP 3-4, and on density, Objectives KCDP 6-16 and 7-8.

- 8.3.4. In considering the impact of the proposal on the receiving area, I note that in the 2022 Census, the population of Tralee town is 26,078 persons (Census website, information correct as of the date of this report). For the proposal, I estimate there to be a population increase of between c.627-1,086 persons (c.2.4%-4.16% increase in the town's population). This range is based on the 2022 Census average household size for Tralee town (c.2.45 persons) and the total number of bedspaces in the scheme (if all bedspaces were to be occupied, see Table 2(b), section 2.0 of this report above).
- 8.3.5. Having regard to the unit mix and the proportion of 1 and 2-bedroom units in the overall scheme (46%), I consider a population increase nearer the town's household average to be more likely (i.e., c.627 persons, c.2.4% increase). I consider this proportion of population growth to be well within acceptable parameters for Tralee town. On review of several reports on the case file, including the Social Infrastructure Audit, School Demand Assessment, Traffic and Transport Assessment (TTA), and Infrastructure Report, I do not anticipate any undue impacts on the social environment of the town, which offers a wide range of facilities and services.

#### Conclusion

- 8.3.6. In conclusion, in principle, the proposed development with a density of 40dph and yielding a population increase in the region of c.627 persons, would comply with the policy context set at national, regional and local levels for future growth in Tralee, and would not result in any undue or significant negative impact on the receiving environment.

#### **8.4. Design and Layout**

- 8.4.1. Linked to the appeal grounds questioning the provision of open spaces and recreational amenities within the proposal, I identify the design and layout of the proposal and the extent to which these comply with the national and local policy context as being relevant planning considerations.
- 8.4.2. In considering the design and layout of the scheme, I have reviewed the applicant's Architectural Design Statement, Townscape and Visual Impact Assessment, Landscape Masterplan and Design Report, DMURS Statement, and plans, elevations, and cross-sections of the proposal, the pre-planning consultations and LRD Opinion, and report of the planning authority.

- 8.4.3. The proposed development is a mid-scaled residential scheme featuring modestly designed dwellings (two storeys in height, 1–4-bedroom units in size). Overall, the scheme is laid out in two halves, the northern and southern portions, which are served by separate vehicular accesses onto Clash Road. Pedestrian and cycle paths, however, are provided through the scheme ensuring relatively high levels of permeability within and through the scheme.
- 8.4.4. The proposed dwellings are arranged in distinct cells (groupings of semi-detached units and terrace rows) and in conventional street/ linear formation along the site boundaries, particularly that with Racecourse Lawn to the west. In the main, the proposed dwellings are laid out fronting onto the internal access roads and are sited back-to-back with existing properties.
- 8.4.5. As indicated on the applicant's Public Open Space Areas Dwg No. 22258-PLA-008, the proposal includes four areas of public open space referred to as Zones 1-4. Between the northern and southern portions, is the main area of public open space, Zone 1 laid out on a linear east-west alignment. Zones 2 and 3 are located in the southern portion, and Zone 4 in the northern portion. The applicant's documentation indicates that 15% of the developable site area comprises public open space, which would comply with the applicable standards in the Compact Settlement Guidelines and the CDP (see section 6.0 of this report above).
- 8.4.6. In the application documents and reiterated in the appeal response, the applicant submits the proposal is a high-quality design solution for the site. In its assessment, the planning authority found the design and layout to be acceptable. However, I have several reservations regarding the design and layout of the scheme, and concerns for the resultant levels of amenity afforded to future residents. These reservations centre on the layout of the duplex units within the scheme, the design of the communal facilities (refuse and cycle parking) to serve the duplexes, and the omission from the layout of the scheme of any communal open space to serve these future residents.

#### Conclusion

- 8.4.7. In conclusion, while several aspects of the scheme's overall design and layout are acceptable in principle, I consider there to be material shortcomings in the treatment of the duplex units within the scheme. The design of the scheme has not had full

regard to the policy context established at national and local level for duplexes, the resultant planning outcomes of which are discussed in greater detail in the following subsection 8.5 for residential amenity.

## **8.5. Future Residential Amenity**

- 8.5.1. In deciding to incorporate the duplex residential typology into the proposed development, these units require the provision of a range of communal facilities and services (outlined in the Compact Settlement Guidelines, Apartment Guidelines, and CDP). These include communal open space, refuse facilities, and cycle parking.
- 8.5.2. The proposed development comprises 256 dwelling units, which is comprised of 138 houses (54% of the scheme) and 118 duplex units (46%). The houses are of conventional two storey semi-detached/ terrace designs. However, the duplexes are not conventional in design and layout, being designed as two storey buildings, attached at the ends of terrace rows of houses, and dispersed throughout the overall scheme, as indicated in the Site Layout Plan (Proposed) Dwg No. 22258-PLA-003 (pink, orange coloured buildings).
- 8.5.3. By not employing the conventional arrangement for the duplexes, these units are not grouped together and are consequently not served by communal amenities and facilities in close proximity, which would be more efficient, effective and beneficial for future residential amenity.
- 8.5.4. I have reviewed the application documentation and the planning authority's report. Neither the applicant's documentation (e.g., Application Form, Planning Statement, Statement of Consistency, Architectural Design Statement) nor the planning authority report identify the maisonettes as a duplex typology, nor consider the duplexes accordingly with an assessment of the implications for their future communal requirements, management and maintenance.
- 8.5.5. In this regard, the Board may consider that the identification and assessment of this matter is a new issue in the case. However, as the provision of communal open space for duplexes is an established requirement in the design of residential schemes which incorporate this typology, I do consider this to be the case.
- 8.5.6. The duplexes, referred to as 'maisonettes' and indicated as House Types D, D1, E, and E1, are single storey apartments arranged in attached pairs of two storey

buildings. The buildings have 'L' shaped/ configured footprints. At ground floor level of each building, there is own-door access to the ground floor apartment and the overhead first floor apartment.

- 8.5.7. Private open space for the duplexes is in the form of terraces for the ground floor units, and balconies for the first floor units. The private open spaces of the duplexes are sited to the front of the buildings, as to the rear and/ sides of the buildings are provided communal areas for the refuse bins and cycle parking spaces. I have reservations regarding the design and quality of the private open space for the first floor duplexes (minimum sizes, overhanging balcony to the front of the buildings, poor privacy levels) and for the ground floor duplexes (akin to a porch area, under the overhead balcony, poor amenity and privacy levels, no privacy strips, directly adjacent to the public realm).
- 8.5.8. Further, I have considered the site layout, floor plans, and elevations of the duplexes, the nature of these communal refuse/ cycle areas, and their inter-relationship. I have reservations regarding the future management and maintenance of these areas, levels of safety, the restricted outlooks from within the duplex units and likely levels of noise and nuisance caused to and resulting in poor amenity for future residents.
- 8.5.9. Fundamental to the assessment of the appeal, is the omission from the scheme of any communal open space to serve the duplexes. The duplexes comprise 50 no. 1 bed units and 68 no. 2 bed units, which I calculate generates a communal open space requirement of 658sqm having regard to requirements in Appendix 1 of the Apartment Guidelines.
- 8.5.10. I consider the total omission of communal open space, required to serve nearly half of all the units in the scheme, to be a material issue. I have not identified any justification for the omission of the communal space in the application documentation. As such, I find the proposal to be contrary to Section 4.10 of the Apartment Guidelines and to Section 1.0: Development Management Standards (policy in Sections 1.5.4.4, 1.5.5, and 1.5.5.3) of the CDP.
- 8.5.11. Additionally, I note that a qualitative component for communal open space is the provision of children's play areas. Due to the minimum/ poor standard of private open space provided for the duplexes, I consider that these units in particular are in

need of separate play area(s) for children. While I accept that 50 duplexes are 1 bed units, there are 68 duplexes which are 2 bed units and are likely to meet the residential needs of households with young children. As such I find the proposal to also be contrary to Section 4.13 of the Apartment Guidelines and Section 1.0: Development Management Standards (policy in Section 1.5.5.3) of the CDP.

8.5.12. Additionally, I identify operational issues which also arise from the design approach taken for the proposal. In particular, is the implication for the scheme being taken in charge. The areas proposed by the applicant to be taken in charge are indicated on Proposed Taken In Charge Plan Dwg No. 22258-PLA-005. This plan indicates the majority of the scheme, including all open spaces, roads, cycle paths, footpaths with several on-street car parking spaces, and boundaries as being taken in charge by the planning authority.

8.5.13. While not elaborated on in the planner's report, Condition 8 restricts the management and maintenance of the scheme to being the function and responsibility of a management company. Were permission to be under consideration by the Board, I concur with the planning authority and identify the establishment of a management company for the full scheme would be essential.

8.5.14. Due to the design and layout approach taken to the duplexes, I note the proliferation of smaller communal areas serving these buildings and consider that the maintenance of these areas would likely become a burden on future residents. As such, I consider the proposal to be contrary to Section 4.11 of the Apartment Guidelines.

8.5.15. In the interests of clarity for the Board, I confirm that I have given detailed consideration to the design of the scheme and the possibility of amending same by condition (particularly the arrangement of the duplexes, and the creation of communal open space(s)), but due to the materiality of the issues at outlined above, I considered that such amendments are beyond the scope of this appeal.

### Conclusion

8.5.16. In conclusion, I consider the design and layout of the proposed duplexes, which comprise nearly half of the residential units within the scheme, to be poorly considered, inadequate, and would result in substandard levels of amenity for future residents. The proposal fails to comply with the requirements established by the

national and local policy context in respect of the omission of communal open space, and the poor design and layout of the communal facilities, and private open space.

#### **8.6. Access, Transportation, and Traffic**

- 8.6.1. The appeal grounds include concerns regarding the proposed access arrangements in terms of safety and sightlines, the implications for neighbouring properties, the absence of supporting transportation infrastructure on Clash Road, and the approach of the planning authority in respect of developments along the public road.
- 8.6.2. The site has staggered road frontage along Clash Road and at the three locations where the site does address the road, the scheme proposes two vehicular entrances (northeast corner, central point) and a pedestrian/ cyclist entrance (southeastern corner). The proposal also includes for a setback of the available site frontage to facilitate future cycle infrastructure.
- 8.6.3. I have reviewed the applicant's supporting documents, the DMURS Statement, Stage 1 Road Safety Audit, TTA, and the Mobility Management Plan (MMP), and I direct the Board to key plans, Site Layout Plan (Proposed) Dwg No. 22258-PLA-003 and Proposed Sightlines Drawing Dwg No. 6724\_0012-D.
- 8.6.4. Clash Road is a local tertiary road, L2016, serving lands in the northeast of the town, and connecting these to the N69 Tralee Bypass. The road is long, straight, relatively level in gradient, with a raised footpath along its western side (adjacent to the site). In the vicinity of the site, the road serves detached dwellings and agricultural landholdings. Between the proposed vehicular entrances are two detached residences with existing entrances onto Clash Road.
- 8.6.5. The proposed entrances are indicated on Site Layout Plan (Proposed) Dwg No. 22258-PLA-003, being similarly designed of c.6m in width, two-way traffic, with 3m setback distances from the road edge. On the Proposed Sightlines Drawing Dwg No. 6724\_0012-D, the northeastern entrance is referred to as Entrance A, and the central entrance as Entrance B. The entrances have a design speed for 50km/h and achieve sightline distances of 70m in each direction. The applicant's documentation indicates that the entrances have been designed in accordance with industry standards (NRA, DMURS), are free from visual obstructions over 1m in height, and do not interfere with third party boundaries or lands.



- 8.6.6. In the planning authority's consideration of site access, the planning officer defers to the reports of the TII and Roads and Transportation Section. The grant of permission includes related recommended conditions, key being Condition 23 (Stage 1 and 2 Road Safety Audits). While I note the appeal ground concerns, the appellant has not provided any counter evidence demonstrating that the entrances are unsafe and a traffic hazard. I find the documentation provided in the application and appeal response to be acceptable and concur with the planning authority that (were permission to be under consideration) subject to condition the proposal could be safely accessed, and the use of the entrances would not cause a traffic hazard.
- 8.6.7. Appeal grounds include the absence of supporting transportation infrastructure on Clash Road with which the proposal can safely connect into. As outlined above, and apparent from a review of the pre planning consultation and LRD Opinion, improvements to/ upgrades of Clash Road were a requirement associated with the development of the site.
- 8.6.8. Indicated on the Site Layout Plan (Proposed) Dwg No. 22258-PLA-003 and subject to assessment in the Stage 1 Road Safety Audit, the proposal includes for a setback of the available site boundary to facilitate the provision of cycle infrastructure. The setback and cycle infrastructure are in two sections, the northernmost adjacent to Entrance A of c.50m in length and the central area at c.91.5m in length. The Stage 1 Road Safety Audit identifies two 'problems' relating to the cycle infrastructure and intersection with Clash Road (Problems 2.2 and 2.5, pgs. 7-8), both of which are committed to being addressed by way of final design agreement and construction method (pg. 18).
- 8.6.9. I positively note the provision of such infrastructure as part of the proposed development, which will benefit same. Reasonably, the delivery of the cycle infrastructure would be linked to the development of the site and subject to conditions, key including Conditions 23, 24, and 25. The planning authority also seeks a special development contribution (Condition 4) towards the upgrade of the junction between Clash Road and Racecourse Road for pedestrian and cycle movements (south of the site).
- 8.6.10. On balance, I consider the development of the site in tandem with the provision of cycle infrastructure on Clash Road (to be undertaken by the applicant) and the

contribution towards the upgrade of the junction (by the planning authority) to be reasonable. Definitive timelines for the delivery of same is not necessarily possible, being an iterative process which is dependent on several factors. In any event, I consider these components will serve the proposed development and result in safer road conditions for other road users generally.

- 8.6.11. Associated with the general road safety concerns raised in the appeal, are the results of the TTA and the measures included for the in the MMP. The TTA considers operation phase impacts for the project, predicting total vehicle trips (combined arrivals and departures) of 153 trips during the AM peak hour, and 154 trips in the PM peak hour, assesses four junctions along Clash Roa, a roundabout, a crossroads junction and the two proposed entrances (Fig 1.1, pg. 5) in the local road network, with identification of queue lengths, delays at junctions, and mitigation measures. The TTA concludes that all junctions will operate within their effective capacities at the design year 2041, and that the proposal would not generate such a quantum of traffic trips that cause a significant negative impact on Clhas Road.
- 8.6.12. Finally, in respect of the comparison made by the appellant between the assessments by the planning authority of the proposed development and PA Ref. 24/192 (i.e., contradictory decision making), I do not concur. While both schemes do propose accesses onto Clash Road, on review of the history file it is apparent that the planning authority did not find that the proposed entrance of PA Ref. 24/192 was substandard per se, but that the appellant had failed to adequately demonstrate that the junction would not endanger public safety or pose a traffic hazard. There is a material difference in these scenarios.

### Conclusion

- 8.6.13. In conclusion, I consider that the proposed entrances onto the public road are designed in accordance with the applicable guidelines, achieve the necessary sightlines, can operate safely and without causing a traffic hazard, or adversely impacting on third party properties. The proposal (were a grant of permission to be under consideration) incorporates infrastructural improvements to Clash Road, measures in the MMP to reduce private car trips, and generates a scale of traffic trips that can be assimilated into the local road network without adverse impacts.

## **8.7. Other Matters**

- 8.7.1. Finally, in the interests of clarity for the Board, in this subsection I collate other matters. These include relevant planning matters that, while not having been expressly raised in the appeal, I have considered thereby ensuring a comprehensive assessment of the scheme if permission were to be under consideration.
- 8.7.2. I confirm to the Board that I have reviewed the relevant details in the case documentation, assessed any associated impacts, and found the items listed below to be in order.
- 8.7.3. These include character of the area, height, scale and massing, building materials and finishes, permeability, internal road layout, car parking provision, DMURS compliance, landscaping and boundary treatments, visual amenity, childcare facility, social infrastructure, Part V compliance, phasing and construction of development, existing residential amenity (overlooking, overshadowing, overbearance), ecology, biodiversity and arboriculture, archaeological heritage, water services, surface water management and flood risk, public lighting and utilities.
- 8.7.4. Of the planning conditions attached to the planning authority's decision, the majority are acceptable and equivalent An Bord Pleanála conditions would similarly address matters (construction, operational, financial, and procedural). However, I highlight to the Board that I do not concur with Condition 2 by which permission is granted for a period of 10 years (no reasonable justification for same on grounds of scale and/ or construction complexity), and the Board may wish to seek specific costing details justifying the special development contribution of €150,000 subject of Condition 4.
- 8.7.5. Further, I direct the Board to sections 9.0 and 10.0 of this report below, and in particular to corresponding Appendices 1-3. These screening determinations provide detailed assessments of the impact of the proposed development on several components of the environment.

## **9.0 Appropriate Assessment**

### **9.1. Stage 1 – Screening Determination for Appropriate Assessment**

- 9.1.1. In accordance with section 177U(4) of the Planning and Development Act 2000, as amended (2000 Act), and on the basis of objective information, I conclude that the proposed development (project) 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 2000 Act is not required.

9.1.2. This conclusion is based on:

- Objective information presented in the Appropriate Assessment Screening Report.
- Qualifying interests and conservation objectives of the European sites.
- Absence of any meaningful pathways to any European site.
- Distances from European sites.
- Standard pollution controls and project design features that would be employed regardless of proximity to a European site and the effectiveness of same.

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

## **10.0 Environmental Impact Assessment**

### **10.1. Pre Screening for Environmental Impact Assessment**

10.1.1. Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended (2001 Regulations), and section 172(1)(a) of the Planning and Development Act 2000, as amended (2000 Act), identify classes of development with specified thresholds for which EIA is required.

10.1.2. I identify the following classes of development in the 2001 Regulations as being of relevance to the proposal:

- Class 10(b) relates to infrastructure projects that involve:
  - (i) Construction of more than 500 dwelling units,
  - (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

10.1.3. The proposed development is sub-threshold in terms of mandatory EIA requirements arising from Class 10(b)(i) and/ or (iv) of the 2001 Regulations. In respect of the latter, 'business district' is defined as a district within a city or town in which the predominant land use is retail or commercial use. I do not consider that the appeal site (with a site area of c.7ha) comes within this definition and is instead another part of a built-up area where the 10ha threshold applies.

10.1.4. As such, the criteria in Schedule 7 of the 2001 Regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment and should be the subject of EIA. The criteria include the characteristics of the project, the location of the site, and any other factors leading to an environmental impact.

## **10.2. Screening Determination for Environmental Impact Assessment**

10.2.1. The applicant has submitted an Environmental Impact Assessment screening report (EIASR) with the application addressing issues which are included for in Schedule 7A of the 2001 Regulations.

10.2.2. Based on the criteria in Schedule 7 of the 2001 Regulations, I have carried out an EIA screening determination of the project (included in Appendix 3 below of this report). I have had regard to the information provided in the applicant's EIASR and other related assessments and reports included in the case file. I concur with the nature and scale of the impacts identified by the applicant and note the range of mitigation measures proposed. I am satisfied that the submitted EIASR identifies and describes adequately the effects of the proposed development on the environment.

10.2.3. I have concluded that the proposed development would not be likely to have significant effects (in terms of extent, magnitude, complexity, probability, duration, frequency, or reversibility) on the environment and that the preparation and submission of an environmental impact assessment report is not therefore required.

10.2.4. This conclusion is based on regard being had to:

- a) The nature and scale of the project, which is below the thresholds in respect of Class 10(b)(i) and Class 10(b)(iv) of the Planning and Development Regulations 2001, as amended.

- b) The location of the site on zoned lands (Zoning Objectives 'R1' New/ Proposed Residential and 'R2' Existing Residential), and other relevant policies and objectives in the Kerry County Development Plan 2022-2028, incorporating the Tralee Town Development Plan, and the results of the strategic environmental assessment of this plan undertaken in accordance with the SEA Directive (2001/42/EC).
- c) The predominantly greenfield nature of the site and its location in an outer suburban area which is served by public services and infrastructure.
- d) The pattern of existing and permitted development in the area.
- e) The planning history at the site and within the area.
- f) The location of the site outside of any sensitive location specified in article 109(4)(a) the Planning and Development Regulations 2001, as amended and the absence of any potential impacts on such locations.
- g) 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).
- h) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended.
- i) The available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the EIA Directive.
- j) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including those identified in the Construction Environmental Management Plan, Ecological Impact Assessment, Appropriate Assessment Screening Report, Water Framework Directive Assessment, Drainage Impact Assessment incorporating a Site-Specific Flood Risk Assessment, Operational Waste Management Plan, and Archaeological Impact Assessment.

## 11.0 Recommendation

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

## 12.0 Recommended Draft Board Order

**Planning and Development Act 2000, as amended**

**Planning Authority:** Kerry County Council

**Planning Authority Register Reference:** 24/60695

**Appeal** by Thomas, Breda, and Mary King against the decision made on the 7<sup>th</sup> day of November 2024 by Kerry County Council to grant permission subject to conditions to KPH Construction Limited, c/o of HW Planning, 5 Joyce House, Barrack Square, Ballincollig, Co. Cork, in accordance with plans and particulars lodged with the said Council.

### **Proposed Development**

Large-scale residential development, consisting of the construction of 256 residential units, a childcare facility, and associated site development works on lands at Clash Road, Muing East (Townland), Tralee, Co. Kerry.

Particulars of the development comprise as follows:

The proposed development includes the demolition of an existing single-storey dwelling and associated shed and makes provision for 138 no. two storey houses, comprising 88 no. semi-detached units (76 no. 3 bed units and 12 no. 4 bed units) and 50 no. 3 bed terraced units and 118 no. maisonette units over 2 no. storeys (50 no. 1 bed units, 68 no. 2 bed units).

Ancillary infrastructure development works will include wastewater infrastructure, surface water attenuation, water utility services, public lighting, bin stores, bicycle stores, 3 no. ESB substations, and all associated site development works.

Vehicular access to the development will be via 1 no. new entrance and the reconfiguration of an existing entrance off Clash Road (L2016).

The proposed development also includes a separate pedestrian/ cycle entrance off Clash Road. The proposal includes dedicated pedestrian and cycling paths traversing the site and setback provision is made along the site's frontage with Clash Road to facilitate a future cycle infrastructure network.

## **Decision**

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

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## **Reasons and Considerations**

1. The design and layout of the duplexes, which comprise c.46% of the total number of residential units within the proposed development, are poorly considered, inadequate, inefficient, and would result in substandard levels of amenity for future residents. The proposed development fails to achieve the required qualitative and quantitative standards relating to communal amenities and facilities to serve the duplexes and, accordingly, is contrary to the requirement of the Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities, 2024, the Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities, 2023, and the Kerry County Development Plan 2022-2028 incorporating the Tralee Town Development Plan. The proposed development therefore is 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.

---

Phillippa Joyce

Senior Planning Inspector

5<sup>th</sup> March 2025

## Appendix 1: Appropriate Assessment – Screening Determination

### Screening for Appropriate Assessment

#### Screening Determination

##### Step 1: Description of the Project

I have considered the proposed development (project) in light of the requirements of section 177U of the Planning and Development Act 2000, as amended.

##### Subject Site

The subject site is located on lands at Muing East, c.2km northeast of Tralee town centre. The site, measuring c.7ha, predominantly greenfield in nature, comprises several agricultural fields and a detached residence and its curtilage.

The site contains a series of open drainage ditches which, alongside hedgerow and treelines, serve as field boundaries. The ecological surveys observe the ditches as wet, with stagnant water with no discernible flow, subject to regular agricultural maintenance works, with no notable vegetation. The drainage ditches are confirmed as being interconnected within the site but with no hydrological connections to any watercourses or European site designations outside of the site.

There are no hydrological features of note within or adjacent to the site. The site is located between two watercourses, Big River c.600m to the west of the site, and Ballybeggan (Ballynabrennagh) River c.710m to the east. The site is not hydrologically connected to either of these watercourses. Both rivers flow in southwesterly directions and ultimately discharge into River Lee and Tralee Bay.

In section 6.4 of this report above, I have identified the European sites in proximity to the site (closest linear measurement) to include inland SACs and SPAs (c.2.5km-4.5km to the northeast/southeast), and coastal SACs and SPAs (c.3km-10km to the west/ southwest).

European sites of note in this screening determination, include two ornithologically important designations. The site is located c.3.1km to the east of Tralee Bay Complex SPA (site code: 004188), and c.4km to the west of Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (site code: 004161).

##### Project

The project comprises the construction of 256 residential units, a childcare facility, and all associated development works including the demolition of structures, site clearance, and ground levelling.

Also included are new vehicular, pedestrian, and cyclist access points, internal access roads and footpaths, car and bicycle parking spaces, refuse storage facilities, public lighting, electrical services, public open spaces, hard and soft landscaping, boundary treatments, and all infrastructural works associated with water supply, wastewater drainage, surface water drainage (including connections to the public networks, SuDS features, and on-site attenuation storage).

The project seeks connections to the public systems for wastewater drainage and surface water drainage. Existing water services networks are located both in the public road, Clash Road, adjacent to the east of the site, and routed through the site (existing foul sewer proposed to be diverted).

Wastewater arising from the project will be collected, drain to an existing foul sewer located at the south of the site, and discharge by gravity to the public wastewater system network in Racecourse Road/ Clash Road, be treated at Tralee WWTP, and discharged to necessary standards to coastal waters in Tralee Bay.

The proposed surface water management system comprises two catchment areas, each of which will outfall into dedicated SuDS and attenuation storage areas. The overall system has been sized to store the runoff from a 1:100-year storm event plus a 20% climate change allowance and has been designed in accordance with the requirements of the Greater Dublin Strategic Drainage Study (GDSDS).

Surface water run-off will be collected through and attenuated within several SuDS features and bioretention basins. SuDS features include swales (at/ underground), filter drains, tree pits, and raingardens. Collection of surface water run-off through SuDS and filtering through petrol/ oil bypass interceptors prior to attenuation will reduce the risks of pollution, collecting silt and debris, and system blockages. Run-off will be discharged by flow control device at greenfield runoff rates to the existing surface water network located in Clash Road. The public surface water network discharges to Ballybeggan River, and in turn to River Lee and to Tralee Bay.

#### Submissions and Observations

Uisce Eireann report (October 2024) requires engagement from the applicant through the Pre-Connection Enquiry process to assess feasibility of connection to the public water/ wastewater infrastructure. UE's report includes the standard planning condition (enter into Connection Agreement, development to comply with the Code of Practice) and directs that Confirmation of Feasibility of Diversion(s) is required in instances where build over or diversion of existing water or wastewater services is proposed.

UE's Confirmation of Feasibility (August 2022) included within the applicant's Infrastructure Report indicates connections to water and wastewater networks are feasible subject to upgrades (amended

connections points, approach to diversions). I note there is no objection to the proposal due to capacity constraints in the networks. I have reviewed the UE Capacity Register, and confirm the Tralee WWTP has a status of 'green' indicating available capacity (correct as of the date of this report).

Relevant internal technical reports from the planning authority include those of the Environmental Assessment Unit, Environment Department, and Flooding and Coastal Protection Unit. These include recommendations for the construction phase process (several pollution prevention measures), agreement on a final SuDS operational and maintenance plan, and a final Construction Environmental Management Plan (CEMP).

The planning authority completed an appropriate assessment screening of the project. It was concluded that the proposed development, individually or in combination, would not have a significant effect on European sites in view of their conservation objectives and a Stage 2 AA is not required.

## **Step 2: Potential Impact Mechanisms from the Project**

### Site Surveys

Field surveys were undertaken over several months during 2023 and 2024 to identify habitat types, plant species, and bat, mammal and bird species at the site. The identified habitats on site are described as consisting of agricultural grassland (GA1), wet grassland (GS4), hedgerow (WL1), treelines (WL2), drainage ditches (FW4), and built lands (BL1, BL2, BL3). The site is confirmed as not being under any wildlife or conservation designation.

No protected or qualifying interest (QI) habitats, plant species of conservation importance, or any terrestrial mammals or evidence of mammals of conservation importance were noted on site.

Except for the bat survey work, which recorded the presence of five bat species (Common pipistrelle, soprano pipistrelle, Leisler's bat, Nathusius' pipistrelle, brown long-eared bat, and Myotis species bats) at the site (foraging and commuting, no roosting sites identified).

Surveys of bird species focused on the potential presence of QI species that are associated with the European sites within the project's Zone of Influence, and the habitats that would support same. The surveys were to establish the use, if any, of the site by the bird species, (i.e., interacting with, foraging, breeding, nesting).

Surveys for the hen harrier species (QI of Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA) were undertaken during the wintering and breeding seasons. The surveys did not record any hen harriers or hen harrier activity onsite or within the vicinity of the site (no

feeding, breeding, nesting, fly overs). However, habitat was noted on site that would support the prey species (small bird and mammals) that would be suitable for hen harriers.

Bird transect surveys (several bird species are QIs of Tralee Bay Complex SPA) were undertaken at the site during the wintering and breeding seasons. In the winter bird transect surveys, 17 bird species were recorded (including two red-listed species (redwing, snipe)). In the breeding bird transect surveys, 31 bird species were recorded (one red-listed species (snipe)).

In the wintering surveys, one bird species was recorded at the site, the black-headed gull, which is a QI for the Tralee Bay Complex SPA. Two other bird species, herring gull and snipe, which come within the 'waterbirds' QI designation for the SPA, were also recorded. During the breeding bird transect surveys, no QI or other protected bird species (save for red-listed snipe) were recorded at the site. Otherwise, the birds recorded during the surveys are considered to be species that are largely common to the countryside.

#### European Sites

The Appropriate Assessment Screening Report (AASR) identifies nine European sites in the precautionary 15km radius of the project (Table 4.1, pg.15).

The AASR considers factors which could potentially affect the conservation objectives and QIs of the European sites, including habitat loss/ degradation, water quality impairment, air quality impairment, and noise/ disturbance. An indirect hydrological connection by way of the operational phase surface water discharge to Tralee Bay is identified, but any likely significant effect on the European sites therein is discounted.

Seven of the sites are screened out at the preliminary stage due to nature of the site, scale of the project, absence of direct connections and separation distances.

Two European sites, Tralee Bay Complex SPA and Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA are identified for further consideration. These European sites are of high ornithological importance, as the former supports over 20,000 wintering waterbirds on an annual basis, and the latter is a stronghold for hen harrier and supports the largest concentration of the species in the country (source: NPWS).

These European sites are screened in due to the relatively close proximity, presence of suitable foraging and roosting habitats at the site for the QIs of the SPAs, and the potential disturbance effects to the designated species. Tables 4.2-4.4 identify/ describe the European site, list the QIs, and outline the conservation objectives of same (i.e. to maintain or restore favourable conditions).

On analysis of the available evidence, it is considered that due to the site location, scale of the proposal, type and quality of on-site habitat, separation distances, nature of the intervening lands,

and availability of more optimal habitat, the project will not have adverse effects on either European site or any of the associated QIs. The AASR concludes that the project, individually or in combination with another plan or project, will not have a likely significant effect on any European site in light of their conservation objectives.

#### Effect Mechanisms

In determining the potential impact mechanisms arising from the project on the relevant European sites, I note and find the following:

#### **Habitat Degradation and Loss**

- The site is not located within any European site designation and there are no protected habitats associated with any such designation identified at the site.
- Therefore, the likelihood of the project having a significant effect on any European site due to protected habitat degradation and/ or loss of protected habitat can be reasonably excluded.

#### **Species Disturbance**

- Six bird surveys were undertaken for the project, focussing on the use of the site by bird species associated with European sites in the Zone of Influence.
- Three surveys occurred during the wintering season (in November 2023, December 2023, and January 2024) and three surveys during the breeding season (April, May, and June 2024). I consider the surveys to be comprehensive and representative of the use of the site, and that the Board can rely on the findings of same.
- The surveys confirmed the presence of protected bird species (QIs of the Tralee Bay Complex SPA) at the site during the wintering and breeding seasons.
- There is a potential risk to QI bird species during the construction phase of the project due to disturbance when using the site and/ or the loss of suitable foraging and nesting habitats due to the development of the site.
- Therefore, the likelihood of the project having a significant effect on that European site (Tralee Bay Complex SPA) due to disturbance of these QI bird species cannot be reasonably excluded on preliminary examination.
- The wintering and breeding surveys did not observe any hen harriers (the only QI for Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA) or identify any hen harrier activity on-site or within the vicinity of the site (no foraging, breeding, nesting, roosting, fly overs).
- While habitat that would support prey species (small bird and mammals) was noted on site, I consider that the results of the hen harrier surveys (i.e., no evidence of the site being used by the bird species), can be relied upon at this preliminary examination.

- I note the ornithological information provided in the AASR that hen harriers prefer well-drained upland bog and heather moorland habitats for breeding during the summer season and predominantly use heath/ bog habitat and often roost communally in the winter season.
- These are habitats that do not exist nor likely to be present at the site. Further, I note the AASR's finding that based on the absence of the above conditions, the site is not considered to be of importance to hen harriers.
- Therefore, the likelihood of the project having a significant effect on the European site (Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA) due to the disturbance of the QI hen harrier bird species can be reasonably excluded.

#### **Construction Phase Water Pollution**

- There are no hydrological features of note within (only an interconnected series of drainage ditches) or adjacent to the site.
- There are two watercourses within c.800m of the site (Big River and Ballybeggan River), but the site is not hydrologically connected to either watercourse.
- Site development, clearance and construction activities pose a potential risk to water quality due to contamination (e.g., from suspended solids, hydrocarbons and concrete/ cement products) of the local surface water network and/ or to groundwater.
- However, I note the drainage ditches are localised features of low ecological value with no discernible water flow, the site is not connected to any watercourse, nor is there evidence of groundwater vulnerability at the site.
- Further, I note the strong likelihood that a pollution event at and/ or pollution from the construction site would be minimal in significance and/ or quantity, and that the development works would be managed and implemented in line with the submitted Construction and Environmental Management Plan (CEMP), which includes standardised measures to prevent pollution of/ protect surface water and/ or groundwater against pollution.
- Therefore, the likelihood of the project having a significant effect on any European site due to construction phase water pollution can be reasonably excluded.

#### **Operation Phase Water Pollution**

- The project incorporates several SuDS features and seeks to connect to the surface water public network, which in turn discharges to Ballybeggan River, River Lee, and ultimately Tralee Bay.
- There are two European sites in Tralee Bay, Tralee Bay Complex SPA and the Tralee Bay and Magharees Peninsula, West to Cloghane SAC. Once operational, an indirect hydrological connection would exist between the project and these coastal European sites.

- In respect of SuDS features, I note their incorporation into the design of the project is required by several policy frameworks (GDSDS, Regional Code of Practice, Flood Risk Guidelines, CDP) and is a standardised embedded mitigation.
- I highlight the positive effects of the SuDS features within the project in treating, attenuating, and reducing volumes of surface water run-off and, as the primary reason for the use of SuDS has not been to protect any European site, I have considered same in undertaking this appropriate assessment screening.
- There is a notable distance separating the European sites and the project (i.e., a downstream distance of c.7.5km via the surface water drainage network, Ballybeggan River, and River Lee).
- Further, I note the strong likelihood that any surface water pollution event at the scheme once operational would be minimal in significance and/ or quantity, that there would be high levels of dilution, mixing and/ or dissipation of any contaminant in the receiving surface and/ or sea waters, whereby the potential to negatively affect the QIs of the European sites (e.g., contaminate food sources for seabird, waterbird species) is considered to be extremely low.
- There are no meaningful hydrological connections between the project and any European site arising from wastewater drainage during the operation phase.
- Therefore, the likelihood of the project having a significant effect on any European site due to operation phase water pollution can be reasonably excluded.

Having regard to the characteristics of the project in terms of the site's features and location and the project's scale of works, I consider the following potential impact mechanism requires examination for any likely significant effect on one European site, Tralee Bay Complex SPA (site code: 004188).

- Disturbance effects to QI species during the construction phase

### Step 3: European Site(s) at Risk

**Table 1: European Site(s) at risk from impacts of the proposed project**

Effect mechanism	Impact pathway/ Zone of influence	European Site(s)	Qualifying/ Conservation interest features at risk
A) Disturbance effects to QI species during the construction phase	Impact via direct disturbance of bird species using the site and/ or the removal of suitable foraging and nesting habitats at the site	Tralee Bay Complex SPA (site code: 004188)	Whooper Swan ( <i>Cygnus cygnus</i> ) [A038] Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) [A046] Shelduck ( <i>Tadorna tadorna</i> ) [A048] Wigeon ( <i>Anas penelope</i> ) [A050]



			<p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Mallard (<i>Anas platyrhynchos</i>) [A053]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Scaup (<i>Aythya marila</i>) [A062]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Lapwing (<i>Vanellus vanellus</i>) [A142]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Common Gull (<i>Larus canus</i>) [A182]</p> <p>Wetland and Waterbirds [A999]</p>
--	--	--	--

#### Step 4: Likely Significant Effects on the European Site(s) 'Alone'

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)?

Tralee Bay Complex SPA (site code: 004188)		Effect A	Effect B	Effect C	Effect D
Birds species listed in Column 4 of Table 1 above (except...)	<i>To maintain the favourable conservation condition of...</i>	N			
Grey Plover (Pluvialis squatarola) [A141]	<i>To maintain/ restore the favourable conservation condition of...</i>	N			
Wetland and Waterbirds [A999]	<i>To maintain the favourable conservation condition of...</i>	N			

#### Effect Mechanism A (Disturbance effects to QI species during the construction phase)

Of the potential impact to the qualifying interests of Tralee Bay Complex SPA, I note and find the following:

- Tralee Bay Complex SPA is a large, curvilinear designation, consisting of an area of nearly 3,650 hectares along the coast of north Co. Kerry. The SPA has 23 QIs (bird species, and wetland habitat).
- Tralee Bay Complex SPA is of high ornithological importance supporting over 20,000 wintering waterbirds on an annual basis, including an international important population of Light-bellied Brent Goose and nationally important populations of 21 other species (source: NPWS).
- There is a potential risk of disturbance effects to QI bird species during the construction phase of the project when using the site and/ or due to the loss of suitable foraging and nesting habitats at the site.
- While the bird surveys recorded QI species at the site, there were only three such bird species identified. These include a single specific QI species, black-headed gull, while herring gull and snipe come within the wider scope of waterbirds.
- Further, these species are all recorded in low numbers, are described in the AASR as being 'easily flushed by the surveyor and moved into adjacent lands', and no signs of active or previous nesting activities are identified on-site.
- While suitable habitat is identified at the site for foraging QI bird species, the AASR outlines the features which combine to make the site unsuitable for QI bird species, in particular any of the larger overwintering waterbirds. These include the presence of hedgerows and treelines surrounding and bisecting the fields, the drainage ditches lacking suitable vegetation for waterbird species and appearing to undergo regular agricultural

maintenance, and the absence of any waterbodies within the site that would be considered suitable for waterbird species.

- On the basis of the survey results and objective ornithological data, the site is evaluated as not offering optimum ex-situ habitat for the QI bird species. The unsuitable nature of the site is evidenced by the very small number of birds recorded during these surveys.
- I concur with the conclusion of the AASR, finding that the site is not an important ex-situ foraging and/ or roosting site for any bird species associated with any nearby SPAs.
- Overall, based on the results of the bird surveys, and having regard to the location of the site, the scale of the project, the nature of the intervening lands separating the site from Tralee Bay Complex SPA (i.e., the built-up area of Tralee town), and the availability of more suitable habitats at alternative locations closer to Tralee Bay, I consider that the project would not result in any significant disturbance to or loss of any QI species.
- I conclude that disturbance effects to QI species arising from construction activities and the loss of supporting habitat at the site can be reasonably screened out from further consideration.

Overall, I conclude that the project would have no likely significant effect ‘alone’ on the qualifying features of any European site. Further appropriate assessment screening in-combination with other plans and projects is required.

### **Step 5: Where Relevant, Likely Significant Effects on the European Site(s) ‘In-Combination with other Plans and Projects’**

**Table 3: Plans and projects that could act in combination with effect mechanisms of the proposed project (e.g. approved but uncompleted, or proposed)**

<b>Plan / Project</b>	<b>Effect mechanism</b>
Listed in Section 6.2 of the AASR and supplemented by information in section 5.0 Planning History of this report above.	As per Table 1 above

I have had regard to the information included in the AASR on projects. I have also reviewed the planning authority’s website for applicable appropriate assessment information on relevant plans (CDP, comprising several volumes), and the planning authority and An Bord Pleanála’s planning registers for relevant planning cases (projects) (correct as of the date of this assessment).

The AASR outlines several planning applications in the vicinity of the site. Following consideration of which, the AASR does not identify any significant in-combination effects. Based on my own review, this is a conclusion with which I concur. With regard to plans, I consider that the key plan is

the CDP, which seeks environmental protection (including of protected flora and fauna species) and pollution prevention.

**Table 4: Could the project undermine the Conservation Objectives in combination with other plans and projects?**

European Site and qualifying feature	Conservation objective	Could the conservation objectives be undermined (Y/ N)?			
		Effect A	Effect B	Effect C	Effect D
Tralee Bay Complex SPA (site code: 004188)					
As per Table 2 above	As per Table 2 above	N			

I conclude that the project would have no likely significant effect in combination with other plans and projects on the qualifying features of any European site.

### Overall Conclusion – Screening Determination

In accordance with section 177U(4) of the Planning and Development Act 2000, as amended, and on the basis of objective information, I conclude that the project 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, as amended, is not required.

This conclusion is based on:

- Objective information presented in the Appropriate Assessment Screening Report.
- Qualifying interests and conservation objectives of the European sites.
- Absence of any meaningful pathways to any European site.
- Distances from European sites.
- Standard pollution controls and project design features that would be employed regardless of proximity to a European site and the effectiveness of same.

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

**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## Appendix 2: Environmental Impact Assessment – Pre Screening Form

<b>ABP Case Reference</b>	<b>ABP 321298-24</b>		
<b>Proposed Development Summary</b>	Demolition of structures, construction of 256 residential units, a childcare facility, and all other site and development works.		
<b>Development Address</b>	Clash Road, Muing East (Townland), Tralee, Co. Kerry		
<b>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)</b>		<b>Yes</b>	✓
		<b>No</b>	
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			
<b>Yes</b>	✓	Class 10(b) Infrastructure Projects	Proceed to Q.3
<b>No</b>			
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant class?</b>			
<b>Yes</b>			
<b>No</b>	✓	Class 10(b)(i) and/ or Class 10(b)(iv)	Proceed to Q.4
<b>4. Is the proposed development below the relevant threshold for the class of development [sub-threshold development]?</b>			
<b>Yes</b>	✓	Relevant thresholds arising from Class 10(b): - Class 10(b)(i) – more than 500 dwelling units. - Class 10(b)(iv) – urban development in an area greater than 10ha.	Preliminary examination may be required
<b>5. Has Schedule 7A information been submitted?</b>			
<b>No</b>		Pre-Screening determination remains as above (Q1 to Q4)	
<b>Yes</b>	✓	Screening Determination required	

**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_

### Appendix 3: Environmental Impact Assessment – Screening Determination Form

A. CASE DETAILS		
<b>An Bord Pleanála Case Reference</b>		<b>ABP 321298-24</b>
<b>Development Summary</b>		Demolition of existing structures, construction of 256 dwelling units, a childcare facility, and all associated site works.
	<b>Yes/ No/ N/A</b>	<b>Comment (if relevant)</b>
<b>1. Was a Screening Determination carried out by the planning authority?</b>	Yes	The planning authority concluded '...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 report is not therefore required'.
<b>2. Has Schedule 7A information been submitted?</b>	Yes	An Environmental Impact Assessment Screening Report (EIASR) has been submitted with the application and considers the EIA Directive (2011/92/EU, as amended by 2014/52/EU).
<b>3. Has an AA screening report or NIS been submitted?</b>	Yes	An Appropriate Assessment Screening Report (AASR) has been submitted with the application and considers the content of Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC).
<b>4. Is an IED/ IPC or Waste Licence (or review of licence) required from the EPA?</b>	No	N/A
<b>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.</b>	Yes	<ul style="list-style-type: none"> <li>• An Ecological Impact Assessment (EcIA) which considers the Habitats Directive (92/43/EEC), Birds Directive (2009/147/EC), and Water Framework Directive (2000/60/EC).</li> <li>• A Drainage Impact Assessment (DIA, incorporating a flood risk assessment) which considers the content of the EU Floods Directive (2007/60/EC).</li> <li>• A Water Framework Directive Assessment (WFDA) which considers the Water Framework Directive (2000/60/EC).</li> <li>• A preliminary Operational Waste Management Plan (OWMP) which considers the content of the Landfill Directive (1999/31/EC) and Waste Framework Directive (2008/98/EC).</li> <li>• A Climate Action and Energy Analysis Report (CAEAR) which considers the content of the Energy Performance in Buildings Directive (2010/31/EU).</li> <li>• SEA was undertaken by the planning authority in respect of the Kerry County Development Plan 2022-2028 incorporating the Tralee Town Development Plan 2022-2028.</li> </ul>

<b>B. EXAMINATION</b>	<b>Response:  Yes/ No/ Uncertain</b>	<b>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</b> (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)	<b>Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain</b>
<b>1. Characteristics of proposed development</b> (including demolition, construction, operation, or decommissioning)			
<b>1.1</b> Is the project significantly different in character or scale to the existing surrounding or environment?	No	<p>The project comprises the construction of a mid-scaled, medium-density residential scheme on zoned lands.</p> <p>The project does not differ significantly from the surrounding area in terms of character (residential and childcare uses exist in the area, suburban estate designs and layouts, with surface parking, landscaped open spaces, conventional boundary treatments), or of scale (use of conventional houses and duplex buildings, maintenance of building heights at 2 storeys, and a marginal increase in density from surrounding detached residences through the incorporation of duplexes).</p>	No
<b>1.2</b> Will construction, operation, decommissioning, or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	<p>The project would cause physical changes to the site during the site development works (i.e., demolition of a dwelling and shed structures on site, site clearance works, and construction activities).</p> <p>There would be changes to the topography of the site, which slopes in a southerly direction from the northwest to southeast (decreasing from c.29.5m OD to c.21.5m OD). Top and subsoils would be stripped, reused on site where possible, or removed off-site. The project involves ground alteration and reprofiling to facilitate buildings, roads/ paths, open spaces, and site services.</p> <p>The site is predominantly greenfield in nature and most recently agricultural in use (save for a detached dwelling). The proposed residential land use would result in physical changes to the built environment at the site. The architectural approach taken for the design and layout of the scheme is consistent with the character of the existing area (defined by low rise, low density, suburban built forms).</p>	No

		<p>The project would cause physical changes to the site whereby a series of interconnected drainage ditches, serving as field boundaries, would be removed to facilitate development. The drainage ditches are not hydrologically connected to any watercourse or waterbody outside of the site.</p> <p>I direct the Board to the response to Q: 2.1 below in respect of protected water bodies/ ecological designations, and to that of Q: 2.5 in respect of water resources including watercourses, waterbodies and flood risk.</p> <p>Accordingly, I do not consider that the physical changes arising from the project are likely to result in significant effects on the environment in terms of topography, land use, and hydrology/ hydrogeology.</p>	
<p><b>1.3</b> 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?</p>	No	<p>The project uses standard construction methods, materials and equipment, and the process would be managed through the implementation of the Construction Environmental Management Plan (CEMP, which incorporates an outline Construction and Demolition Waste Management Plan (CDWMP)) (note: if permission were under consideration, a final agreed CEMP would be recommended to be agreed by condition).</p> <p>Waste arising from the demolition and construction phase would be managed through the implementation of a Resource Waste Management Plan (RWMP) (note: if permission were under consideration, a specific RWMP (as opposed to a CDWMP) would be recommended to be agreed by condition). There is no significant use of natural resources anticipated.</p> <p>While the project uses land, the lands are zoned for development and serviced. In this regard, the project would use land more efficiently and sustainably than at present (vacant residential and agricultural use, intensified through provision of mid-scaled, medium-density residential scheme). Otherwise, the operational phase of the project would not use natural resources in short supply.</p> <p>The project connects to the public water and wastewater services systems which have sufficient capacity to cater for demands arising from</p>	No



		<p>the project (Uisce Eireann requires Confirmation of Feasibility agreements, but no objections are raised in relation to public systems' capacity). The project incorporates several SuDS features, which would attenuate storm water run-off on-site prior to discharge at greenfield rates to the public surface water system. There are no issues raised in respect of capacity in the network.</p> <p>The project includes an energy efficient design (outlined in the CAEAR), several SuDS features, and is located in reasonably close proximity to several amenities and services in Tralee town.</p>	
<p><b>1.4</b> Will the project involve the use, storage, transport, handling, or production of substance which would be harmful to human health or the environment?</p>	Yes	<p>Construction phase activities require the use of potentially harmful materials, such as fuels and create waste for disposal. The use of such substances is typical of construction sites.</p> <p>Noise and dust emissions during the construction phase of the project would be likely. These works would be managed through implementation of the CEMP (with mitigation measures as proposed and/ or with additional measures required by condition).</p> <p>The operational phase of the project would not involve the use, storage, or production of any harmful substance. Conventional waste produced from residential and childcare activity would be managed through the implementation of the OWMP .</p> <p>Accordingly, I do not consider this aspect of the project likely to result in significant effects on the environment in terms of human health or biodiversity.</p>	No
<p><b>1.5</b> Will the project produce solid waste, release pollutants or any hazardous/ toxic/ noxious substances?</p>	No	<p>Conventional waste would be produced from demolition, site clearance and construction activities, which would be managed through the implementation of the CEMP and/ or RWMP, as outlined above.</p> <p>Operational phase of the project (i.e., the occupation of the residential units and the childcare facility) would not produce or release any pollutant or hazardous material. Conventional operational waste would be managed through the implementation of the OWMP to obviate potential environmental impacts.</p>	No

<p><b>1.6</b> 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?</p>	<p>Yes</p>	<p>The project involves grounds works due to the site's topography with excavation and reprofiling to facilitate buildings, roads/ paths, open spaces, and site services.</p> <p>Standard construction methods, materials and equipment are to be used, and the process would be managed through the implementation of the CEMP (with mitigation measures as proposed and/ or with additional measures required by condition), and a RWMP.</p> <p>I direct the Board to the response to Q: 2.1 below in respect of protected water bodies/ ecological designations, and to that of Q: 2.5 in respect of water resources including watercourses, waterbodies and flood risk.</p> <p>Accordingly, as risks of contamination to ground or water bodies are mitigated and managed, I do not consider this aspect of the project likely to result in a significant effect on the environment.</p>	<p>No</p>
<p><b>1.7</b> Will the project cause noise and vibration or release of light, heat, energy, or electromagnetic radiation?</p>	<p>Yes</p>	<p>Noise and vibration impacts during the site development works are likely. These works are short term in duration, and impacts arising would be temporary, localised, and be managed through implementation of the CEMP (with mitigation measures as proposed and/ or with additional measures required by condition).</p> <p>The operational phase of the project would likely result in noise and light impacts associated with the residential use and childcare service (increased traffic generation, use of open spaces, operation of the childcare facility) which are considered to be typical of such mid-scaled, medium-density schemes as proposed.</p> <p>Traffic impacts would be mitigated by the implementation of the Mobility Management Plan (MMP), and lighting impacts would be mitigated by the provision of a public lighting plan (designed to comply with industry guidance and provided to the satisfaction of the planning authority).</p> <p>I direct the Board to the response to Q: 2.8 below in respect of the project's effect on sensitive land uses.</p>	<p>No</p>

		Accordingly, I do not consider this aspect of the project likely to result in significant effects on the environment in terms of air quality (noise, vibration, light pollution).	
<b>1.8</b> Will there be any risks to human health, for example due to water contamination or air pollution?	Yes	<p>The potential for water contamination, noise and dust emissions during the construction phase is likely.</p> <p>Construction phase works would be managed through implementation of the CEMP (with mitigation measures as proposed and/ or with additional measures required by condition). Site development works are short term in duration, and impacts arising would be temporary, localised, addressed by the mitigation measures.</p> <p>Operational phase of the project would not likely cause risks to human health through water contamination or air pollution due to the nature (residential, childcare uses) and design (SuDS features) of the scheme, connection to public water services systems, and scale of residential use/ activities arising.</p> <p>Accordingly, in terms of risks to human health, I do not consider this aspect of the project likely to result in a significant effect on the environment.</p>	No
<b>1.9</b> Will there be any risk of major accidents that could affect human health or the environment?	No	There is no risk of major accidents given nature of the project.	No
<b>1.10</b> Will the project affect the social environment (population, employment)	Yes	<p>The project would increase localised temporary employment activity at the site during site development works (i.e. site enabling and construction phases). The site development works are short term in duration and impacts arising would be temporary, localised, addressed by the mitigation measures in the CEMP.</p> <p>The operational phase of the project (i.e. the occupation of the residential units) would result in a potential increase of c.627 persons, or a c.2.4% increase in the population of Tralee town. Such an increase is considered to constitute a slight impact in scale of effect. The childcare facility would cater for c.40 children.</p>	No

		<p>The receiving area is a developing suburban location, in relatively close proximity to wider education, amenities, services, public transport, and has the capacity to accommodate the impacts associated with the population increase.</p> <p>Accordingly, I do not consider this aspect of the project likely to result in a significant effect on the social environment of the area.</p>	
<p><b>1.11</b> Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p>	Yes	<p>The site is zoned for residential development in the CDP incorporating the Tralee Town Development Plan. The zonings at the site and in the vicinity (i.e., existing and proposed residential) effectively serve to phase the development of Tralee town.</p> <p>As such, the site is part of a wider large-scale change in the area as envisaged by the planning authority in the CDP for the plan period until 2028. Notwithstanding, the site is serviced, and the project is standalone and not dependent on other development or services being provided.</p> <p>I direct the Board to the response to Q: 3.1 below in respect of considerations of cumulative effects of the project.</p> <p>Within this planned and phased context, I do not consider that cumulative significant effects on the area could be reasonably anticipated.</p>	No
<b>2. Location of proposed development</b>			
<p><b>2.1</b> 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"> <li>a) European site (SAC/ SPA/ pSAC/ pSPA)</li> <li>b) NHA/ pNHA</li> <li>c) Designated Nature Reserve</li> <li>d) Designated refuge for flora or fauna</li> <li>e) Place, site or feature of ecological interest, the preservation/ conservation/ protection of which is</li> </ul>	Yes	<p>The project is not located in, on, or adjoining any European site, any designated or proposed NHA, or any other listed area of ecological interest or protection. There are no hydrological features of note within or adjacent to the site.</p> <p>The site contains a series of open drainage ditches, in which stagnant water with no discernible flow was observed during field surveys. The drainage ditches are confirmed as being interconnected within the site but with no hydrological connections to any watercourses or European site designations outside of the site.</p>	No

<p>an objective of a development plan/ LAP/ draft plan or variation of a plan</p>		<p>The site is located between two watercourses, Big River c.600m to the west of the site, and Ballybeggan (Ballynabrennagh) River c.710m to the east. The site is not hydrologically connected to either of these watercourses. Both rivers flow in southwesterly directions and ultimately merge with the River Lee (comprising two WFD watercourses Lee (Tralee)_30 and Lee (Tralee_40)) which discharges into Tralee Bay.</p> <p>Tralee Bay contains two European sites, Tralee Bay Complex SPA (site code: 004188) and the Tralee Bay and Magharees Peninsula, West to Cloghane SAC (site code: 002070). The latter is also a proposed Natural Heritage Area (same code and qualifying details). Tralee Bay contains two WFD related designations, Lee K Transitional Waterbody and Inner Tralee Bay Coastal Waterbody.</p> <p>At operational phase, an indirect hydrological connection is identified between the site and the European sites and WFD waterbodies associated with Tralee Bay. The pathway is formed via the proposed surface water discharge connection to the existing public network, Ballybeggan River, River Lee and to Tralee Bay.</p> <p>The AASR, supplemented by information in the WFDA, EcIA, DIA, and CEMP, presents information on potential impacts of the project on the European sites, allowing the Board to undertake an Appropriate Assessment screening determination (see section 9.0 and Appendix 1 of this report). This process concluded that the project would not adversely affect the integrity of either of the Tralee Bay European sites.</p> <p>Similarly, due to the indirect hydrological connection, the WFDA presents information allowing an assessment of the potential impact of the project on watercourses and waterbodies. The WFDA screens in the River Lee (comprising Lee (Tralee)_30 and Lee (Tralee_40)), Lee K Transitional Waterbody, Inner Tralee Bay Coastal Waterbody, and Tralee Groundwater Waterbody for assessment. The WFDA considers the scale of the project, construction phase mitigation measures, operational phase project design features (SuDS, discharge to the public drainage system), downstream separation distances, and dilution effects of fluvial and coastal waters. The WFDA concludes the project would not compromise the objectives and requirements of the WFD within the</p>	
---	--	--	--

		<p>local area and river basin district. This is a conclusion with which I concur, and I am satisfied that the Board can rely upon.</p> <p>Accordingly, I do not consider this aspect of the project likely to result in a significant effect on the environment in terms of ecological designations or biodiversity.</p>	
<p><b>2.2</b> 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>	Yes	<p>Field surveys were undertaken over several months during 2023 and 2024 to identify habitat types, plant species, and bat, mammal and bird species at the site.</p> <p>The site comprises habitats of agricultural grassland, wet grassland, hedgerow, treelines, drainage ditches, and built lands. No protected or qualifying interest (QI) habitats were noted. The drainage ditches are recorded as wet with stagnant water, under agricultural maintenance, with no aquatic vegetation. The site is confirmed as not being under any wildlife or conservation designation.</p> <p>Bat field survey work recorded the presence of five bat species (Common pipistrelle, soprano pipistrelle, Leisler's bat, Nathusius' pipistrelle, brown long-eared bat, and Myotis species bats) using the hedgerows/ treelines in the site for foraging and commuting, but no roosting sites were identified. No other protected or QI mammal species, or evidence of mammals of conservation importance (except for the bats) were noted on site. At operational phase, mitigation measures (bat boxes, replacement hedgerows) are included in the landscaping plan to ameliorate against any significant negative effect.</p> <p>The bird survey work focused on the potential presence of QI species associated with the European sites within the project's Zone of Influence, and the habitats that would support same. These are Tralee Bay Complex SPA (23 QIs wintering/ waterbird species), and Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (one QI species, hen harrier).</p> <p>The bird survey work (wintering and breeding seasons) establishes the site as having key ecological receptors, i.e., three QI bird species with links to the European site, Tralee Bay Complex SPA. The surveys did</p>	No

		<p>not record any hen harriers or hen harrier activity onsite or within the vicinity of the site (only in general suitable habitat for prey species). Save for the three QI bird species, the birds recorded during the surveys are considered to be species that are largely common to the countryside.</p> <p>The ornithological importance of the site is the subject of the AASR and the EclA (which includes the bird species surveys). On balance, the site is determined as not being an important ex-situ foraging and/ or roosting site for any protected bird species. This is based on the results of the bird surveys (limited range and number of birds using the site), the location of the site outside of any designation, the scale of the project, the nature of the intervening lands separating the site from Tralee Bay Complex SPA (i.e., the built-up area of Tralee town), and the availability of more suitable habitats at alternative locations closer to Tralee Bay.</p> <p>Accordingly, I do not consider this aspect of the project likely to result in a significant effect on the environment in terms of protected flora and/ or fauna species.</p>	
<p><b>2.3</b> Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	Yes	<p>There are no landscape designations or protected scenic views at the site.</p> <p>There are no protected structures or architectural conservation area designations at the site.</p> <p>The site is adjacent to/ does contain archaeological heritage features. Adjacent to the southeast corner of the site is the recorded monument, Enclosure, KE029-259, and its zone of notification extends into the site.</p> <p>An Archaeological Impact Assessment (AIA) has been prepared for the project. The AIA outlines a geophysical survey was undertaken of the site, followed by test trenching during December 2023. The latter involved excavation of 33 trenches across the site (Figure 7, pg. 13). The AIA confirms that there was no trace of the recorded monument, the enclosure, found during test trenching on the site. One archaeological feature, a fulacht fiadh/ burnt mound was identified within Trenches 18 and 19 (southwest of the site).</p>	No

		<p>As the project would alter the hydrology of the site, thereby affecting the preservation in-situ of organic material, the AIA recommends the excavation of the fulacht fiadh feature prior to commencement of development.</p> <p>On review of the AIA, I note the number and extent of test trenches, which I consider to be representative and comprehensive through the site, and the limited archaeological features uncovered at the site.</p> <p>Accordingly, I do not consider this aspect of the project likely to result in a significant effect on the environment in terms of archaeology and cultural heritage.</p>	
<p><b>2.4</b> 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>	Yes	<p>There are no such resources on or close to the site.</p> <p>The WFDA identifies the Tralee Bay Economically Significant Shellfish Area (also referenced as Tralee Economic Shellfish Area) as a protected fisheries designation in the vicinity of the project.</p> <p>However, the designation is confirmed as being located downflow of the surface waterbodies surrounding the project and outside of the 5km buffer zone from the site (established as the extent of the potential zone of influence).</p> <p>The WFDA finds that due to the scale of the project and downstream separation distances (and I note the resultant dilution effects of fluvial and coastal waters), that the project is unlikely to result in any significant effect on the area. This is a conclusion with which I concur, and I am satisfied that the Board can rely upon.</p> <p>Accordingly, I do not consider this aspect of the project likely to result in a significant effect on the environment in terms of impact on natural resources.</p>	No
<p><b>2.5</b> 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>	Yes	<p>There are no hydrological features of note within or adjacent to the site. The site contains a series of open drainage ditches, in which stagnant water with no discernible flow was observed during field surveys. The drainage ditches are confirmed as being interconnected within the site</p>	No



		<p>but with no hydrological connections to any watercourses or waterbodies outside of the site.</p> <p>The site is located between two watercourses, Big River c.600m to the west of the site, and Ballybeggan (Ballynabrennagh) River c.710m to the east. The site is not hydrologically connected to either of these watercourses. Both rivers flow in southwesterly directions and ultimately merge with the River Lee which discharges into Tralee Bay.</p> <p>The project proposes to connect and discharge surface water run-off to the existing public network, which in turn discharges to Ballybeggan River, and ultimately to River Lee and Tralee Bay.</p> <p>A range of mitigation measures are identified in the CEMP and WFDA during the construction phase of the project to protect water quality and prevent pollution events. Operation phase impacts are addressed primarily through design, with several SuDS features incorporated into the surface water management system, on-site stormwater attenuation and discharge at greenfield rates via petrol interceptors to the existing surface water network.</p> <p>The project's DIA incorporates a site-specific flood risk assessment (SSFRA, Section 5.0). The SSFRA indicates there is no history of flooding at the site, though notes there have been events elsewhere on Clash Road. The flood extent of the nearest watercourse, Big River to the northwest of the site, is identified and shown to not extend to the site. The SSFRA demonstrates that the project lies outside of the 0.1% Fluvial AEP event, is therefore located within Flood Zone C, and is not at risk of flooding.</p> <p>I note this is also confirmed in Volume Two of the CDP (Map A, Tralee Town Plan), which indicates the site is located outside of the designated Flood Zones A and B and is therefore in Flood Zone C.</p> <p>I also note that the project's design incorporates several SuDS features, attenuation design capacity for 1-in-100 year storm events plus allowance for climate change with greenfield-discharge rates to the</p>	
--	--	---	--

		<p>existing public surface water network, thus ensuring the proposal does not increase surface water runoff elsewhere.</p> <p>I direct the Board to the response to Q: 2.1 above in respect of local watercourses, River Lee ((Lee (Tralee)_30 and Lee (Tralee_40))), and local waterbodies in Tralee Bay (Tralee Bay Complex SPA, Tralee Bay and Magharees Peninsula, West to Cloghane SAC, Lee K Transitional Waterbody, Inner Tralee Bay Coastal Waterbody, and Tralee Groundwater Waterbody).</p> <p>Accordingly, I do not consider this aspect of the project likely to result in a significant effect on the environment in terms of watercourses and waterbodies.</p>	
<b>2.6</b> Is the location susceptible to subsidence, landslides or erosion?	No	There is no evidence identified of these risks.	No
<b>2.7</b> Are there any key transport routes (e.g. 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?	No	<p>The site is accessed from Clash Road, L-2016, part of the local road network, which is well connected to regional roads, R875 and R878, and the national road N69 Tralee Bypass (c.1.3km in closest proximity (driving distance) to the east of the site).</p> <p>During the site development works, the project would result in an increase in traffic activity (HGVs, workers) as construction equipment, materials, and waste are delivered to/ removed from the site. Site development works would be short term in duration and impacts arising would be temporary, localised, and managed under in the CEMP (primarily through measures in Section 6: Construction Traffic Management and Section 7: Environmental Management).</p> <p>The Traffic and Transproation Assessment (TTA) considers operation phase impacts for the project, predicting total vehicle trips (combined arrivals and departures) of 153 trips during the AM peak hour, and 154 trips in the PM peak hour, assesses four junctions (a roundabout, a crossroads junction and the two project entrances all on Clash Road) in the local road network, with identification of queue lengths, delays at junctions, and mitigation measures, and concludes that all junctions will operate within their effective capacities at the design year 2041. The</p>	No

		<p>TTA concludes the project would not cause a significant negative impact on the analysed junctions and surrounding area.</p> <p>Accordingly, I consider the applicant has demonstrated that the key transport routes in the vicinity of the site will not be congested due to or otherwise affected by the project.</p>	
<p><b>2.8</b> Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be significantly affected by the project?</p>	No	<p>There are no sensitive community facilities, such as hospitals or schools, in proximity to the site and/ or that could be significantly affected by the project.</p> <p>There are private residential dwellings located to the north and east of the site. However, the separation distances are such that there is no realistic prospect of undue overlooking, overshadowing, overbearance caused.</p> <p>Site development works would be implemented in accordance with the CEMP which includes mitigation measures to protect the amenity of adjacent properties and residents.</p> <p>The operational phase of the project would cause an increase in activity at the site (traffic generation, use of public and private open spaces, operation of the childcare facility) which would likely be typical of such mid-scaled, medium density schemes as proposed, in outer suburban locations such as the receiving area and would be anticipated as being well within acceptable parameters for same.</p> <p>If permission were under consideration, it would be recommended that the project be conditioned to be under the control of an established management company and/ or elements taken in charge by the local authority, and accordingly no undue impacts would be anticipated.</p>	No
<p><b>3. Any other factors that should be considered which could lead to environmental impacts</b></p>			
<p><b>3.1 Cumulative Effects:</b> Could this project together with existing and/ or approved development result in cumulative effects during the construction/ operation phase?</p>	No	<p>Existing and/ or approved planning consents in the vicinity of the site and the wider area of Tralee town have been noted in the application documentation and associated assessments, e.g. in respect of the AASR, WFDA, DIA (SSFRA), and TTA.</p>	No

		<p>However, these developments are of a nature and scale that have been determined to not have likely significant effects on the environment.</p> <p>No developments have been identified in the vicinity (including as part of the planning history in section 5.0 of this report, i.e., relevant if were to granted permission), which would give rise to significant cumulative environmental effects with the project.</p> <p>No cumulative significant effects on the area are reasonably anticipated.</p>	
<b>3.2 Transboundary Effects:</b> Is the project likely to lead to transboundary effects?	No	There are no transboundary effects are arising.	No
<b>3.3</b> Are there any other relevant considerations?	No	No	No
<b>C.CONCLUSION</b>			
<b>No real likelihood of significant effects on the environment.</b>	<b>X</b>	EIAR Not Required	
<b>Real likelihood of significant effects on the environment.</b>		<del>EIAR Required</del>	
<b>D. MAIN REASONS AND CONSIDERATIONS</b>			
Regard has been had to:			
a) The nature and scale of the project, which is below the thresholds in respect of Class 10(b)(i) and Class 10(b)(iv) of the Planning and Development Regulations 2001, as amended.			
b) The location of the site on zoned lands (Zoning Objectives ‘R1’ New/ Proposed Residential and ‘R2’ Existing Residential), and other relevant policies and objectives in the Kerry County Development Plan 2022-2028, incorporating the Tralee Town Development Plan, and the results of the strategic environmental assessment of this plan undertaken in accordance with the SEA Directive (2001/42/EC).			
c) The predominantly greenfield nature of the site and its location in an outer suburban area which is served by public services and infrastructure.			

- d) The pattern of existing and permitted development in the area.
- e) The planning history at the site and within the area.
- f) The location of the site outside of any sensitive location specified in article 109(4)(a) the Planning and Development Regulations 2001, as amended and the absence of any potential impacts on such locations.
- g) 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).
- h) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended.
- i) The available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the EIA Directive.
- j) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including those identified in the Construction Environmental Management Plan, Ecological Impact Assessment, Appropriate Assessment Screening Report, Water Framework Directive Assessment, Drainage Impact Assessment incorporating a Site-Specific Flood Risk Assessment, Operational Waste Management Plan, and Archaeological Impact Assessment.

In so doing, the Board concluded that by reason of the nature, scale and location of the proposed development, the development would not be likely to have significant effects on the environment and that an Environmental Impact Assessment and the preparation of an Environmental Impact Assessment Report would not, therefore, be required.

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Assistant Director Planning:** \_\_\_\_\_ **Date:** \_\_\_\_\_