



An  
Coimisiún  
Pleanála

## Inspector's Report ACP-323587-25

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<b>Development</b>	34 residential units with new entrance road and all associated site works.
<b>Location</b>	The Farm, Clash West, Tralee, County Kerry
<b>Planning Authority</b>	Kerry County Council
<b>Planning Authority Reg. Ref.</b>	25/60523
<b>Applicant</b>	Thomas King
<b>Type of Application</b>	Outline Permission
<b>Planning Authority Decision</b>	Refuse to grant
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Thomas King
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	24 <sup>th</sup> November 2025
<b>Inspector</b>	Gary Farrelly

## 1.0 Site Location and Description

1.1. The subject site has a stated area of 1.65 hectares and is located within the town of Tralee, County Kerry, within the urban townland of Clash West. The site represents a greenfield agricultural field and is bounded by agricultural lands to the north and west, Kerry College of Further Education (KCFE) to the south and a cluster of agricultural buildings to the east, beyond which is the L-2073 public road known as 'Clash Road'. Munster Technological University (MTU) Tralee South Campus is located approximately 130 metres south of the site. The boundaries of the site are defined by mature hedgerow/trees and the northwest boundary adjoins a zone of notification for the recorded monument KE029-126002 (Burial).

## 2.0 Proposed Development

- 2.1. Outline permission is sought for the construction of 34 no. residential units together with a new entrance road off the L-2073. The new entrance road that will connect the proposed development will traverse a total of 3 no. agricultural fields. The proposed housing mix is for 28 no. 3-bedroom units (House Type A) and 6 no. 4-bedroom units (House Type B). The proposed floor area for house type A is 102sqm and for house type B is 123.4sqm. The ridge heights are proposed to be 8.9 metres and the units will be externally finished in part plaster and part light grey brick with blue/black slate finish to the roofs.
- 2.2. Surface water is proposed to be managed via sustainable drainage systems (SuDS) including permeable pavements, rainwater harvesting, infiltration basins, filter drains, swales and rain gardens. An attenuation system will be used prior to discharge to the public mains via a hydrobrake flow control device. A petrol interceptor is proposed to be installed upstream of the attenuation system.

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority (PA) decided to refuse to grant outline permission by Order dated the 12<sup>th</sup> day of August 2025 for 10 no. reasons.

## Reasons for Refusal

- 1. The majority of the site is located in an area zoned 'S1- Education', as part of the Tralee Settlements Plan [Variation 1 to the 2022 to 2028 Kerry County Development Plan (KCDP)-as adopted on 21s July 2025. The proposed development would, therefore, materially contravene the land use zoning objectives of the above plan and would be contrary to the proper planning and sustainable development of the area.*
- 2. The proposed development would contravene Policy Objective TR58 of the Tralee Settlements Plan [Variation 1 to the 2022 to 2028 KCDP] which is to facilitate and support purpose-built student accommodation either on campus, or in appropriate and accessible locations in close proximity and would, therefore, be contrary to the proper planning and sustainable development of the area.*
- 3. It is considered the proposal would result in premature, piecemeal and haphazard development; resulting in inadequate provision of social and physical infrastructure, in the absence of an appropriate detailed masterplan for the site and adjoining landholding in accordance with the policies, objectives and Development Management Standards as set out in Volume 6, Chapter 1 of the Kerry County Development Plan 2022-2028 and guidelines issued under Section 28 of the Planning and Development Act; and would, therefore, be contrary to the proper planning and sustainable development of the area.*
- 4. It is considered that the proposed development does not comply with Policy Objective KCDP-SP-10 of the Tralee Settlements Plan [Variation Number 1 to the 2022 to 2028 Kerry County Development Plan] as the proposed scheme is above 15 units and does not provide for a variety and choice of housing units to meet different household needs and requirements. On a similar basis, the development contravenes policy KCDP 7-9 of the 2022 to 2028 Kerry County Development Plan [Volume 1] and Section 1.5.3.1 of Volume 6. Therefore, the proposed development would set an undesirable precedent for future similar developments and would be contrary to the proper planning and sustainable development of the area.*

5. *Having regard to the Sustainable Residential Development and Compact Settlement - Guidelines for Planning Authorities (2024) it is considered that the proposed density at 20 units per hectare constitutes an unacceptable low density of development, at this location. Therefore, the proposed development would set an undesirable precedent for future similar developments and would be contrary to the proper planning and sustainable development of the area.*
6. *Having regard to the absence of comprehensive details of the proposed stormwater drainage system for this development including but not limited to layout and section drawings of the proposed stormwater system, SUDS proposals for the development, design calculations for the stormwater drainage system including the SUDS proposals, details and calculations of the greenfield discharge rates which are being proposed and further details of the attenuation and water treatment systems, the Planning Authority is not satisfied that the proposed development would comply with requirements of Sections 11.5 and 13.2.4; and, Objectives 11-66, 13-14 and 13-24 of the Kerry County Development Plan 2022-2028. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*
7. *Having regard to the absence of a Road Safety Audit, it has not been demonstrated to the satisfaction of the Planning Authority that the proposed development would not endanger public safety by reason of traffic hazard. The Planning Authority is not satisfied that the proposed development would comply with requirements of Section 1.2.1 [Volume 6] of the Kerry County Development Plan 2022-2028. The development would, therefore, be contrary to the proper planning and sustainable development of the area.*
8. *Having regard to the absence of a Part V proposal, the Planning Authority is not satisfied that the proposed development would comply with requirements of KCDP Objective 7-7 [Volume 1] of the Kerry County Development Plan 2022-2028. The development would, therefore, be contrary to the proper planning and sustainable development of the area.*
9. *In the absence of an Ecological Impact Assessment for the proposed development, the Planning Authority is not satisfied that the proposed development would not contravene Volume 1, Section 11 and Objectives KCDP*

11-1, KCDP 11-4, KCDP 11-21, KCDP 11-22, KCDP 11-25, KCDP 11-42 and KCDP 11-44 of the Kerry County Development Plan 2022- 2028. The development would similarly contravene KCDP SP-29 of the Tralee Settlements Plan [Variation 1 of the 2022 to 2028 Kerry County Development Plan - as adopted on 21" July 2025]. The proposed development would cause significant adverse effects to, or interfere with, the ecology and biodiversity of the area, and would, therefore, be contrary to the proper planning and sustainable development of the area.

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

### 3.2. Planning Authority Reports

#### Planning Report

The executive planner (EP) report on file assessed the proposed development in terms of its zoning, density, housing mix, open space, traffic safety, ecology, archaeology and surface water. The EP noted that the development contravened the zoning of the lands as set out in the Tralee Municipal District Settlements Plan, which was adopted on 21<sup>st</sup> July 2025, where the new 'S1 Education' zoning only considers the residential use open to consideration as student accommodation associated with the Kerry College of Further Education or MTU South Campus. The EP recommended refusal for a total of 10 no. reasons which was endorsed by the Senior Executive Planner.

#### Other Technical Reports

- County Archaeologist – This report noted that the development was partly located within a zone of notification and requested the submission of an archaeological impact assessment.

- Flooding Coastal and Marine Unit – It required further information in terms of comprehensive details of the proposed stormwater drainage system given the previous refusal onsite.
- Housing Estates – It recommended a number of conditions in terms of entrance and drainage details.
- Housing Capital Unit – It required further information on how the applicant proposed to fulfil the Part V obligation.
- Environmental Assessment Unit – It recommended further information for a tree survey and impact assessment report and an ecological impact assessment to incorporate a bat impact assessment.
- Tralee Municipal District – It recommended refusal of the application in the absence of a detailed traffic impact assessment and road safety audit as well as stormwater attenuation calculations.

### 3.3. Prescribed Bodies

Department of Housing, Local Government and Heritage – It recommended the undertaking of a bat survey prior to the commencement of any works.

### 3.4. Third Party Observations

There are no third-party observations on file.

## 4.0 Relevant Planning History

PA ref. 24/192 / An Bord Pleanála (ABP) ref. 320357-24

Thomas King sought outline permission for the construction of 38 houses which was refused by the Commission by Order dated 19<sup>th</sup> March 2025.

### Reasons for Refusal

1. *In the absence of sufficient details on traffic levels and details of access proposals and sightlines, it is considered that the proposed development would endanger public safety by reason of traffic hazard on account of the additional traffic turning movements the proposed development would generate onto*

*Clash Road (L-2016) at a location where adequate sightlines have not been provided for as required by Section 1.5.10.5 (Entrance), Volume 6 of the Kerry County Development Plan 2022-2028. It is further considered that the site access arrangements, as currently proposed, would necessitate the removal of an extensive area of dense vegetation, ditches and mature trees and would also require the removal of a circa 70 metres stretch of hedgerow to the northeast of the proposed vehicular access which would be contrary to Objective KCDP 11-22 of the Kerry County Development Plan 2022-2028. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

- 2. In the absence of sufficient information, including technical details on surface water likely to be generated and surface water management proposals, it is considered that the proposed development would give rise to an unacceptable pluvial flood risk and would not be compliant with Section 1 1.5 (Land Use & Flood Risk Management) and Section 13.2.4 (Storm Water Management) or Objectives KCDP 1 1-66, KCDP 1 1-69, KCDP 13-21 and KCDP 13-24 of the Kerry County Development Plan 2022-2028 which require the preparation of a surface-water management plan and the use of sustainable drainage systems to manage and reduce flood risk in accordance with the requirements of The Planning System and Flood Risk Management Guidelines for Planning Authorities and Technical Appendices issued by the Department of the Environment, Heritage and Local Government in November, 2009 and Circular PL2/2014. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*
- 3. In the absence of an Ecological Impact Assessment or Biodiversity Impact Assessment for the proposed development, the Board is not satisfied that the proposed development would not contravene Volume 1, Section 11 and Objectives KCDP 11.1, KCDP 1 1.4, KCDP 11.21, KCDP 11.22, KCDP 11.25, KCDP 11.42 and KCDP 11.44 of the Kerry County Development Plan 2022-2028. The proposed development would cause significant adverse effects to, or interfere with, the ecology and biodiversity of the area, and would, therefore, be contrary to the proper planning and sustainable development of the area.*

## 5.0 Policy Context

### 5.1. Kerry County Development Plan 2022-2028 (as varied by the adoption of the Tralee Municipal District Settlements Plan on 21<sup>st</sup> July 2025)

#### Kerry County Development Plan 2022-2028 (CDP)

##### Volume 1

It is an objective of the Council to:

KCDP 7-9 Promote integration of social housing and ensure a housing mix within developments in order to promote a socially balanced and inclusive society.

KCDP 8-24 (i) Secure the preservation in situ of all sites, features, protected wrecks and objects of archaeological interest within the county. In securing such preservation the Council will have regard to the advice and recommendations of the National Monuments Service, Department of Housing, Local Government and Heritage, the National Museum of Ireland, and the County Archaeologist.

(ii) Ensure that proposed development (due to location, size, or nature) which may have implications for the archaeological heritage of the county will be subject to an Archaeological Assessment.

KCDP 11-21 Require, where necessary, proposals to be accompanied by a habitat map prepared in accordance with the Heritage Councils Best Practice Guidance for Habitat Survey and Mapping, 2011.

KCDP 11-22 Encourage and facilitate the retention and creation of features of local biodiversity value, ecological corridors and networks that connect areas of high conservation value such as watercourses, woodlands, hedgerows, earth banks and wetlands.

KCDP 11-66 Have regard to and implement the recommendations and provisions of the Planning System and Flood Risk Management guidelines (DoEHLG 2009).

KCDP 13-24 Support the incorporation of Sustainable Urban Drainage Systems (SUDs) in all public and private development in urban areas.

## Section 11.5 Land Use and Flood Risk Management

The development of lands can increase both the rate and volume of runoff from rainfall events to existing sewer networks and watercourses. Such increases can in certain circumstances lead to flooding. It is an objective of this plan to ensure that surface water runoff from completed developments are restricted to their greenfield rate and that appropriate measures through design or sustainable urban drainage systems (SUDs) are implemented.

## Section 13.2.4 Storm Water Management

The application of SuDS techniques will be site-specific and will depend on the site's characteristics and will be required to demonstrate that climate change considerations have been incorporated into the design. All applications should include a commensurate drainage assessment which outlines the drainage design considerations/strategy in line with the flood risk, surface water management and climate change requirements and objectives in the CDP.

## Volume 6, Appendix 1 Development Management Standards and Guidelines

### Section 1.5.2 – Density

In general, the number of units to be provided on a site should be determined with reference to the Guidelines for Planning Authorities on 'Sustainable Residential Development in Urban Areas' (2009) or any update thereof.

### Section 1.5.3.1 – Mix of Dwelling Types

The findings of the Housing Strategy and Housing Needs Demand Assessment (HNDA) have informed housing mix policy. Planning applications for 15+ residential units will be required to incorporate a variety and choice of housing units by type and size to meet differing household needs and requirements, as informed by the HNDA

### Section 1.20 – Transport, Movement and Parking Standards

Traffic and Transport Assessment (TTA) and Road Safety Audits (RSA) are required to accompany planning applications for developments with significant potential to generate traffic and or which could have a significant impact on a major road, such as the intensification of the use of an existing access due to the activities undertaken on the site.

## Tralee Municipal District Settlements Plan (TMDSP)

It is an objective of the Council to:

KCDP TR-53 Protect local biodiversity features and where appropriate enhance ecological corridors and natural features of the landscape such as hedgerows, trees, rivers, parklands, ponds and wetlands.

KCDP TR-61 Facilitate, support and promote the sustainable future development of the Kerry Technology Park, Munster Technological University and Kerry ETB's Higher Education facilities in Tralee, including the establishment and strengthening of their Town Centre presence and linkages.

KCDP TR-62 Facilitate and support the provision of high quality, professionally managed purpose-built student accommodation either on campus, or in appropriate and accessible locations in close proximity to the campuses and on cycle/walking networks.

### Zoning

The majority of the site is zoned 'S1-Education' with the TMDSP. Volume 6, Appendix 2 of the CDP stipulates the objective of this zoning is to provide for educational facilities. The description outlines that zoning is to provide for the wide range of educational facilities and related development. Where appropriate the provision of ancillary accommodation and facilities will be accommodated. The zoning matrix outlines that residential use is 'open to consideration'.

The lands that are proposed to accommodate the entrance road are zoned 'R1 New/Proposed Residential'.

## **5.2. National Guidelines**

- Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024) (Department of Housing, Local Government and Heritage)
- The Design Manual for Urban Roads and Streets (2019)
- The Planning System and Flood Risk Management, Guidelines for Planning Authorities (2009) (Department of Environment, Heritage and Local Government)

### **5.3. Natural Heritage Designations**

The subject site is not located within any designated natural heritage site. The nearest designated site is Ballyseedy Wood Special Area of Conservation (SAC) which is located approximately 2km southeast of the site, and Tralee Bay and Magharees Peninsula, West to Cloghane SAC and Tralee Bay Complex Special Protection Area (SPA) which are located approximately 2.5km west of the site.

### **5.4. Environmental Impact Assessment (EIA) Preliminary Examination**

The development subject to this application has been subject to preliminary examination for environmental impact assessment. I refer the Commission to Appendix 1 in this regard. Having regard to the characteristics and location of the development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The development, therefore, does not trigger a requirement for environmental impact assessment screening and an Environmental Impact Assessment Report (EIAR) is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

A first party appeal was lodged to the Commission on the 8<sup>th</sup> day of September 2025. The grounds of appeal are summarised as follows:

- It is respectfully requested that the Commission overturn the refusal and grant outline planning permission.
- There are concerns regarding sterilisation of the subject lands at a time where there is a shortage of suitable land for housing.
- At the time of lodgement of the planning application the site was zoned 'residential' similar to the zoning at the time of the submission of the previous planning application PA ref. 24/192. The variation rezoned the site after lodgement and it is a fundamental principle that applications are assessed

under the development plan that is in force at the time of lodgement. Reliance on a subsequent variation constitutes a procedural flaw.

- The department of education has no interest in the site and there is no realistic prospect of future educational use. Correspondence is attached from the Department regarding material alterations to the Variation of the Development Plan detailing no mention of a requirement for the subject site. The Department made no observations on previous applications on the lands.
- The local authority has engaged in haphazard and a flip flop approach to the zoning of the lands. A copy of the zoning map of the Tralee Town Development Plan 2009-2015 is provided showing the site zoned for 'housing medium density phase 2'.
- An indicative masterplan was submitted which demonstrated future integration of road layout, open space and potential phase development. The application has included up to 15% green area. The Commission has previously acknowledged under 320357-24 that a specific masterplan for these lands is not required.
- The housing mix reflects the family housing needs in the town and is consistent with Section 1.5.3.1 of the Development Plan (Volume 6). Further adjustments can be made at full planning application stage.
- The density of 20 units per hectare is consistent with the development plan requirements balancing compact growth and residential amenity. Public open space at 16% exceeds the required 15%.
- Due to the outline nature of the application and appeal deadline, detailed SuDS calculations, road safety audit and an ecological impact assessment could not be finalised. These will be provided at full planning stage or as requested by the Commission.
- A letter from the Council confirms that the lands have no archaeological constraints and are suitable for residential use (Residential zoned land tax assessment).
- Part V compliance will be agreed prior to commencement of the development.

- A number of documents are provided including a copy of the report that accompanied the planning application, a letter outlining the zoning history of the site, newspaper articles in relation to IT Tralee relocation, a copy of a draft mission based performance compact outlining the intention of IT Tralee to deliver a single integrated campus and a copy of a masterplan layout.

## 6.2. Planning Authority Response

The PA issued no response to the grounds of appeal.

## 7.0 Assessment

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

- Zoning
- Density
- Housing Mix
- Piecemeal Development
- Traffic Safety
- Biodiversity
- Surface Water Management
- Archaeological Heritage
- Part V Provision

7.2. The Commission should note that this application and appeal relates to outline permission for the construction of 34 no. residential units. It should note that outline permission for 38 no. units on the same site has previously recently been refused by the Commission under appeal reference ABP-320357-24.

7.3. I note that the purpose of an outline application is to establish whether the principle of the proposed development is acceptable. If the Commission decides to grant outline permission this does not authorise the carrying out of the development until a subsequent permission has been granted. Furthermore, where a further application is made consequent on the grant of an outline permission, permission cannot be refused on the basis of any matter which has been decided in the grant of the outline permission (subject to the development being within the terms of the outline permission). Finally, the Commission should note that no appeal can be brought against any grant of permission consequent on the grant of outline permission with regards to any aspect of the development which was decided in the grant of the outline permission.

### **Zoning**

7.4. The planning authority's (PA) first reason for refusal was due to the development materially contravening the majority of the site's land use zoning. I note that the majority of the subject site is zoned 'S1-Education' within the Tralee Municipal District Settlements Plan (TMDSP) (Variation No. 1 of the Kerry County Development Plan 2022-2028 (CDP)). The exception to this is the area of the site that is proposed to accommodate the access road, which is zoned 'R1 New/Proposed Residential'. Moreover, the PA's second reason for refusal was due to a contravention of objective TR-58 of the TMDSP (*this should read as objective KCDP TR-62 which relates to purpose-built student accommodation*).

7.5. In contrast, the applicant contends that the application should have been assessed on the basis of the development plan that was in place at the time of lodgement of the planning application on 18<sup>th</sup> June 2025. I note that at this time of lodgement all of the subject site was zoned as 'R1 New/Proposed residential' within the Tralee Town Development Plan under the Kerry County Development Plan 2022-2028 (CDP). However, as part of Variation No. 1 of the CDP, the TMDSP was adopted on the 21<sup>st</sup> July 2025 and replaced the Tralee Town Development Plan. The variation rezoned the majority of the site as 'S1-Education'. I note that the PA made its decision on the subject application on the 12<sup>th</sup> August 2025.

7.6. I note that as part of this 'S1-Education' zoning residential units are considered 'open to consideration' within the zoning matrix of Appendix G (TMDSP). However, I note

that Appendix 2 of Volume 6 of the CDP states that the objective of the zoning is to provide for educational facilities and furthermore, the description of the objective outlines that it is to facilitate the provision of a wide range of educational facilities and related development and, where appropriate, the provision of ancillary accommodation and facilities (*my emphasis*). Therefore, I consider that the purpose of the zoning is to provide for education facilities and ancillary accommodation in the form of purpose-built student accommodation. Additionally, I note that this is supported by objective KCDP TR-62 of the TMDSP due to the proximity of the site to the KCFE and MTU campuses.

- 7.7. Whilst I acknowledge the arguments put forward by the applicant regarding the zoning history of the site and the lack of interest in the lands for educational purposes, I consider that this does not override the current zoning objective pertaining to the site. I note that the recent variation went through a period of statutory consultation where the applicant would have had the opportunity to challenge the rezoning.
- 7.8. Having regard to the foregoing, due to the nature of the proposed development representing a standalone residential estate, I consider that the proposed development does not represent ancillary accommodation to the KCFE or MTU campuses. Accordingly, I consider that the proposed development would materially contravene the 'S1 – Education' zoning objective pertaining to the majority of the site and, as such, the loss of such lands for student accommodation would contravene objective KCDP TR-62 of the TMDSP. Therefore, I consider that the PA's reasons for refusal should be upheld in this regard.
- 7.9. With regards to the applicant's claims that the application should have been assessed under the terms of the development plan that was in force at the time of lodgement of the planning application, the Commission should note that the relevant development plan is the plan that is in force at the time of the decision. Secondly, with regards to the contention that the site was zoned residential at the time of a previous outline application that was lodged in 2024 (PA ref. 24/192 / ACP ref. 320357-24), I consider this point not material to this application and appeal. This previous outline application was refused by the Commission and therefore there is no valid permission for residential development on the subject site.

### Material Contravention

7.10. I have determined above within paragraph 7.8 that the proposed development materially contravenes the CDP. Notwithstanding this conclusion, the Commission should note that Section 37(2) of the Planning and Development Act 2000, as amended (PDA2000), does allow it to grant permission even if the proposed development contravenes materially the development plan. As the PA decided to refuse permission on the grounds of a material contravention of the development plan, the Commission should note that it can only grant permission where it considers that the development meets one of the four criterion set out within Section 37(2)(b) of the Planning and Development Act 2000, as amended.

### **Density**

7.11. Whilst I consider that the proposed development materially contravenes the zoning objective pertaining to the site, I will proceed to assess the density of the scheme in terms of the provisions of the CDP. The PA refused permission on the basis of the development being an unacceptable low density for this location. In contrast, the applicant contends that it is an acceptable density which is consistent with the CDP requirements that balances compact growth and residential amenity by providing 16% open space. I note that the proposal is for 34 no. residential units on a stated site area of 1.65 which amounts to circa 20 no. dwellings per hectare (dph).

7.12. Having inspected the site and environs, I observed that the site was in close proximity to the town centre of Tralee being within 1km or 15 minutes walking distance and with footpath connections to same. I note that Section 1.5.3 of the CDP (Volume 6, Appendix 1) states that, in general, the number of units to be provided on a site should be determined with reference to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) or any update thereof. Higher densities will be encouraged within walking distance of town centres and public transport infrastructure, subject to site constraints. Moreover, objective KCDP SP-7 of the TMDSP seeks to facilitate residential growth and prioritise development in accordance with the CDP's settlement hierarchy and core strategy and subject to guidelines documents including the 2024 Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (*herein referred as the 2024 Guidelines*).

- 7.13. I note that Section 3.3.3 of the 2024 Guidelines set out the density ranges for key towns (i.e. such as Tralee) and outlines that it is a policy and objective of the Guidelines to generally apply residential densities in the range of 30dph-50dph on greenfield lands at the edge of the existing built up footprint area that are zoned residential. Notwithstanding the zoning of the subject site, I consider the location to represent the edge of the built-up footprint.
- 7.14. Therefore, it is my view that the proposed development does not comply with the density requirements as set out in the CDP and 2024 Guidelines and thus materially contravenes objective KCDP SP-7 of the TMDSP in this regard. I am not satisfied that this could be addressed by condition as it would require a revised design and layout of the scheme. However, whilst I consider the density issue to be a core principal issue, the Commission should note that I have not recommended this as a reason for refusal for the reason of the fundamental non-compliance with the zoning objective pertaining to the majority of the site.

### **Housing Mix**

- 7.15. I note that the PA considered that the development does not comply with objective KCDP SP-9 of the TMDSP as it did not provide a sufficient choice and variety of housing units to meet the different household needs and requirements. The applicant contends that the proposed mix reflects the family housing needs in the town and is consistent with Section 1.5.3.1 (Mix of Dwelling Types) of the CDP (Volume 6, Appendix 1). However, it is stated that adjustments can be made at subsequent permission stage. Again, I will proceed to assess this issue notwithstanding the material contravention of the zoning objective pertaining to the majority of the site.
- 7.16. Section 1.5.3.1 outlines that the variety and choice of housing units will be informed by the Housing Needs Demand Assessment (HNDA). I note that Section 5 of the HNDA (Volume 6, Appendix 4) outlines the current primary social housing need for Tralee MD is smaller units, such as 1 and 2 bed units, and the provision of multi-unit/apartment developments will form a significant feature of future programmes. I consider the proposed development to be clearly contrary to objective KCDP SP-9 of the TMDSP as it does not cater for the 1 and 2 bed household needs which the HNDA has outlined are substantially in demand in the Tralee MD.

7.17. I do not agree with the applicant that this could be addressed within a subsequent application for permission, as I consider that a revised change in house types to include 1 and 2-bed units would require a material redesign of the layout as proposed within this outline application. However, again the Commission should note that I have not recommended this as a reason for refusal for the reason of the fundamental non-compliance with the zoning objective pertaining to the majority of the site.

### **Piecemeal Development**

7.18. I note that the PA refused permission on the grounds of the lack of an appropriate masterplan for the site and adjoining landholding and considered it premature, piecemeal and haphazard development. The applicant states that an indicative masterplan was submitted which demonstrates the future integration of potential phased development, road layout and open space.

7.19. The Commission should note that the subject site forms part of a substantial landbank within the applicant's ownership which amounts to a total area of 15.56 hectares and which is primarily zoned for new residential development with the exception of the subject site. I am in agreement with the findings of the previous inspector's report (320357-24) in terms of the pursual of an integrated approach to the development of the landbank being encouraged in line with best planning practice, however, I note that there is no specific policy or objective within the CDP that requires the preparation of such a plan. Notwithstanding this, this issue does not override my concerns regarding the fundamental non-compliance with the zoning objective pertaining to the majority of the site.

### **Traffic Safety**

7.20. I note that the PA was not satisfied that the proposed development would not endanger public safety by reason of a traffic hazard in the absence of a road safety audit. The internal report from the Roads Section recommended a refusal of the application as it outlined that it was not in a position to fully consider the development or the suitability of the proposed junction at the public road. It also required a traffic impact assessment based on detailed traffic counts during educational operating hours. The applicant states that due to the nature of the outline application and the time constraints for lodging an appeal, a road safety audit could not be finalised, however, can be provided at full planning stage or as requested by the Commission.

7.21. I consider the level of detail provided by the applicant in terms of traffic and pedestrian safety to be inadequate and I note that this formed part of the material issues of ABP-320357-24. The Commission should note that Section 1.20 of the CDP (Volume 6, Appendix 1) states that Traffic and Transport Assessments (TTA) and Road Safety Audits (RSA) will be required to accompany planning applications for developments with significant potential to generate traffic on a major road. Due to the nature of this application which I consider will contribute to a significant amount of traffic onto the Clash Road, and in the absence of the information set out in Section 1.20 of the CDP, I consider that it has not been demonstrated by the applicant that the proposed development would not endanger public safety by reason of a traffic hazard. It is my view that this information is fundamental to establish whether the principle of the development is acceptable and therefore cannot be addressed by condition. I recommend that permission is refused in this regard.

### **Biodiversity**

7.22. The PA considered that the proposed development, in the absence of an ecological impact assessment (EclA), would result in significant adverse effects on the ecology and biodiversity of the area. I note that the PA's ecologist outlined that the submitted report entitled 'biodiversity management plan' was not informed by specialist ecologist surveys. I also note that the ecologist observed signs of badger activity and potential bat roosts during his site inspection.

7.23. It is an objective of the CDP (objective KCDP 11-22) and TMDSP (objective KCDP TR-53) to encourage and facilitate the retention and creation of features of local biodiversity value, ecological corridors and natural features of the landscape such as hedgerows and trees. The applicant states that this information can be provided at the subsequent application stage. However, the Commission has previously determined that this information is required for an outline application on the subject site (ABP-320357-24) and it formed part of the reasons for refusal. Therefore, I do not accept the applicant's arguments that due to time constraints or to the nature of the application that this information could not be provided. The subject site represents an ecologically sensitive site as confirmed by the PA's ecologist site inspection.

7.24. Therefore, notwithstanding the fundamental non-compliance with the zoning objective pertaining to the majority of the site, in the absence of an EclA or biodiversity impact

assessment, and having regard to the nature and scale of the proposed development, and to the planning history of the site in terms of this issue constituting a previous reason for refusal, I recommend to the Commission that permission is refused on this ground.

### **Surface Water Management**

- 7.25. I note that the Flooding Unit of the PA raised concerns regarding the absence of details within the application in relation to the surface water drainage system including the absence of SuDS calculations, greenfield discharge rates being proposed and the type of sustainable drainage system (SuDS) proposals for the development. The applicant has responded in stating that it could not provide detailed SuDS calculations due to the nature of the outline application and time constraints for lodging an appeal.
- 7.26. I note that Section 13.2.4 of the CDP states that all applications should include a commensurate drainage assessment which outlines the drainage design considerations/strategy in line with the flood risk, surface water management and climate change requirements and objectives in the CDP. The application of SuDS techniques will be site-specific and will depend on the site's characteristics. Objective 13-24 supports the incorporation of SuDS in all private developments in urban areas. Section 11.5 of the CDP also states that it is an objective of the Plan to ensure that surface water runoff is restricted to greenfield rates and that appropriate measures are implemented. Objective 11-66 requires the implementation of the recommendations and provisions of the 2009 Planning System and Flood Risk Management Guidelines.
- 7.27. I note that the Commission previously refused outline permission (320357-24) on surface water grounds due to the absence of technical details on surface water and potential pluvial flood risk. Therefore, I cannot accept the applicant's reasoning for not providing detailed surface water proposals as part of this application. Whilst I note that preliminary details regarding the proposed surface water management proposals are provided there are no detailed design calculations in order to assess the potential impact on the drainage system. As such, in the absence of these details, I consider the proposed development contravenes sections 11.5, 13.2.4 and objectives 11-66 and 13-24 of the CDP.
- 7.28. It is my view that the design of the surface water management system is fundamental to the principle of the development and therefore cannot be addressed by way of

planning condition as detailed design calculations may have implications on the layout of the proposed development. Therefore, notwithstanding the fundamental non-compliance with the zoning objective pertaining to the majority of the site, having regard to the planning history of the site in terms of this issue constituting a previous reason for refusal, I recommend to the Commission that permission is refused on this ground.

### **Archaeological Heritage**

- 7.29. I note the PA's internal report from the County Archaeologist (CA) who notes that the subject site is located partly within the zone of notification for the recorded monument KE029 126002 (burial). The CA has requested the submission of an archaeological impact assessment (AIA) to include pre-development archaeological testing across the site. I note that the PA decided to refuse outline permission in the absence of an AIA as it would contravene objective KCDP 8-24 of the CDP.
- 7.30. Having reviewed the National Built Heritage Services' Historic Environment Viewer (HEV) I note that the northwest corner of the subject site adjoins the zone of notification for KE029-126002, and is approximately 60 metres from the recorded monument. The footprint of the proposed dwelling units within the northwest corner is located outside the notification zone. The Commission should note that I am satisfied that an AIA could be conditioned to be provided as part of any subsequent application for permission which would comply with objective KCDP 8-24 of the CDP. Therefore, I recommend that this is not included as a reason for refusal.

### **Part V Provision**

- 7.31. I note the PA's internal report from the Housing Unit which requests further information on how the applicant proposes to fulfil its Part V obligation. The applicant has stated that Part V obligations can be agreed prior to commencement of development. Whilst I have raised concerns above regarding the proposed housing mix, it is my view that Part V obligations could be conditioned to be provided as part of any subsequent application for permission. Therefore, I recommend that this is not included as a reason for refusal.

## 8.0 **Appropriate Assessment (AA) Screening**

- 8.1. I have considered the project in light of the requirements Section 177U of the Planning and Development Act 2000, as amended. The subject site is located approximately 2km northwest of Ballyseedy Wood SAC (Site Code 002112) and approximately 2.5km northeast of Tralee Bay and Magharees Peninsula, West to Cloghane SAC (Site Code 002070) and Tralee Bay Complex SPA (Site Code 004188). No nature conservation concerns in relation to European sites were raised in the planning application and appeal.
- 8.2. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site. The reason for this conclusion is as follows:
- The scale and nature of the development within an urban area.
  - The separation distance and intervening lands from the nearest European site and lack of hydrological connection.
  - Taking into account the screening determination of the PA.
- 8.3. I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

## 9.0 **Water Framework Directive (WFD) Screening**

- 9.1. No water deterioration concerns were raised in the planning application or appeal. I have assessed the project and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface and ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. The site is underlain by the Tralee groundwater waterbody (Code IE\_SH\_G\_226) which is of good ecological status (2019-2024 monitoring period). There are no surface water connections within the subject site.

- 9.2. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively. The reason for this conclusion is due to the small scale and nature of the development, the treatment of waste and surface water to the public mains and the location and distance of the site to the nearest waterbody and lack of hydrological connections.
- 9.3. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

## 10.0 Recommendation

It is my recommendation to the Commission that outline permission should be **Refused** for the reasons and considerations set out below.

## 11.0 Reasons and Considerations

1. Having regard to the 'S1 - Education' zoning objective pertaining to the majority of the site within the Tralee Municipal District Settlements Plan (Variation Number 1 of the Kerry County Development Plan 2022-2028 adopted on 21<sup>st</sup> July 2025), where the objective is to provide for education facilities and related development such as ancillary accommodation, to the nature of the proposed development not representing ancillary accommodation to any educational facility, it is considered that the proposed development would materially contravene the zoning objective pertaining to the majority of the site as set out within the Kerry County Development Plan 2022-2028, as varied. Additionally, due to the proximity of the site to the Munster Technological University (MTU) and Kerry College of Further Education campuses it is considered that the proposed development would contravene objective KCDP TR-62 of the Tralee Municipal District Settlements Plan which seeks to facilitate and support the provision of high quality, professionally managed purpose-built student accommodation either on campus or in appropriate and accessible locations in

close proximity to the campuses. It is, therefore, considered that the proposed development would be contrary to the proper planning and sustainable development of the area.

2. In the absence of sufficient information, including technical details and calculations on surface water likely to be generated and surface water management proposals, it is considered that the proposed development would give rise to an unacceptable pluvial flood risk and would not be compliant with Section 11.5 (Land Use and Flood Risk Management) and Section 13.2.4 (Stormwater Management) or objectives KCDP 11-66 and KCDP 13-24 of the Kerry County Development 2022-2028, which require the preparation of a surface water management plan and the use of sustainable drainage system measures which are site-specific and restrict surface water runoff to greenfield rates. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
  
3. Section 1.20 (Volume 6, Appendix 1) of the Kerry County Development Plan 2022-2028 requires the submission of a Traffic and Transport Assessment (TTA) and Road Safety Audit (RSA) for planning applications for developments with significant potential to generate traffic and or which could have a significant impact on a major road. In the absence of this information and having regard to the scale and nature of the proposed development and to the additional traffic turning movements that would be generated onto the Clash Road (L-2073), it is considered that the proposed development would contravene Section 1.20 of the Plan and would endanger public safety by reason of a traffic hazard. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
  
4. In the absence of an Ecological Impact Assessment or Biodiversity Impact Assessment for the proposed development, the Commission is not satisfied that the proposed development would not contravene objective KCDP 11-22 of the Kerry County Development Plan 2022-2028 (Volume 1) and objective KCDP

TR-53 of the Tralee Municipal District Settlements Plan. It is considered that the proposed development would cause significant adverse effects to, or interfere with, the ecology and biodiversity of the area, and would, therefore, be contrary to the proper planning and sustainable development of the area.

Declaration

*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.*

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Gary Farrelly  
Planning Inspector

30<sup>th</sup> December 2025

## Appendix 1: EIA Preliminary Examination

### Form 1 - EIA Pre-Screening

<b>Case Reference</b>	ACP-323587-25
<b>Development Summary</b>	34 no. residential units with new entrance
<b>Development Address</b>	The Farm, Clash West, Tralee, County Kerry
<b>In all cases check box /or leave blank</b>	
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.	

<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.	Part 2, Class 10(b)(i): Construction of more than 500 dwelling units.
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4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	<del>Screening Determination required (Complete Form 3)</del>
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

## Form 2 - EIA Preliminary Examination

This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
<b>Characteristics of development</b> (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	The development site measures 1.65 hectares. The size of the development is not exceptional in the context of the existing environment. Localised construction impacts are expected, topsoil, hedgerow removal etc. There is not real likelihood of significant cumulative effects with existing and permitted projects in the area.
<b>Location of development</b> (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	The subject site adjoins the zone of notification of recorded monument KE029-126002 (Burial). Such impact can be addressed via the submission of an archaeological impact assessment, however, no significant effects in terms of the EIA directive are expected.  The site is located approximately 2km from the nearest European site. My appropriate assessment screening above concludes that the development would not likely result in a significant effects on any designated site.  The site is located outside Flood Zones A and B for coastal or fluvial flooding. Whilst further information is required in terms of detailed SuDS calculations and design, no significant effect is expected in terms of the EIA directive.
<b>Types and characteristics of potential impacts</b> (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity,	Having regard to the scale of the proposed development and limited nature of construction works associated with the development, to its location removed from any environmentally sensitive sites, to the absence of any cumulative effects with existing or permitted projects in the

duration, cumulative effects and opportunities for mitigation).	area, there is no potential for significant effects on the environment.
<b>Conclusion</b>	
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>
There is no real likelihood of significant effects on the environment.	EIA is not required.

Inspector: \_\_\_\_\_  
**Gary Farrelly**

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