



An
Coimisiún
Pleanála

Inspector's Report

ACP-323735-25

Development

Large Scale Residential Development:
The construction of a residential development of 245 no. residential units with ancillary two storey crèche, landscaping and associated site development works

Location

Clash Road, Muing East (Townland),
Tralee Co. Kerry

Planning Authority

Kerry County Council

Planning Authority Reg. Ref.

2560640

Applicant(s)

KPH Construction.

Type of Application

Largescale Residential Development.

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellants

1. Joseph Kewfi
2. Thomas, Breda and Mary King
3. Thomas Patton

Observer:

Teresa Djemal.

Date of Site Inspection

21st November 2025.

Inspector

Lucy Roche

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1.0 Site Location and Description

- 1.1. The appeal site is located on the western side of 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. Tralee Bus and Train Stations are c. 1.3km from the site both of which provide regular connectivity with Cork City Centre, Dublin and the wider Kerry and Cork region. The N69 Limerick to Tralee national road is within easy access of the site to the east.
- 1.2. The site with a stated area of c.7ha, is roughly rectangular in shape and comprises an infill site within an established residential area at the eastern edge of the town. 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, known locally as 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. Ballybeggan Racecourse occupies lands to the east of the site on the opposite side of Clash Road while Clash Industrial Estate lies further to the south.
- 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 and shows signs of poor drainage. The site includes a detached single storey dwelling, shed and curtilage, which is accessed via an existing vehicular entrance on Clash Road. The topography of the site slopes gradually from the northern boundary in a southerly direction at a height of approximately +29.50m to a low point on the southern boundary which is approximately +20.50m AOD.
- 1.4. In terms of public transport, the nearest bus stop to the site on Dromthacker Road (c350m) is serviced by the local 290A bus route, connecting the site to the centre of Tralee town operating an hourly service. The 271 route provides links to Kerry Airport and to Killarney and can be accessed at stops within 750m of the site. Tralee Train Station and Tralee Bus Station are located approximately 1.29km and 1.34km respectively from the site.

- 1.5. The Commission will note that the application site was the subject of a previous unsuccessful LRD application, ABP-321298-24.

2.0 Proposed Development

- 2.1. The proposal is for a large-scale residential development (LRD) comprising 245 no. residential units and a childcare facility (crèche). The proposal includes for the demolition of an existing single-storey dwelling and outbuilding (Eircode V92X8N3).
- 2.2. The residential units comprise 163 no. two storey houses in the form of 58 no. semi-detached units (40 no. 3 bed units and 18 no. 4 bed units) and 105 no. 3 bed terraced units and; 82 no. duplex units (40 no. 1 bed units, 42no. 2 bed units) referred to in the application documentation as maisonette/apartment units.¹ 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 (L2016). These include a new vehicular entrance to the northeast of the site, the reconfiguration of the existing centrally located vehicular entrance currently serving V92X8N3 and a new pedestrian and cycle entrance in the southeastern corner. 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.
- 2.4. Also included in the proposal are internal access roads, 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).
- 2.5. The application documentation supplied by the local authority records unsolicited further information being received on the 12th of August 2025. The submission

• ¹ In referring to the maisonette / apartment 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 i.e.: '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.'

comprised a letter from the applicant's agents reporting suspected malicious damage / removal of the site notices with supporting photographic evidence. The letter also confirmed that the site notices had been replaced.

- 2.6. The following table presents 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 2.1: Development Statistics | |
|--|---|
| Gross Site Area | 7.0ha |
| Net Site Area | 6.5ha |
| Gross Floor Space | 22,049.38 sq. m |
| Residential Floor Space | 21,626 sq. m |
| Creche | 423.38 sq. m (with capacity for 60 no. childcare places) |
| Demolition | 121.92 sq. m |
| Density | 38 uph |
| Plot Ratio | 1:3 |
| Site Coverage | 17.22% developable area |
| No. Residential Units | 245 |
| Unit Type / Mix | See Tables 2.2 and 2.3 below |
| Housing | 163 |
| Maisonette/apartment (Duplex Units) | 82. |
| Dual Aspect units | 80% dual aspect (Duplex Unit) |
| Building Height | 2no. storeys |
| Car Parking | 400 no. car parking spaces. 268 (houses); 86 (own-door Maisonette / apartment units) 12 (Creche), 14 (visitor) and 20 Accessible) |

| | |
|----------------------------|---|
| Cycle Parking | 174no. cycle parking spaces comprising 82no dedicated spaces for residential units with limited private open space and 92no. spaces for visitors. |
| Public Open Space | 12.05% public open space |
| Communal Open Space | 1,418sqm |

2.7. The following Tables provide a breakdown of house type and unit mix:

| Table 2.2 – House type | | | | | |
|----------------------------|-------|-----------------------|-------|-------------|-------|
| Accommodation Type | | No. of Units Provided | | % (approx.) | |
| 4 Bed semi-detached | | 18 | | 8 | |
| 3 Bed semi-detached | | 40 | | 16 | |
| 3 Bed Terrace | | 105 | | 43 | |
| 1 Bed maisonette/apartment | | 40 | | 16 | |
| 2 Bed maisonette/apartment | | 42 | | 17 | |
| Total | | 245 | | 100 | |
| Table 2.3 – Housing Mix | | | | | |
| Housing Mix | 1 Bed | 2 Bed | 3 Bed | 4 Bed | Total |
| Total Units | 40 | 42 | 145 | 18 | 245 |
| % Mix | 16.5% | 17% | 59% | 7.5% | 100% |

2.8. The following table provides a breakdown of Unit Types and Bedspaces.

| Table 2.4 – Unit Types and Bedspaces | | | | | | |
|---|-------------------|-------------------|-----------------|-------------------|-----------------|--------------|
| Unit Type / Occupancy | 1-bed / 2P | 2-bed / 3P | 2-bed/4P | 3-bed / 5P | 4-bed/7P | Total |
| House | - | - | - | 145 | 18 | 163 |
| Maisonette / Apartment | 40 | - | 42 | - | - | 82 |
| Unit Type Total | 40 | - | 42 | 145 | 18 | 245 |
| Total Bedrooms | 40 | - | 82 | 435 | 72 | 629 |
| Total Bedspaces | 80 | - | 168 | 725 | 126 | 1,099 |

2.9. In addition to the standard plans and particulars, the application is accompanied by the following documents and reports:

- Planning statement
- Statement of Consistency
- Statement of Rationale on Childcare Provision
- School Demand Assessment
- Community and Social Infrastructure Audit
- EIA Screening
- Architectural Design Statement
- Housing Quality Assessment
- Landscape and Biodiversity Plan
- Tree Quality Assessment
- Townscape and Visual Impact Assessment (TVIA)
- Photomontages
- Traffic and Transport Impact Assessment
- Stage 1 Road Safety Audit
- Mobility Management Plan
- Infrastructure Report
- Statement on DMURS
- EV Charging Infrastructure Analysis Report
- Preliminary Operational Waste Management Plan (OWMP)
- Construction and Environmental Management Plan
- Drainage Impact Assessment
- SuDS Maintenance and Management Plan
- Ecological Impact Assessment Report and associated appendices including Bat Report, Bird Report and Biodiversity Management Plan.
- Water Framework Directive Compliance Report
- AA Screening

- Daylight and Sunlight Assessment
- External Public Lighting Report
- Climate Action and Energy Analysis Report
- Architectural Impact Assessment

3.0 Planning Authority Opinion

- 3.1. A pre-application LRD meeting (Stage 2) in accordance with section 32C of the 2000 Act took place on 19th June 2025. The planning authority issued its LRD Opinion on 3rd July 2025.
- 3.2. A copy of the planning authority's opinion and minutes of the meeting held on the 19th of June 2025 are included with the application documentation (Appendix 1 of the applicant's Planning Report).
- 3.3. The Opinion letter 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 planning permission. The applicant was advised to have regard to the advice and recommendations of Kerry County Councils Technical Units and to discharge attenuated surface water run-off to the existing storm water network at the southern boundary of the site to Racecourse Road.
- 3.4. The minutes of the meeting indicate the following:
 - Kerry County Council's opinion that the revised design addresses the previous refusal reason from An Coimisiún Pleanála under reference 24/60695 / ABP 321298-24.
 - Kerry County Council's opinion that the revised density was acceptable having regard to the location of the site within the Tralee Urban Area and that it would comply with The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities.
 - The Council's preference that the stormwater from the proposed development should be discharged the public network to the 'Big River', Tralee.

- Kerry County Council's opinion that the revised entrance design on Clash Road is acceptable.
- Kerry County Council's view that there are no policy implications for the proposed scheme arising from the soon to be adopted Variation No. 1 of the Kerry County Development Plan 2022-2028.

4.0 Planning Authority Decision

4.1. Decision

Kerry County Council granted permission for the proposed development on the 17th of September 2025, subject to 35no. conditions.

The attached conditions are generally standard in nature (financial, procedural, construction, operational, and technical) for a residential scheme of scale proposed.

Conditions of note or specific to the appeal include the following:

Condition 2: Grants an appropriate period of 10 years

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'.

Condition 6: Requires agreement in relation to the provision of social housing.

Condition 11: Requires the submission of revised proposals for boundary treatment and landscaping.

Condition 14: Specifies archaeological excavation under licence of the burnt mound/ fulacht fiadh identified during pre-development testing etc

4.2. Planning Authority Reports

4.2.1. Planning Reports

- The report of the local authority Case Planner is divided into 11 sections. Sections 1 through 8 comprise: (1) the site location / description; (2) planning

application proposals; (3) site inspection photographs; (4) planning history; (5) further background, including LRD opinion; (6) third party submissions and objections; (7) comments of external bodies and technical reports received from KCC technical units and (8) planning policy and guidance.

- The report in section 9 considers the environmental impact of the proposed development. In screening for Appropriate Assessment (AA) it was concluded that the proposed development, individually or in combination with other plans or projects, would not have a significant effect on European Sites, and therefore Stage 2 Appropriate Assessment was not required. In screening for EIA, it was determined that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an EIAR is not required.
- Section 10 comprises the planning assessment. No significant issues of concern are raised. The following points are of note:
 - The layout of the development has been centred around the principles of permeability for active modes of travel and has facilitated permeability within and beyond the site.
 - The development aligns with the densities specified in the Ministerial Guidelines on Sustainable Residential Development and Compact Settlements.
 - The proposed development provides a mix of housing sizes and types to facilitate a wide demographic of housing need.
 - A creche/childcare facility is integrated into the layout of the development and
 - The developer's obligations under Part V have been outlined in the application.
- The report concludes with a recommendation to grant permission subject to 35no. conditions as per the local authority decision.

4.2.2. Other Technical Reports

- **County Archaeologist:** notes the location of the site within the zone of notification around recorded monument KE029 059 (enclosure) and the archaeological remains uncovered during pre-development testing. It includes recommended conditions (condition 14 of the planning authority's decision relates).
- **Environmental Assessment Unit:** includes screening for Appropriate Assessment and Biodiversity Impact Assessment along with recommended conditions (conditions 16, 17 and 18 of the planning authority's decision relate).
- **Fire Officer:** Raises no objection to the proposed development. It recommends that the applicants be advised on their responsibility to obtain Fire Safety and Disability Access certificates.
- **Housing Estates Unit:** Comprises 28no. comments on various issues including archaeology, Road Safety Audits, DMURS, taking in charge, car parking, public open space, boundaries, drainage, passive surveillance etc, that may be deemed appropriate in the assessment of the application.
- **Roads and Transportation:** Recommends conditions including the payment of a special development contribution of €150,000 'towards the cost of upgrading the L2073 Clash/ L2067 Racecourse Rd junction (condition 4 of the planning authority's decision relates).
- **Flooding, Coastal and Marine Unit:** Recommends that permission be granted subject to condition. (Condition 15 of the planning authority's decision relates).
- **Playground Unit:** Recommends conditions. (Condition 30 of the planning authority's decision relates).
- **Environment:** Recommends conditions (conditions 19, 20, 21 and 22 of the planning authority's decision relate).

4.3. Prescribed Bodies

- ***Transport Infrastructure Ireland (TII):***

TII requests that in the assessment of the application, regard is had to the provisions of official policy for development proposals as follows: proposals impacting national roads, to the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities and relevant TII Publications and proposals impacting the existing light rail network, to TII's "Code of engineering practice for works on, near, or adjacent the Luas light rail system"

- ***Health Service Executive (HSE):***

The report of the HSE sets out a series of recommendations to protect sensitive receptors and remediate health impacts including that the proposed development comply with all legal limits; that all necessary control measures using best available technology are undertaken during construction of the development; that appropriate arrangements for the collection, storage and disposal of waste are implemented, that the design take into account the concept of Universal Design.

- ***Uisce Eireann (UE).***

The report of UE confirms that a Confirmation of Feasibility (CoF) has been issued to the applicant advising that both water and wastewater connections are feasible without infrastructure upgrades. In relation to Wastewater, the COF further notes, there is an existing Uisce Eireann Sewer within the site that may require diversion, subject to agreement with UE. UE have included recommended conditions in this regard.

4.4. Third Party Observations

The planning authority received 13 third-party submissions. The issues raised are similar to those set out in the grounds of appeal and can be summarised as follows:

- Density of development.
- Capacity of Tralee to accommodate the increase in population.
- Lack of adequate residential amenity for future occupants.

- Inadequate road infrastructure; Increased traffic and congestion.
- Deficiencies in the applicants Traffic and Transport Assessment.
- Impact of the proposed development and creche in the existing amenities of neighbouring residential properties.
- The land is not suitably zoned for a creche.
- Impact on public and privately laid sewerage infrastructure within the site.
- Impact on Architectural Heritage.
- Impact on Bats, local ecology and biodiversity
- Security of the site and surrounding properties during construction.
- Concerns regarding the proposed connection to Racecourse Lawn Estate.
- Flooding and Drainage concerns.

5.0 Planning History

5.1. Appeal site

ABP-321298-24 (KCC Ref: 24/60695)

Permission refused on third-party appeal for an LRD comprising a total of 256 residential units with ancillary two storey creche, landscaping and associated site development works.

Permission was refused for one reason relating to the design and layout of the duplexes (maisonettes / apartments). It was considered that these units were poorly considered with respect to their relationship with private/communal amenity and open spaces provided within the scheme and would offer a poor standard of residential amenity for future occupants. Communal open space was deemed to be insufficient and private open spaces deemed to be substandard in terms of amenity and privacy.

5.2. Lands to the South of the Site (Clash West)

KCC Ref: 2560523

On the 12th August 2025, the planning authority refused outline permission to Thomas King for 34no. semidetached, residential units etc. for 10 reasons (Contrary to land use zoning; contrary to Tralee Settlement Objective TR58 to facilitate / support purpose built student accommodation; premature / piecemeal / haphazard development; housing mix; low density; surface water drainage; endanger public safety due to traffic hazard; Part V; Ecology and Archaeological Heritage).

A first party appeal by Thomas King against the decision to refuse outline permission was lodged on 8th September 2025. This appeal is being considered under ACP-323587-25.

ABP 320357-24, PA Ref. 24/192

On 11th 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 1st August 2024. The development was ultimately refused on appeal for three reasons (traffic safety, surface water management and ecology).

5.3. Other

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

On 20th 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 316833-23, PA Ref. KE-C6-RZLT-32

On 19th 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. Local Policy

The Kerry County Development Plan 2022-2028 amended by Variation No.1 adopted on the 21st of July 2025 to incorporate the Tralee Municipal District Settlements Plan (TMDSP), is applicable to assessment of this appeal. Hereafter, this document will be referred to as the '*KCDP (as varied)*'.

6.2. Kerry County Development Plan 2022-2028 (KCDP)

6.2.1. The KCDP comprises six volumes, as follows:

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 LRD. The policies / objectives I consider most relevant to the assessment of this LRD are included in section 6.2.4 below.

Volume Two contains the 'Town Development Plans', including a Tralee Town Development Plan. The Tralee Town Plan was superseded by the Tralee Municipal District Settlements Plan which was adopted in June 2025 as Variation 1 of the KCDP (see section 6.2.2).

Volume Three consists of several appendices to the plan including: The Archaeology of Kerry - An Overview; National Monuments & Registered Landscapes; Archaeological Landscapes and the Record of Protected Structures.

Volume Four of the CDP includes a range of 'Maps' for the county.

Volume Five comprises the environmental assessments including the Strategic Flood Risk Assessment

Volume Six contains the land use zoning objectives, use classes, zoning matrix, and development management standards.

The following development management standards are of note:

Car Parking - Section 1.20.7 and Table 4.

Table 4 illustrates the car parking standards for different types of development. (It should be noted that a flexible approach to these standards may be applied where such a case is substantiated, there is no traffic safety issue, and it is clearly demonstrated to the Planning Authority in the interest of proper planning and development, that the standard should be adjusted to facilitate the site-specific context). The standards are maximum standards and include the following:

| Land Use | Units | Parking Space Max. (Area 3) | Bike Space |
|------------------------------|---|-----------------------------|------------|
| <u>Dwelling House</u> | | | |
| Town/village | 1 Dwelling | 2 | 1 |
| Housing Estate | 1 Dwelling + visitor space/per dwelling | 2 0.5 | 1 0 |
| Apartment | Per bedroom | 1 | 1 |
| Childcare Facilities | Per 4 children Per staff member | 1 1 | 1 |

Extract from Table 4: Parking Requirements

Public Open Space: Section 1.5.4.4

- Public open space should be provided at a minimum rate of 15% of total site area. The open space should be designed to complement the residential layout and be informally supervised by residents. The spaces should generally be centrally located within groupings, and be visually and functionally accessible, of a suitable gradient, useable and overlooked by a maximum number of dwellings. Incidental pieces of unusable land shall not be considered to fulfil or partially fulfil the 15% requirement; for example, narrow tracts of open space, which are difficult to manage, will not be acceptable.
- In brownfield sites or infill sites, a minimum of 10% may be provided as public open space. Residential developments of 5 units or less may be exempt from the 15% open space provision on greenfield sites. The Council will determine on a case-by-case basis where it is demonstrated that the function of the space is not viable.

- In addition to private open space, provided by the Developer, communal open space must also be provided for apartments, in accordance with the minimum standards set out in 'Sustainable Urban Housing, Design Standards for New Apartments' Section 28 Guidelines, (2020). 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.
- The Council shall require that areas dedicated for public open space in a planning application are transferred to the ownership of the Council where the development is taken in charge by the Council.

Screen Walls in Urban Areas: Section 1.5.11

- Screen walls constructed of brick/ stone/ rendered blockwork, 1.8 metres in height, and constructed in accordance with current standards and regulations, shall be provided to enclose private open space and where the boundaries of the house sites abut roads, pedestrian ways or open spaces. The walls shall be capped and plastered on the public side, and the design and finish should be consistent with the design/finish of the house design.
- Concrete post and timber/ concrete panel fencing may also be permitted for inter-site, side boundaries boundary treatment.
- A uniform treatment for the boundaries of individual sites, which is capable of providing adequate privacy between properties, shall be implemented throughout a residential development.
- Boundaries located to the front of dwellings should generally consist of softer, more open boundary treatments, such as low-level walls/railings and/or hedging/planted treatments. Open plan gardens will not be allowed on main access roads.
- Rear boundary walls or fences must generally be provided to a height of not more than 2 metres.
- 1.8m side garden walls should generally be presented behind the front building line of the dwelling only, to allow for the openness of residential

development and to protect visual amenities; lower-level walls may extend forward of this line.

- Boundary walls/enclosures should not present blank spanning facades onto thoroughfares. Design solutions may include the use of alternative site orientation and/ or dual aspect dwellings, including provision of side access/ egress arrangements.

NOTE:: In respect of the Development Management Standards outlined in Volume six, I draw the attention of the Commission to Section 1.1 which states that the standards outlined in this chapter are, unless otherwise stated, informed by a series of Guideline documents issued by the Minister under Section 28 of the Planning and Development Act, 2000 (as amended). It further states that Specific Planning Policy Requirements set out in Section 28 Guidelines apply, notwithstanding the requirements of this Development Plan and associated Local Area Plans for the County. It acknowledges that Guidelines can be issued at any time by the Minister to Planning Authorities regarding any of their functions under the Act and clarifies that the Council will implement all national guidelines including future guidelines or amendments to existing guidelines, where appropriate in the performance of its duties, following their adoption.

Those national guidelines considered relevant in the assessment of this application are set out in section 6.4 below.

6.2.2. Tralee Municipal District Settlements Plan (TMDSP)

The Tralee Municipal District Settlements' Plan was adopted on the 21st of June 2025 as Variation No. 1 of the Kerry County Development Plan 2022-2028. It replaces the Tralee Town Development Plan as contained in Volume 2 (Town Development Plans) of the Kerry County Development Plan 2022-2028 and the Tralee Municipal District Local Area Plan 2018-2024.

The Settlement Plan for Tralee is informed by a Local Transport Plan, which is required to be prepared by Regional Policy Objective (RPO) 157 in the Regional Spatial & Economic Strategy (RSES) for the Southern Region. The plan includes a

development strategy for each settlement within the Tralee Municipal District appropriate to its size and infrastructure capacity with adequately zoned lands identified for future development uses.

Section 3.1 sets out the development strategy for the Key Town of Tralee and includes a Town Flood Map and Zoning Map. The associated appendices include a 'Settlement Capacity Audit' which identifies the carrying capacity of key sites for residential development and a zoning matrix.

The policies / objectives of the TMDSP / KCDP (As varied) that I consider most relevant to the assessment of this LRD are included in section 6.2.4 below.

6.2.3. Key map-based designations for the site include the following:

- The site is subject to two Zoning Objectives (*TMDSP - Figure 3.43: Tralee Zoning Map*):
 - '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.
- The site is located outside of the designated Flood Zones A and B and is therefore in Flood Zone C (*TMDSP - Figure 3.42: Tralee Town Flood Map*)
- The site is identified as part of site/ landbank 'TR-8-' in the Settlement Capacity Audit for Tralee. TR-8 comprises 10.78ha of land with an estimated density of 30-50 uph and a potential yield of 323-539 units (*Appendix A, p127-128 of the TMDSP*).
- Archaeological monument, KE029-259 Enclosure, is located adjacent to the southeast of the site, and its zone of notification extends into the site. (see section 6.6 below for details).
- The site bounds a historic burial ground (famine graveyard), God's Acre, to the southeast of the site. (*TMDSP - Figure 3.45: Tralee Zoning Map A*).

- A segregated cycle lane is planned for Clash Road (TMDSP - Figure 3.33 - LTP Cycling Strategy Options).

6.2.4. The following Objectives of the KCDP (as Varied) are of note:

Residential Densities and Building Heights (KCDP, Vol. 1, p.77)

KCDP 4-40 Ensure that developments have regard to the Ministerial Guidelines, Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities the DHPLG (2020), Urban Development and Building Heights – Guidelines for Planning Authorities DHPLG (2018) and Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) DEHLG (2009).

Overall Objectives (TMDSP, p.12):

KCDP SP-4 Ensure that all new development is located within the settlement's development boundary in a sequential manner while promoting the development of a compact settlement structure through making effective use of backland and infill sites and preventing unnecessary ribbon development.

Residential Objectives (TMDSP, p.13):

KCDP SP-7 Facilitate sustainable residential growth and prioritise development of the county's settlements in accordance with the Settlement Hierarchy and the Core Strategy set out in the KCDP 2022-2028 and subject to:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)
- Sustainable Urban Housing-Design Standards for New Apartments (July 2023)

- Urban Development and Building Height Guidelines for Planning Authorities (2018)
- Design Manual for Urban Roads and Streets (2019 & 2022)

KCDP SP-9 Require all new residential development schemes over 15 units to provide for a variety and choice (type and size) of housing units to meet different household needs and requirements.

Residential Estate Connectivity Objectives (TMDSP, p.15):

KCDP SP-13 Connect existing and future residential developments and strategic employment lands (access points) to completed and planned greenways, cycling infrastructure, cycle ways and onto existing employment/residential areas.

KCDP SP-14 Improve (inter)connectivity by ensuring access and linkages from existing and proposed residential areas are provided.

Rainwater Management Objectives (TMDSP, p.17):

KCDP SP-24 Sustainable Urban Drainage Systems (SuDS) incorporating nature-based surface water drainage solutions should be incorporated into the design of new developments and will be required for any proposals of scale. Proposals shall also address pluvial flood risk in areas where surface water ponding could occur and ensure that floor and street levels are designed to manage any potential risks or exceedances.

KCDP SP-27 Promote the use of sustainable rainwater management and retention techniques within existing /proposed urban areas, such as:

- Rainfall collection at property level
- Rainfall collection within the streetscapes
- Rainfall conveyance
- Temporary storage of rainfall within public open space
- Storage of rainfall within the wider catchment.

Objectives Climate Action and Biodiversity (TMDSP, p.19):

KCDP SP-30 Ensure that opportunities for biodiversity protection, enhancement and creation are identified and incorporated into development proposals, as appropriate, while also supporting Kerry organisations which promote biodiversity and wildlife habitats in their area, such as the Tralee Bay Wetlands (promoting an understanding of Tralee Bay and its wildlife), Kerry Biosphere (promoting and understanding the Killarney area and its wildlife), etc.

Housing Objective (TMDSP, p.43):

KCDP TR-27 Facilitate the development of 2,087 residential units within Tralee Town boundary in accordance with the Core Strategy (Table 3.7) housing target for Tralee town in the Kerry County Development Plan 2022-2028.

Heritage Objectives (TMDSP, p.66-67)

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-54 Work with stakeholders to promote biodiversity in the town (including swift nest box projects boxes) and facilitate actions from the All-Ireland Pollinator Plan such as recommendations for grassland management and pollinator friendly planting schemes/landscaping.

Tralee Local Transport Plan Objectives (TMDSP, p.78):

KCDP TR-100 Implement the Local Transport Plan for Tralee and all actions/recommendations contained within. KCDP TR-100 includes reference to:

(c) The LTP Cycling Strategy Options as set out in Figure 4.2 of the Tralee Town Local Transport Plan, the Proposed Timeframes for Walking and Cycling Options in Table 5.2 of the

Tralee Town Local Transport Plan and Figure 3.33 (LTP Cycling Strategy Options) below.

(d) The LTP Parking Strategy Options as set out in Figure 4.4 of the Tralee Town Local Transport Plan, the Proposed Timeframes for Parking Options in Table 5.5 of the Tralee Town Local Transport Plan and Figure 3.35 (LTP Parking Strategy Options) below.

6.3. National / Regional Policy.

Project Ireland 2040 – National Planning Framework, First Revision (April 2025), (NPF)

The National Planning Framework (NPF), initially published in 2018 and revised in 2025, sets out a high-level strategy for the planning and development of Ireland to 2040. The strategy to accommodate this growth in a sustainable way focuses on 10 National Strategic Outcomes (NSOs) that include: Compact Growth (NSO1), Sustainable Mobility (NSO4), Enhanced Amenity and Heritage (NSO7), a Low Carbon and Climate Resilient Society (NSO8) and the Sustainable Management of Water, Waste and Environmental Resources (NSO9).

National Strategic Outcome No. 1 of the NPF relates to Compact Growth. The aim is to deliver a greater proportion of residential development within existing built-up areas of cities, towns, and villages; to facilitate infill development and enable greater densities to be achieved, whilst achieving high quality and design standards. This is supported by National Planning Objectives that target 50% of new housing growth that take place in the five cities and 30% within other settlements, to be delivered within the existing built-up footprint, respectively.

National Strategic Outcome No. 10 of the NPF relates to Access to Quality Childcare, Education and Health Services. National Planning Objective 41 seeks to prioritise the alignment of targeted and planned population and employment growth with investment in the provision and timely delivery of childcare facilities that meet the diverse needs of local populations and act as a key enabler for housing development, thereby contributing to the development of sustainable communities.

Regional Spatial and Economic Strategy for the Southern Region 2020-2032

(RSES): - This strategy provides a framework for development at regional level. The RSES promotes the regeneration of our cities, towns, and villages by making better use of under-used land and buildings within the existing built-up urban footprint.

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.

Delivering Homes, Building Communities 2025-2030: An Action Plan on Housing Supply and Targeting Homelessness:

Aims to build on this recent progress to further accelerate the delivery of new homes, to deliver 300,000 by the end of 2030. The Plan is built around two pillars 'Activating Supply' and 'Supporting People', with four key priorities under each pillar.

Climate Action Plan (CAP) 2025: -

Climate Action Plan 2025 builds upon last year's Plan by refining and updating the measures and actions required to deliver the carbon budgets and sectoral emissions ceilings and it should be read in conjunction with Climate Action Plan 2024.

Climate Action Plan 2024 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.

Ireland's 4th National Biodiversity Action Plan (NBAP) 2023-2030:

The NBAP includes five strategic objectives aimed at addressing existing challenges and new and emerging issues associated with biodiversity loss. Section 59B (1) of the Wildlife (Amendment) Act 2000 (as amended) requires the Board, as a public body, to have regard to the objectives and targets of the NBAP in the performance of its functions, to the extent that they may affect or relate to the functions of the Board. The impact of development on biodiversity, including species and habitats, can be assessed at a European, National and Local level and is taken into account in our decision-making having regard to the Habitats and Birds Directives, Environmental Impact Assessment Directive, Water Framework Directive and Marine Strategy Framework Directive, and other relevant legislation, strategy and policy where applicable.

6.4. Section 28 Ministerial Guidelines:

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

The Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities (2025) (the 'Apartment Guidelines') set out national policy and standards for apartment development, in order to ensure greater consistency of national policy across local authority areas.

Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) (the Compact Settlement Guidelines): set out policy and guidance in relation to the planning and development of urban and rural settlements, with a focus on sustainable residential development and the creation of compact settlements. 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 require 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 recommend 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 under which '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.'

Childcare Facilities – Guidelines for Planning Authorities (2001)

- These Guidelines recommend the provision of one childcare facility (equivalent to a minimum of 20 child places) for every 75 dwelling units.

6.4.1. Also of note:

- The Development Management Guidelines for Planning Authorities (2007)
- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment (Department of Housing, Planning and Local Government, 2018)
- Appropriate Assessment of Plans and Projects in Ireland - Guidelines for Planning Authorities (2009, updated 2010).
- The Planning System and Flood Risk Management Guidelines (including the associated Technical Appendices) (2009)

6.5. Natural Heritage Designations

6.5.1. The appeal site is not located in or immediately adjacent to a European site, a Natural Heritage Area (NHA) or a proposed NHA (pNHA). 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.

6.5.2. 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.

6.6. **Architectural Heritage:**

The proposed development site is partially located within the zone of notification, as defined in the Record of Monuments and Places, of the recorded monument KE029 059, listed as an enclosure and described as follows:

This site was identified on an aerial photograph taken in 1965 from a height of approximately 1500 feet. This site revealed itself as one quadrant of an apparently circular enclosure, located at the junction of the townland boundaries of four townlands - Clash East & West, Ballybeggan and Muing East. Interestingly the boundary between Clash West and Muing East observes the line of the enclosure. This quadrant was also marked on the OS 2nd Edition map in 1896, with burial ground-disused marked immediately to the north. This Famine period burial ground was located inside the surviving quadrant of the enclosure and is still extant. Since the photograph was taken the remainder of the interior of the enclosure, except that portion regarded as the Famine burial ground, has been destroyed by the construction of dwelling houses. There is no trace or crop mark of the site visible because of its location at a busy traffic junction and the presence of modern development all over the area of the site. The surviving quadrant would have

measured 100m by 70m. This, in effect suggests that the total dimensions of this enclosure would have been in the region of 200m by 140m. Portions of the bank appear to survive, although these may be of relatively modern construction, as there is a high proportion of dry-stone walling in their make-up. This bank is now very overgrown and seems to have an average height of little over one metre, with a similar width at base. An old laneway, now overgrown and disused separates the enclosure from the burial ground, which is now known as Gods' Acre. No evidence of headstones or grave markers now survive on the site of the burial ground.'

Compiled by Michael Connolly for the Archaeological Survey of Ireland as part of a survey of the Lee Valley area in 1996-97.

7.0 The Appeal

7.1. Three third-party appeals have been lodged against the decision of Kerry County Council to grant permission for this proposed LRD at Clash Road, Tralee Co. Kerry. The appeals were lodged by residents of the local area, as follows:

1. Joseph D. Kewfi of Muing East, Ballybeggan, Tralee.

The appellant's property is on Clash Road and is bounded to the north and south by the proposed development site. The appeal documentation includes: - details of Folio KY9795, pertaining to the application site; an e-mail from Tailte Eireann regarding activity on Folio KY9795 (deal pending); copy of Tailte Eireann map showing existing rights-of-way / wayleaves pertaining to the site; copy of a letter from Dept, of Housing, Local Government and Heritage (Aug. 2025) to Kerry County Council in respect of a separate planning application on lands at The Farm, Clash West, Tralee, (KCC Ref: 2560523) recommending that a Bat Survey be conducted; and a copy of the Board Order for ABP-321289-24 (previous refusal on site).

2. Thomas, Breda, and Mary King of The Farm, Clash West, Tralee.

The appellant's property is c.530m to the southwest of the appeal site. The appeal documentation includes: Board Order ABP-321298; extracts from Inspector Reports under ABP-321298-24 and ABP-320357-24; A copy of the planning authority's opinion and minutes of the LRD meeting held on the 19th of June 2025; a copy of the minutes of a previous LRD meeting held on the 17th of July 2024; copy of an e-mail relating to KCC Ref: 24/192 noting that storm water from the site is not permitted to enter the sewer network and an extract from the submission of Cunnane Stratton Reynolds to KCC on proposed Variation 1 of the KCDP, the submission appears to relate to TR-6 lands.

3. Thomas Patton of 46A Racecourse Lawn, Tralee, c110m to the north of the appeal site.

The key issues raised in the appeal submissions have been grouped and summarised below.

7.2. Grounds of Appeal

Legal and Procedural Matters (*First Named appellant*)

- *Legal Title*: The applicant, Kenmare Plant Hire Ltd trading as 'KPH Construction' has asserted consent of another company, Clever Oak Ltd, stated owners of the site, to make the application. However, it is contended in the appeal that neither party hold the title of the land and that as such, the applicants have no right to make the application. While there is a Transfer pending on part of the site, this is not title unless the application is completed. The application is therefore invalid.
- *Unsigned Planning Documentation*: - It is contended that the planning application form is unsigned by the applicant and that as such the applicant has made no legal binding declaration as to the veracity of the application documentation. It is further contended that as the application was accepted by the Council, the Council has taken liability for the applicants' assertions.

- *Liability*: - Concerns are raised regarding legal liability of works carried out on site considering the issues raised in respect of the title of the land, pending transfers etc.
- *Validity of the application as an LRD*: - As the proposed scheme includes commercial creche it is a mixed-use development and not solely residential.
- *Existing wayleave*: - concerns are raised that the proposed development, particularly the car park for the creche facility, will be in direct conflict with a right-of-way / wayleave registered under Folio KY9795. The wayleave in question relates to privately laid sewage infrastructure (pipework) that connects two residential properties (that of the first named appellant Joseph D. Kewfi and the observer, Teresa Djemal), to the public sewer that crosses the appeal site and permits access to relevant persons to enter onto the lands for the purpose of repairing, maintaining and cleansing the pipework.

Principle of Development – Zoning

- *Zoning*: - The principle of a commercial creche on Residential Zoned Land is questioned. If the ‘principle’ of the creche is accepted, could this be used to argue for re-zoning / exemption from the Residential Zoned Land Tax or for other uses for example, the provision of a restaurant if it were called a creche lunchroom.

Drainage and Flooding

- *Surface water drainage strategy*: - Questions / concerns are raised regarding the surface water drainage strategy for the site, in particular, the reliance on hard engineering solutions / unsustainable drainage measures contrary to national and EU policy / Guidelines.
- The proximity of one of the proposed ‘Rain Gardens’ to the famine graveyard known locally as God’s Acre is raised as a concern due to a perceived risk of soakage into the graveyard and the consequent desecration of burial remains.
- It is alleged that the applicant proposes to direct storm water from the site into the existing foul water system at Racecourse Road. It is contended that this would set an undesirable precedent, with detrimental impacts on the national sewerage system and on the quality of receiving waters.

- *Flood Risk:* It is contended that the proposed development has the potential to exacerbate flood risk locally and downstream. It is contended that the site is subject to flooding due to the discharge of surface waters from Racecourse Lawn and surrounding lands to existing drainage ditches / channels which subsequent settling and pooling at the south boundary to the rear of Gods Acre and to the rear of the residential properties on Racecourse Road.

Ecology:

- Loss / destruction of habitat resulting from land clearance works.
- *Impact on bats:* The first named appellant (J D. Kewfi) alleges bat sightings at the bungalow for demolition and raises concerns of perceived deficiencies in the applicants Bat Report, particularly the lack of internal inspections of the bungalow.

Heritage:

- Concerns raised regarding the potential impact of the proposed development on archaeological and cultural heritage, particularly the famine graveyard, known as God's Acre to the southeast of the application site.

Supporting Amenities:

- *Public Open Space:* Concerns raised regarding the quantum and usability of public open space proposed within this scheme and the lack of dedicated play and recreational facilities, resulting in sub-standard amenity for future residences. The proposal is inconsistent with the governments national play policy and KCDP Objective 6-33. The concern is raised that the proposal would put increased pressure on the amenity spaces of neighbouring residential areas (Racecourse Lawn).
- *Communal Open Space:* concerns raised regarding the quantum and usability of communal open space. An allocation of 5-7 sq. m. of communal open space per apartment / maisonette is considered insufficient and inconsistent with the governments national play policy and KCDP Objective 6-33.
- The lack of proper play areas will force children to use estate roads and parking areas resulting traffic safety issues.

- Concerns raised regarding the anticipated increase in population from the proposed LRD and the adequacy of local amenities and services to cater for same.
- Concerns raised regarding the scale of the proposed creche, its proximity to an existing residential property and adequacy of the proposed boundary treatment. Concerns raised regarding, security, privacy, fire safety and insurance.

Traffic and Transport

- Concerns are raised that the traffic generated by the proposed development will contribute to congestion and result in gridlock unless proper road upgrades, roundabouts and crossing improvements are made.
- Concerns are raised regarding the veracity of the applicants Traffic and Transport Assessment (TTA). It is contended that the TTA relies on outdated data / traffic counts, that it fails to consider the Clash Road railway level crossing which causes long tailbacks during peak hours and that it fails to account for cumulative traffic from other planned developments in the area.
- The proposed pedestrian/cycle connection to Racecourse Lawn lacks a Stage 1 Road Safety Audit and would funnel additional traffic into an estate that is not DMURS compliant posing a risk to pedestrians and cyclists.
- Overspill parking and 'drop-an-walk' behaviour for creche trips would inevitably occur within Racecourse Lawn which will intensify congestion and hazards in the estate.
- Lack of adequate pedestrian infrastructure between the proposed development site and local schools.

Other Matters:

- *Boundary Treatment:* Concerns raised regarding proposals for boundary treatment, particularly the proposed use of paladin fencing as a boundary with existing residential properties in terms of privacy, security and fire safety.
- *Part V:* Queries if the 20% requirement for social housing is being met how it is to be delivered in terms of the proposed phasing.

- Concerns raised regarding the application for a 10-year permission on the grounds that it would lead to haphazard and piecemeal development.

7.3. Applicant Response

The applicant's response to the issues raised in the grounds of appeal was received on the 22nd of October 2025 and includes a review statement by DOSA consulting Engineers; a Technical Note on bats by Malone O'Regan and a letter from ROJ Solicitors. The applicant's response can be summarised as follows:

Legal and Procedural Issues:

- Regarding the applicant's legal interest to make an application, this matter is addressed in an enclosed letter from RDJ Solicitors. Of the two-land registry folio pertaining to the site, Clever Oak is the registered legal owner of one and the beneficial legal owner of the other, the latter being acquired by Deed of Transfer date 10 May 2024. Clever Oak have conferred written consent to the applicants to make the application.
- Regarding the existing wayleave that facilitates neighbouring properties to connect to the public sewer, it is contended that the design of the proposed development has full regard to same, it will be retained in a publicly accessible location. The wayleave does not preclude the development of the subject scheme, no conflict arises.
- Both application forms are signed by the agent acting on behalf of the applicant and the application include a declaration that the information given is correct and accurate.
- Kerry County Council, as the competent authority, validated the application and were fully satisfied that all statutory provisions were met.

Principle of Development: – Zoning

- The proposed Creche has been included in the scheme to accord with KCDP Policy 6-2 and is appropriate and open to consideration under the R1 – New Residential' zoning objective.

Ecology

- Regarding the potential of the proposed demolition to impact bats, this matter is addressed in an enclosed technical note from Malone O'Regan, Ecologists which includes findings of additional bat surveys, and which confirms that the building for demolition does not support any active bat roost.

Traffic and Transport

- While it is acknowledged that the traffic counts were undertaken in May 2023, these counts have been factored up as per TII guidelines. The findings of the Traffic and Transport Assessment confirm that all surveyed junctions operate well within capacity for all design scenarios.
- In relation to cumulative impacts arising from the permitted development (Astellas), this is a commercial development. The TTA submitted with the application estimates that the majority of employees will access / exit the facility directly from the N69 rather than Clash Road.
- No objections were raised in the assessment of the application by KCC or TII.

Supporting Amenities:

- The submitted Architectural Design statement confirms that the usable open space within the proposed scheme equates to 12.05% of the net developable area which accords with the standards set out in the Compact Settlement Guidelines.
- The quantum of communal open space has been increased in order to address the reasons for refusal under ABP- 321298-24.
- The layout public open space proposed accords with KCC's requirements and includes kick about areas and social spaces.
- A School Place Demand Assessment accompanied the application. This document demonstrated that the catchment area surrounding the site is well served in terms of both primary and secondary school provision with a number of facilities within walking distance of the site.
- The scheme has been designed to maximise pedestrian and cycle activity in the area.

- The Creche has been sized to meet the needs of the proposed development and is served by a dedicated parking / set down area. There is no justification to the claim that people will park in the adjacent estate and then walk to the development to drop-off their children.
- The Social and Community Infrastructure Audit submitted with the application indicates that the area is well served by existing provisions and is set up to benefit from proposals set out in the Draft Cycle Connects Strategy and Draft Tralee Town Local Transport Plan.

Drainage and Flood Risk

- The applicants presented two options for surface water discharge to the local authority at pre-planning stage. The Council supported the option of directing surface water to the existing 450mm diameter storm network leaving the site connecting with the existing storm water pipe on Racecourse Road. The final design reflects this.
- The approach to SuDS was informed by pre-planning discussions with the local authority and site investigation. The Council advised against the use of permeable paving and infiltration basins due to safety concerns.
- The SuDS train has been followed in relation to available sustainable drainage options for the site. The nature-based SuDS principles proposed will have a notable and positive impact on surface water discharge volumes.
- There are no watercourses or historical records of flood risk on the subject site. Flood risk mapping shows the site is located outside of Flood Zones A and B.

Archaeological Heritage:

- The application has been subject to a detailed Archaeological Impact assessment, including test trenching completed under licence from the National Monuments Service.
- In line with Council recommendations, the identified fulacht fiadh / burnt mound will be fully excavated and all ground works within the zone of notification of the recorded monument will be monitored under licence.

- There will be no impact on God's Acre. As agreed with the Council, the existing wall around God's Acre is in a state of disrepair and will be reinstated where it has fallen down with a 1.8m high palisade fence to prevent access. The boundary treatment works will be subject to architectural monitoring.
- The suggestion that drainage proposals will undermine Gods Acre are unsubstantiated. The proposed drainage strategy follows best practice guidelines and has been information site investigation. A SuDS maintenance and Management Plan has been prepared to ensure optimum operation of surface water drainage network is continually maintained for the lifetime of the development.

Other Matters

- *Boundary Treatment:* - a number of different boundary treatments are proposed reflecting site conditions on the ground. Where existing vegetation boundary exists with neighbours, practical ecologically friendly solutions are proposed. In many areas this incorporates a 1.8m high palisade fence with native climbers offering a sustainable yet secure and aesthetic pleasing solution. The Council have included a condition that all final boundary treatment be agreed with them, the applicant welcomes this condition and is happy to adhere to same.
- *Part V-* the application documentation includes a Part V proposal in full compliance with statutory provisions.

7.4. Observations

One observation was received from Teresa Djemal, the owner of the property to the east of the development site, that will be bounded to the north, west and south by the proposed scheme. The observation documentation includes a copy of a newspaper report regarding the granted of planning permission for the proposed LRD and a copy of death notice of Mary Hannafin, registered owner of part of the site (folio 9795)

The issues raised are similar to those set out in the grounds of appeal and can be summarised as follows:

- Concerns raised regarding the scale of the proposed creche which is described as beyond standard, excessive and unnecessary.
- Lack of adequate car parking for the crèche as per KCDP standards.
- Concerns raised regarding the choice of boundary treatment between the proposed creche and neighbouring residential property.
- Outdated traffic figures and discrepancies in the Traffic and Transport Assessment: creche traffic allocated to junction 3 Racecourse Demesne instead of Junction 4 Hanafin Park.
- Condition 24 requires the applicant to install footpath / cycle paths on the development boundary along Clash Road. The boundary will differ from that of adjoining properties. Is it intended to alter these boundaries by way of compulsory purchase?
- Impact on archaeological heritage.
- Queries the suitability of the site for apartments.
- It is alleged that the that site ownership information provided in the planning application form (form 2, article 22) has been misrepresented as 'not applicable'.
- Queries the delay in the completion of transfer of the land at Tailte Eireann.

7.5. Further Responses

A further submission from Joseph D Kewfi was received on the 13th of October 2025 in response to the appeals of Mr. Thomas Patton and Messrs Thomas, Mary and Breda King. The submission supports the content of those additional appeals particularly as they relate to drainage and flood risk.

8.0 Assessment

8.1. Introduction

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

- Legal and Procedural Matters
- Principle of Development- Zoning
- Scale and Density of Development
- Design Strategy
- Outdoor Amenity and Open space
- Creche
- Traffic and Transport
- Parking Provision
- Drainage and Flood Risk
- Ecology
- Archaeology and Cultural Heritage
- Other Matters

8.1.2. In respect of the proposed development, I have carried out screening determinations for Appropriate Assessment (AA), Water Framework Directive (WFD) and Environmental Impact Assessment (EIA). These are presented in sections 9.0, 10.0 and 11.0 below and are to be read in conjunction with Appendices of this report.

8.2. Legal and Procedural Matters:

8.2.1. The first named appellant raises various perceived legal and procedural issues in respect of the proposed LRD, which I will address under separate headings below. However, at the outset, I would note that it is my opinion that procedural matters, such as a validation (or not) of a planning application, are generally the responsibility of the planning authority which in this instance took the view that the submitted documentation satisfied the minimum regulatory requirements.

Validity of the Application as an LRD

8.2.2. The Planning and Development (Large Scale Residential Developments) Act 2021 defines an LRD as a large-scale residential development that includes:

- the development of 100 or more houses or
- the development of student accommodation that includes 200 or more bed spaces or
- both the development of 100 or a combination of (a) and (b) where the threshold is met for either element and subject to the LRD floor space comprising the houses and/or student accommodation of the buildings being at least 70% of the total LRD floor space.

The remaining 30% of the LRD floor space may be attributed to other uses. The proposed scheme includes for the construction of 245 no. residential units and an ancillary crèche (423.38 sq. m). As the number of residential floor units proposed exceeds 100 and as the quantum of residential floor area (21,626 sq. m) proposed is not less than 70 per cent of the total floor space, the scheme meets the definition of an LRD.

Title and Legal Interest:

8.2.3. Regarding the title of the land and the applicants legal interest to make an application, I note that the applicants have included as part of the appeal documentation a letter from their solicitor which confirms that of the two-land registry folios pertaining to the site, Clever Oak Ltd is the registered legal owner of one (KY59621F) and the beneficial legal owner of the other (KY9795), the latter being acquired by Deed of Transfer date 10 May 2024. The letter states that registration of that transfer is pending with Tailte Eireann and that the status of the application is 'for further attention' which indicates that there are currently no outstanding queries. The letter further states that Clever Oak Ltd is entitled to occupy and deal with the property as it sees fit including the making of an application for planning permission.

- 8.2.4. In addition to the above I note that the application documentation includes a letter from Clever Oak Ltd giving consent to the applicants, KPH construction Ltd, to submit an LRD planning application for the development of the lands. Therefore, on the basis of the information available, I am satisfied that the applicants have provided sufficient evidence of their legal interest to make an application.

Impact on Existing Wayleave

- 8.2.5. Regarding the potential of the proposed development to conflict with a right-of-way / wayleave registered under instrument No. D2005PS00474K of Folio KY9795 and with the associated rights of effected persons (Grantees) to carry out maintenance / repair etc of existing sewage infrastructure, I note that this matter is again addressed in the Solicitor's letter accompanying the applicant's response to the grounds of appeal. It is stated in this letter that the proposed development has been designed to take account of the rights of the Grantee and that it would not conflict with the exercise of such rights.
- 8.2.6. The wayleave / right-of-way in question is clearly detailed on the submitted plans. The wayleave is shown to run east to west across the centre of the site, crossing an area of the hard surfacing to the north of the creche (comprising access road and set-down area), an area of public open space and part of the road infrastructure for the proposed residential units. I further note that, as detailed on DOSA Drawing. No: 6724_2020_F, the existing public sewer on site to which the wayleave provides access, is to be made redundant and incorporated into the proposed sewerage network.
- 8.2.7. I have considered the plans and particulars submitted with the application and appeal and I am satisfied based on the information available that the existing wayleave does not preclude the development of the subject site, that the development as proposed has been designed with due regard to the presence of this wayleave and the rights of the Grantee, and that the construction / operation of the proposed scheme can occur without conflict. In my opinion, any necessary arrangements between the applicant and third parties regarding the implementation of the proposed works, any necessary connection agreements etc, would be Civil

matter between parties and outside the scope of the planning appeal. In the event, that the Commission decide to grant planning permission for the proposed development they may consider it appropriate to attach a note to the Commission Order advising the parties in relation to the statutory provision *Section 34(13)* of the Planning and Development Act, 2000 which makes it clear that a person 'shall not be entitled solely by reason of permission under this section to carry out any development'

Planning Application Form

8.2.8. It is alleged in the grounds of appeal that the applicant failed to sign the declaration sections of the planning application form. It is further alleged in the third-party observation that site ownership information provided in the planning application form has been misrepresented as 'not applicable'.

8.2.9. I have reviewed the planning application documentation submitted with the application and I am satisfied that the relevant sections of the planning application forms, including declarations that the information given is correct and accurate and fully compliant with the Planning and Development Act 2000, as amended and its associated regulations, have been signed by the agent acting on behalf of the applicant, as is acceptable under current legislation. I further note that the site ownership information referenced by the Observer relates to supplementary information that is to be provided by applicants seeking permission for new residential development in the rural area and as such is not applicable to the proposed LRD which relates to residential development on zoned land within the development boundary of Tralee.

Conclusion: Legal and Procedural

8.2.10. I have considered the legal and procedural issues raised in the grounds appeal. I am satisfied that the information / documentation submitted with the applicant is sufficient to permit, at least, the making of a valid application and that no substantial legal / procedural issues arise that would preclude the Commission from deciding this appeal.

8.3. Principle of Development – Zoning

- 8.3.1. As set out in KCDP (as varied), the subject site incorporates two residential zonings. The majority of the site is zoned '*R1 - New/Proposed Residential*' with the objective to provide for new residential development in tandem with the provision of the necessary social and physical infrastructure. The remainder of the site, the lands associated with the existing dwelling for demolition, is zoned '*R2-Existing Residential*' with the objective to provide for residential development and protect and improve residential amenity. It is evident, based on the residential zoning, that the development of these lands for residential use is acceptable in principle.
- 8.3.2. The zoning matrix provided in Appendix G of the Tralee Municipal District Settlements' Plan (TMDSP), lists 'Creche' as a use class that is open to consideration on residential zoned lands. Uses open to consideration may be deemed acceptable where it can be demonstrated that there is a need for such facilities and that it will not affect the predominant use of the area. The proposed creche facility is shown on 'R1' zoned land which, as previously outlined, supports the provision of new residential development in tandem with the necessary social infrastructure.
- 8.3.3. Good access to childcare is recognised as necessary social infrastructure to support sustainable development and is listed as one of the 10 National Strategic Outcomes of the NPF. In my opinion, childcare would be an appropriate ancillary use to the primary use of these lands for residential and the provision of such a facility as part of the proposed LRD would be required to ensure the appropriate and sustainable development of these lands as envisaged in the KCDP (as varied). Therefore, I have no objection in principle to this aspect of the proposed development.
- 8.3.4. I note the concerns have been raised in the grounds of appeal that if the 'principle' of the creche on residential zoned land is accepted, that this could be used to argue for re-zoning of the land, an exemption from the Residential Zoned Land Tax or for the introduction of other uses, for example, the provision of a restaurant if it were called a 'creche lunchroom'. In response I would like to clarify that the granting of

permission for a creche facility on residential zoned lands would not alter the residential zoning of the land or any obligation in respect of the Residential Zoned Land Tax. A grant of permission would relate to the use of the facility as a creche / childcare facility as proposed and any material change of use would be subject to a separate grant of planning permission.

Conclusion: Principle of Development – Zoning.

- 8.3.5. Overall, I am satisfied that the development of these lands as proposed would accord with the zoning objective for the area as set out in the KCDP (as varied) and that material contravention does not arise.

8.4. Scale and Density of Development

- 8.4.1. The proposed LRD is in Tralee, Co. Kerry. Tralee is characterised as a 'Key Town' in both the RSES and KCDP. It is envisaged that the 'Key Towns' will be a focus for significant growth (more than 30%). The nature, scale and phasing of this growth will be determined by local authorities depending on a capacity analysis of each town. The Core Strategy for Kerry is set out in Chapter 3 of the KCDP. As per the details provided, Kerry is expected to grow by 9,363 persons by the end of the plan period. Core Strategy Table 3.7 envisages that up to 46% of this expected growth will occur within the Key Towns of Tralee and Killarney, with 28% of the total growth allocated to Tralee, equating to an increase of 2,663 persons. Table 3.7 calculates that an additional 2,087 housing units will be required to meet this target. The proposed scheme incorporating 245 no residential units would account for approximately 11.7% of the total housing allocation for the settlement over the plan period. The proposal is well within the population and housing targets for Tralee as set out in the KCDP.

Density

- 8.4.2. The appeal site has a stated area of 7ha, with a net developable area of c. 6.5ha equating to a net residential density of c. 38 units per hectare. The KCDP (as varied) does not set out blanket density standards but instead relies on national guidance.

When first adopted (2022) the KCDP relied on guidance set out in the 'Sustainable Residential Development in Urban Areas Planning Guidelines (2009). The 2009 guidelines have since been replaced by the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024), hereafter referred to as the Compact Settlement Guidelines. It is clearly stated in the KCDP, Vol. 6, p.7), that the Council will implement all national guidelines including future guidelines or amendments to existing guidelines, where appropriate in the performance of its duties, following their adoption and that all Specific Planning Policy Requirements set out in Section 28 Guidelines apply, notwithstanding the requirements of this Development Plan and associated Local Area Plans for the County. Additionally, I note that the KCDP (as varied) includes in Objective KCDP SP-7 (TMDSP, p.13) reference to the Compact Settlement Guidelines.

- 8.4.3. It is a policy and objective of the Compact Settlement Guidelines (Table 3.5) that residential densities in the range 30 dph to 50 dph (net) shall generally be applied at suburban and urban extension locations of Key Towns and Large Towns. As per the guidelines, suburban areas are the low-density car-orientated residential areas constructed at the edge of the town, while urban extension refers to greenfield lands at the edge of the existing built-up footprint area that are zoned for residential or mixed-use (including residential) development. Having regard to the greenfield nature of the site, its location on the edge of the built-up area of Tralee and its residential zoning, it is my view that the site is within an urban extension location of a Key Town and that a density in the range of 30 dph to 50 dph would be acceptable in principle. The proposed development, with a stated density of 38 dph would fall within the accepted density range for the area. Furthermore, I consider the density of development proposed to be acceptable in this instance given the locational context of the site, the existing pattern of residential development in the area and its limited access to public transport.

Population Growth:

- 8.4.4. In terms of population growth, I note that Tralee had a recorded population of 26,079 persons in 2022. I estimate that the proposed LRD has the potential to accommodate in the region of .600-1,099 persons which equate c22.5% - 41% of the

population growth target for the settlement and a c.2.3%-4.2% increase in the town's overall 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 proposed within the scheme, assuming all bedspaces are occupied (see section 2.0, Table 2(b) of this report for details). I consider this proportion of population growth to be well within acceptable parameters for Tralee Town and in keeping with the Core Strategy Targets set out in the KCDP (as varied).

8.4.5. I note that concerns have been raised in the grounds of appeal in relation to the capacity of existing social and community infrastructure in Tralee to accommodate this anticipated growth. In this regard, I refer the Commission to the applicants Community and Social Infrastructure Audit submitted with the application. This document assesses the availability of existing and planned social and community infrastructure within 1.25km (approx. 15 minutes walking distance) of the subject site. The audit demonstrates that the subject site is accessible to a range of services and facilities that will meet the day-to-day needs of future residents of the scheme, including education, healthcare, retail, recreational, professional services and public transport. Additionally, I note that the wider area of Tralee offers a range of services and facilities, including Tralee Regional Sports Complex, the Aquadome, and Tralee Town Park. The proposed scheme includes for the provision of a childcare facility with capacity for 60 no. children, which is sufficient to meet the anticipated demand from the proposed development. The proposed scheme will also deliver new areas of public open space and facilitate infrastructure improvement works along Clash Road and increased permeability with neighbouring residential estates.

8.4.6. Based on the information available and my observations during site inspection, I am satisfied that the area is adequately served in terms of social and community infrastructure to cater for the needs of the existing and new community and that the proposed scheme would represent an overall positive contribution to the area.

Conclusion: Scale and Density of Development

8.4.7. In conclusion, I am satisfied that, in principle, the proposed scheme with a density of 38dph and yielding a population increase in the region of c.600-1,099 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 significant undue impact on the receiving environment.

8.5. Design Strategy:

8.5.1. The development site comprises approximately 7ha of predominantly greenfield land on the eastern edge of the built-up-area of Tralee. Existing development in the immediate vicinity of the site is mainly residential in traditional, two storey detached / semi-detached formats. Clash Industrial Estate is located to the south, on the opposite side of Clash Road while Tralee Town Centre and train station are approximately 15-20 minutes' walk away.

8.5.2. The proposed development comprises a mid-scaled residential scheme featuring modestly designed dwellings (two storeys in height, 1–4-bedroom units in size) that reflect the established pattern and character of the area. The application documentation includes an Architectural Design Statement, a Townscape and Visual Impact Assessment and photomontages, which I have reviewed and considered. In my opinion the overall design concept as presented in the application documentation is visually acceptable and appropriate for this area.

8.5.3. The scheme is divided into two residential neighbourhoods separated by a central area of public open space. The two neighbourhoods, provisionally referred to as 'Hanafin Park' to the north and 'Racecourse Demesne' to the south, are each served by separate vehicular accesses onto Clash Road and are connected internally via the proposed pedestrian / cycle network. The proposed pedestrian / cycle network provides for three connections onto Clash Road and offers potential linkages to adjoining lands to the north, south and west, thus ensuring a relatively high level of permeability within and through the scheme in line with Residential Estate Connectivity Objectives KCDP SP-13 and KCDP SP-14 (TMDSP, p.15).

- 8.5.4. In terms of layout, the proposed dwellings are generally arranged in a linear fashion along the site boundaries and internally within a block format. In the main, the proposed dwellings are laid out so that they front onto internal access roads and are sited back-to-back or back-to side with existing properties. The majority of the maisonette / apartment units are arranged in two permitter style blocks around a central area of communal open space. Four smaller blocks, each containing four units, are positioned at the end of rows of terraced houses, where they offer dual frontages and passive surveillance over adjoining public areas (roads, pedestrian / cycle links and areas of public open space).
- 8.5.5. In line with SPPR 1 of the Compact Settlements Guidelines, all units appear to achieve at least the recommended minimum separation distance of 16m between opposing above ground floor windows, serving habitable room at the rear or side of dwellings. The Daylight and Sunlight Analysis report submitted with the application demonstrates that the proposed scheme would provide for a good level of residential daylight amenity to future occupants with only a negligible impact on the existing amenities of neighbouring properties.

Boundary Treatment

- 8.5.6. The applicants' proposals for boundary treatment are detailed on Drawing No. D2E-CRT-06. A variety of boundary treatments are proposed. Notably, the scheme allows for the retention of existing hedgerow / treelines along principal site boundaries, including boundaries with existing residential properties on Clash Road. The retention of existing hedgerows / treelines is, I consider, an important feature of the proposed scheme in terms of protecting biodiversity and the natural environment and I note that it would accord with the heritage objectives of the KCDP, notably Objective KCDP TR-53 (TMDSP, p.66) which seeks to protect local biodiversity features and where appropriate enhance ecological corridors and natural features of the landscape such as hedgerows, trees, etc.
- 8.5.7. The applicants propose to reinforce these boundaries with a 1.8m high paladin fence and native climbers. However, third parties have raised concerns regarding the use of paladin (open mesh) fencing in residential developments for reasons of privacy

and security. They request that the proposed boundary treatment be replaced with a rendered blockwork or brick walls in line with the provisions set out in the *KCDP, Vol. 6 Section 1.5.4.11 Screen Walls in Urban Areas*, which states that screen walls constructed of brick/ stone/ rendered blockwork, 1.8 metres in height, shall be provided to enclose private open space and where the boundaries of the house sites abut roads, pedestrian ways or open spaces.

8.5.8. I have considered the plans and particulars lodged with the application and appeal and I have inspected the site. In my opinion, the use of paladin fencing as proposed, is appropriate in this instance and would be acceptable in terms of security, privacy and amenity while also ensuring compliance with the heritage objectives of the KCDP (as varied). Paladin fencing by its nature and construction is less intrusive than screen walls that require more solid foundations and that would be more likely to damage / interfere with established vegetation. The use of native climbers as proposed would improve the aesthetics of the paladin fence and provide an additional degree of privacy; however, I would agree with the opinion of the planning authority that existing gaps the hedgerow / treelines to be retained, should be reinforced with additional planting sufficient to form dense continuous screens.

8.5.9. Regarding compliance with the development management standards and guidelines set out Vol. 6 Section 1.5.4.11 of the KCDP. I note that this section includes various standards for boundary treatment. In my opinion the proposed scheme, as presented, has been carefully considered in terms of boundary treatment and its impact on local ecology and both the visual and residential amenities of the area. I am satisfied that the proposed would generally accord with the provisions outlined in Section 1.5.4.11, that any deviation from the standards outlined would be de-minimis and would not give rise a material contravention for the plan.

Housing Mix:

8.5.10. In terms of housing mix, Objective KCDP SP-09 (TMDSP, p. 14) requires that all new residential development schemes over 15 units provide for a variety and choice (type and size) of housing units to meet different household needs and requirements.

The housing mix for the proposed scheme is set out in section 2.0 and Tables 2.2 and 2.3 of this report. In brief, the proposed scheme comprises:

- 163no. houses in a mix of semi-detached and terraced formats and ranging in size from three to four bedrooms.
- 82no. Maisonette / apartment (duplex) units arranged in two storey buildings and ranging in size from one to two bedrooms.

In my opinion the proposed scheme offers an appropriate mix of house type, size and tenure to meet the needs of the existing and future population of Tralee in a manner that is generally consistent with the prevailing pattern of development in the area. Therefore, I am satisfied that compliance with Objective KCDP SP-09 is achieved.

8.5.11. I note the concern raised in the Observation regarding the suitability of the site for apartments due to its peripheral location removed from Tralee Town Centre. The proposed LRD includes for 84no. maisonette / apartment units which equates to c. 33% of the total number of units proposed and supporting an overall density on the site of 38 dph. As previously established, the density of development proposed is I consider, appropriate for this site. The maisonette / apartment units are proposed in a range of two storey buildings, the height, scale and design of which is in keeping with the existing and emerging pattern of residential development in the area. In my opinion the quantum, scale and form of the apartment units proposed within this scheme is appropriate for this location. The inclusion of apartment units within this scheme supports the development of these lands at an appropriate density and would contribute to the overall housing stock of Tralee.

Design Quality:

8.5.12. In terms of the quality of the residential units proposed, I have reviewed the plans and particulars submitted with the application including the applicant's Architectural Design Statement (ADS) and Housing Quality Assessment (HQA), in light of the development management standards and guidelines outlined in the KCDP (as varied) and relevant Section 28 Guidelines, namely:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (January 2024)
- Sustainable Urban Housing-Design Standards for New Apartments (July 2025).

8.5.13. It would appear from the plans and particulars provided that all residential units meet or exceed the relevant minimum requirements in terms of unit size, floor area, internal storage and private amenity space and that suitable arrangements have been made within the scheme for bin storage. I note that the proposed scheme, if permitted, would be subject to an Operational Waste Management Plan.

8.5.14. In terms of the proposed maisonette / apartment units, I note that all ground floor units are provided with the required minimum floor to ceiling height of 2.7m. 66 of the 82 proposed units are dual aspect, this equates to 80%, significantly exceeding the 25% requirement set out in the Apartment Guidelines (2025). Of the single aspect units proposed, none are solely north-facing, with all being orientated either south-easterly, north-easterly, north-westerly or south-westerly ensuring adequate levels of daylight and sunlight as demonstrated by the applicants Daylight and Sunlight Analysis Report.

Conclusion: Design Strategy

8.5.15. Overall, having regard to the location of the proposed development on an infill site within an established residential area on the sub-urban outskirts of Tralee, and the prevailing pattern of residential development in the area, I am satisfied that the proposal represents an appropriate design response that is sympathetic to its setting and that would not detract from the visual amenities or character of the area. I am satisfied that the design of the proposed residential units would generally accord with the relevant development management standards set out in the KCDP and Section 28 Guidance and that the proposed scheme would provide a good standard of residential amenity for future occupants. Furthermore, having considered the plans and particulars submitted in support of the application, which includes a Daylight and Sunlight Assessment, and having visited the site and surrounding area, I am satisfied that the proposed scheme, in terms of its height, scale, density, design,

layout and boundary treatment would not have a significant impact on the residential amenities of neighbouring properties.

8.6. Outdoor Amenity and Open space

- 8.6.1. The Commission will note that this is the second application for an LRD on these lands. The previous application, assessed by the then An Bord Pleanála, under ABP-321298-24, was ultimately refused for reasons relating to design and layout of the maisonettes/apartments which made up c. 46% of the total number of residential units proposed. Essentially it was considered that the maisonettes/apartment units proposed within the scheme did not offer a suitable degree of residential amenity for future occupants due to inadequate qualitative and quantitative provision of both private and communal open space. The scheme currently before the Commission has been amended to address previously identified deficiencies; however, I note that concerns have been raised in the grounds of appeal, regarding the quantity and quality of the public and communal open space areas now proposed.
- 8.6.2. In terms of private amenity, I note that each dwelling house is provided with an area of private open space in the form of rear gardens while private open space for the proposed maisonette / apartment units is to be provided in the form of either a ground floor terrace or a recessed upper floor balcony, all of which are accessed off the main living area. All such spaces would either meet or exceed the relevant minimum standard for private open space as set out in the Compact Settlement Guidelines and the Apartment Guidelines. The ground floor terraces are to be screened with buffer strips measuring a minimum of 1.5 to 2 metres in depth and bordered by a 1.1-metre-high hedge to provide privacy and separation from adjoining communal / public areas. First floor balconies have been set back into the building footprint to increase privacy and to eliminate the potential for overshadowing from the units above, which was a concern of the previous scheme.
- 8.6.3. In addition to private open space, all maisonette / apartment units have direct access to a designated area of communal open space. Six separate areas of communal open space are proposed within the scheme. These areas vary in size from 61.5 sq.

m to 685 sq. m. amounting to a total 1,418.27sq. m or an average of c. 17 sq. m per unit, far exceeding the minimum required standard of 494 sq. m set out in the apartment guidelines. Within the two larger maisonette / apartment blocks, communal open space is provided in the form of a central courtyard bounded and intersected by pedestrian pathways. These spaces are to be laid out in grass and interspersed with tree planting and park benches. The four smaller maisonette / apartment blocks (each containing four units) are provided with adequately sized pockets of communal open space bounded by parkland fencing and evergreen hedging. All areas of communal open space are adequately overlooked and would achieve high levels of sunlight during the day² as demonstrated in the applicants Daylight and Sunlight Analysis report.

- 8.6.4. In terms of public open space provision, I noted that the KCDP in Vol. 6 Section 1.5.4.4 states that public open space should be provided at a minimum rate of 15% of the total site area. The proposed scheme would deliver approximately 7,837sq.m of public open space which equates to 12.05% of net site area or c11.2% of the gross site area. Therefore, the proposed scheme as presented fails to meet the quantitative standards for public open space stipulated in the KCDP. I consider the extent of deviation proposed sufficient to be deemed a material contravention of the KCDP. I note that this issue is addressed in the applicants Statement of Consistency (p.32).
- 8.6.5. As indicated on the applicant's Proposed Site Layout Plan (Public & Communal Open Space) Drawing No. 22258-PLA-005, four areas or zones of public open space are proposed. The main area of public open space (Zone 1), is positioned centrally within the site and encompasses an area of approximately 5,885 sq. m. It is laid out in an east-west alignment following one of the main pedestrian / cycle routes though the site. The three smaller areas of public open space (zones 2, 3 and 4) range in size from c375 sq. m to 1, 045 sq. m, and are distributed throughout the site ensuring that all units are within 100m of an outdoor amenity area.

² Overall, the calculated average sunlight on at least 50% of the area on March 21st for communal open space amenity areas is 5.50 hours, exceeding the recommended 2 hours

- 8.6.6. As detailed on the applicants Landscape and Biodiversity Masterplan, Drawing No. D2E-CRT-06, all public open space areas are to be laid out in grass and landscaped. Seating in the form of park benches is proposed throughout the scheme. The proposed scheme also allows for enhanced bio-diversity measures, including pollinator planting. While the design of the public open space incorporates nature-based drainage features, such as rain gardens, I am satisfied that these features will not have a significant impact on the amenity value of these spaces. In this regard I refer the Commission to the applicants Landscape and Biodiversity Plan, which in section 12 outlines the benefits of such features in terms of, for example, stormwater management, pollutant filtration, biodiversity enhancement, with benefits for residents and the wider area.
- 8.6.7. As noted in the grounds of appeal, no provision is made within the scheme for formal dedicated play or active recreation facilities such as playing courts; however, I note that the policies / objectives of the KCDP (as varied) do not require that such facilities be included as part of new residential schemes. While I would agree that the proposed scheme would be enhanced through the provision of dedicated play / formal recreation areas, I am of the opinion that the public open spaces areas proposed are adequately sized and designed to cater for a range of active and passive recreational needs, are well located in terms of accessibility and passive surveillance and would provide for an adequate level of amenity for future occupants while also contributing the overall visual amenity, character and ecological value of the area. Further to the above, I note that the proposed development site is within walking distance (15 minutes) of a range of open space / recreational facilities including GAA pitches, gyms and sports centres and that Tralee itself is well served in terms of sporting and recreational facilities which would support the recreational and amenity needs of future occupants.

Material Contravention:

- 8.6.8. While I note that the proposed scheme does not meet the quantitative standard for public open space set out in the KCDP and that a material contravention can be considered to arise in this respect, I do not recommend that planning permission be

refused on this basis, instead I consider it reasonable in this instance to recommend that the Commission invoke its powers under section 37(2)(a) of the Planning and Development Act 2000 (as amended). My opinion in this regard is based on the following:

- The public open proposed within the scheme would meet the qualitative standards set out in the KCDP and would offer a good standard of amenity to future residents. In my opinion, the public open space areas proposed within the scheme have been designed to complement the residential layout, are adequately sized and designed to cater for a range of active and passive recreational needs while also contributing to both stormwater management and local habitat creation. All public open space areas are well located so as to be both visually and functional accessible and are well served in terms of passive surveillance.
- The quantum of communal open space proposed within the scheme at c1.418 sq. m exceeds the required minimum standard of 494 sq. m, ensuring a high standard of outdoor amenity for future residents of the maisonettes / apartment units.
- All proposed residential units are to be served by an area of private open space that meet or exceed the relevant standards.
- The surrounding area is well served in terms of open space, amenity and recreation with a range of facilities within walking distance of the proposed development site, sufficient to support the recreational needs of existing and future residents of the area.

8.6.9. In addition to the above, I note that the planning authority in their assessment of the applicant raised no issue regarding the quantum of public open space proposed, basing their assessment on the provisions of the Compact Settlement Guidelines. In this regard I consider it relevant to note that the quantitative standards for public open space set out in the current KCDP do not accord with Policy and Objective 5.1 of the Compact Settlement Guidelines which requires statutory development plans to include objectives relating to the provision of public open space in new residential

developments and that the requirement in the development plan shall be for public open space provision of not less than a minimum of 10% of net site area and not more than a minimum of 15% of net site area save in exceptional circumstances. As noted by the planning authority, the quantum of public open space proposed, 12.05% of the net site area, is within the required range of 10-15% set out in the Guidelines.

Conclusion: Outdoor Amenity and Open space.

- 8.6.10. Overall, I am satisfied that the proposed residential units would be adequately served in terms of private, communal and public open space, sufficient to satisfy the amenity and recreational needs of future occupants.

8.7. Crèche

- 8.7.1. The proposed creche facility is located within 'Hanafin Park' to the rear of existing dwellings on Clash Road. It comprises a detached, two storey structure with a stated gross floor area of 423.28 sq. m. The building is of a contemporary design and material finish that I consider appropriate for its intended use.
- 8.7.2. On the size of the Crèche, regard is had to the provisions of the 2001 Childcare Facilities Guidelines and the Apartment Guidelines, which indicate that the proposed development (excluding 1-bed units) would generate a demand for c. 53 no. childcare places. The proposed Crèche, with a stated area of 423.28 sq. m has been designed to cater for 60 no. childcare places. While this would exceed the childcare demand likely generated by the proposed scheme, I do not consider the scale of the facility to be excessive.
- 8.7.3. The Crèche is to be served by an outdoor amenity area of 402.96 sq. m. I note that the planning authority in condition 30 of their decision to grant permission in relation to the play equipment, surfacing and boundary treatment for this area and I would recommend a similar condition in the event of a grant permission. I note that this outdoor amenity space also accommodates a dedicated storage area for bins /

refuse. I note the location of the proposed bin store adjacent to the existing residential property on Clash Road. I do not envisage that this bin store would generate odour or nuisance sufficient to unduly impact the amenities of that property or on the amenity value of the outdoor space. I note that the proposed development if granted would be subject to an Operational Waste Management Plan. The proposed boundary treatment, between the creche and the neighbouring residential property, comprising the retention of existing hedgerow and its reinforcement with a 1.8m high paladin fence and native climbers is I consider sufficient to ensure an adequate level of privacy and security.

- 8.7.4. The proposed facility is positioned close to the proposed new vehicle entrance off Clash Road and would be well connected in terms of pedestrian and cycle infrastructure to be easily accessible to future residents. The facility is to be served by dedicated parking areas and set down area to the north. I note that the Observer to this appeal is concerned that the quantum of parking proposed for the creche is insufficient, I will consider this issue in more detail later in this report.

Conclusion: Creche

- 8.7.5. In my view, the proposed Crèche is appropriately sized and conveniently located within the proposed scheme to serve the needs of future residents of the estate and the wider community (as necessary). I note that childcare facilities are a permitted use on residential zoned lands, and I believe that that residential and childcare are generally compatible uses. In this regard, I do not anticipate any significant adverse impacts on the amenities of neighbouring residential properties. I would recommend that in the event of a grant of permission, the Commission include a phasing condition that requires the creche be delivered in the early stage of the development to ensure that the childcare needs of future residents are met in a timely manner.

8.8. Traffic and Transport:

- 8.8.1. The proposed development site is served by and accessed from Clash Road, a local tertiary road, 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). South of its junction with Racecourse Road, Clash Road has the benefit of footpaths and on-road cycle lanes on both sides. I note that the Settlement Plan for Tralee (TMDSP) was informed by a Local Transport Plan, which includes various strategy opinions for walking cycling, public transport and parking. Objective KCDP TR-100 (TMDSP, p.78) seeks to implement the Local Transport Plan (LTP) for Tralee and all actions/recommendations contained within. This includes the walking and cycling strategy options pertaining to the proposed development site, including indicative walking links through the site (Fig, 3.32, p.80) and the provision of a segregated cycleway along Clash Road (Fig.3.33, p.80).

- 8.8.2. The development 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). On the Proposed Sightlines Drawing No. 6724_2012-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 clear 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.
- 8.8.3. The proposal also includes for a setback of the available site frontage to facilitate future cycle infrastructure as envisaged in the LTP for Tralee (c140m in total). Condition 24 as attached to the local authority grant of permission requires that the developer to construct the footpath and cycling infrastructure including public lighting at the frontage of the development. I consider this to be a reasonable request as improved pedestrian / cycle infrastructure in this area would be to the benefit to future occupants of the scheme. In response to the concerns raised by the Observer to this appeal, regarding the impact of the works on the boundaries of neighbouring properties, I note that compliance with the requirements of condition 24 as attached to the local authority grant of permission would not involve works to neighbouring properties nor should it impact sightline distances at existing or proposed entrances. Any future works necessary to complete the planned pedestrian / cycle infrastructure

along Clash Road, would be a matter for the Local Authority and relevant landowners.

- 8.8.4. 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). I accept that such upgrade works would be of benefit to the development and future occupants of the scheme in terms of improved pedestrian / cycle connectivity to the town centre; however, the Commission may wish to seek specific costing details justifying the special development contribution of €150,000 as recommended by the Roads and Transport Section in their report to the planning authority (Sept. 2025).
- 8.8.5. In terms of permeability and connectivity, it is an objective of the Council, Objective KCDP SP-13 (TMDSP, p.15) to connect existing and future residential development onto existing residential areas and Objective KCDP SP-14, (TMDSP, p.15) to Improve (inter)connectivity by ensuring access and linkages from existing and proposed residential areas are provided. In line with these objectives, the proposed scheme is designed to facilitate pedestrian and cycle linkages to adjoining lands, including a link to the existing residential development of Racecourse Lawn to the west.
- 8.8.6. I note that concerns have been raised in the grounds of appeal regarding the proposed link to Racecourse Lawn and its potential impact on traffic / pedestrian safety. I have considered the plans and particulars submitted with the application and visited the site. In my opinion the existing pedestrian and road infrastructure on the cul-de-sac and on surrounding road network (Racecourse Lawn) is adequate to cater for additional pedestrian / cycle movements. The proposed link would improve connectivity / permeability in the area for existing residents of Racecourse Lawn providing direct access to an area of public open space and to the proposed creche facility. I note that parking and drop off facilities have been provided for the creche and given the separation distance involved I consider it unlikely that the proposal would result in overspill parking on Racecourse Lawn to a degree that would result in congestion or impact the amenities of residents. In summary, I am satisfied that the applicant's proposal to facilitate a pedestrian / cycle link between the proposed

development and Racecourse Lawn Drive is acceptable and appropriate in light of current planning policy and guidance. The Commission will note that the neither the Planning Authority nor the Transport Section of KCC raised any objection to the proposal.

Traffic Impact Assessment.

8.8.7. The impact of the proposed LRD on the local road network is assessed in the Traffic and Transport Assessment (TTA) submitted with the application. In accordance with the details provided by the applicant the TTA was scoped with Kerry County Council and prepared in accordance with TII's 2014 publication the "Guidelines for Traffic Impact Assessments" and the "Guidelines for Traffic Impact Assessments" as published by the Institution of Highways and Transportation Uk (1994).

8.8.8. The TTA assessment focused on the following four junctions:

| | |
|------------|--|
| Junction 1 | Ballybeggan Roundabout - The 3-arm roundabout on Clash Road |
| Junction 2 | Clash Road / Racecourse Road/Clash Industrial Estate |
| Junction 3 | The Racecourse Demesne entrance junction with Clash Road (120 Units) |
| Junction 4 | The Hanafin Park entrance junction with Clash Road (125 units + Creche). |

8.8.9. As noted by the Observer, the list of analysed junctions provided on page 4 of the TTA incorrectly includes the creche under Junction 3- Racecourse Demesne instead of Junction 4 -Hanafin Park. I note that this discrepancy was corrected in the junction analysis outlined in section 6 of the TTA and does not impact its findings / conclusions.

8.8.10. The traffic generated by the proposed development was garnered from the TRICS database. The number of trips generated by the development has been calculated for the AM peak hour, between 08:00-09:00, and the PM peak hour, between 17:00-18:00. The TTA estimates a total of 147 trips during the AM peak and 148 trips in the PM Peak. The TAA includes results of a 12-hour traffic survey conducted in May 2023 at Junctions 1 and 2. The applicants in their response to the grounds of appeal,

acknowledge that the traffic counts were undertaken in 2023 but note that the traffic count figures in the TTA were factored up to account for future growth, as per TII guidelines.

8.8.11. The four junctions were analysed both 'with' and 'without' development for the following scenarios:

- Survey year: 2023
- Opening year: 2026
- Design year: opening year + 5 years: 2031
- Design year: opening year + 15 years: 2041

Results show that all analysed junctions operate well within capacity for all design scenarios.

8.8.12. Section 6.2 of the TTA considers the cumulative impact of the scheme on the surrounding roads network for future years. This is determined by modelling future scenarios on future projected traffic data and expected development traffic. No significant issues are identified. I have reviewed the Kerry County Councils online planning database and there does not appear to be any significant permitted developments in the vicinity that I consider would be likely to generate a significant increase in the volume of traffic on Clash Road. Any future development proposals would be assessed on their own merits.

8.8.13. The TTA concludes that the proposed development does not cause a significant negative impact on the analysed junctions and surrounding area. I have considered the TIA, and I have no objection to the methodology used or assumptions made. I am satisfied that the traffic analysis results presented in this report demonstrate that the local road network can accommodate the volume of traffic likely to be generated by the proposed development and within the norms of an urban environment.

Conclusion: Traffic and Transport

8.8.14. 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 facilitates infrastructural

improvements to Clash Road along with improved permeability / connectivity to neighbouring estates / future development lands and generates a scale of traffic trips that can be assimilated into the local road network without adverse impacts.

8.9. Parking Provision:

- 8.9.1. The parking arrangements for the proposed scheme are detailed on the Proposed Site Layout Plan (Parking Provision) Drawing. No: 22258-PLA-009 Rev. B. In accordance with the details provided, the proposed scheme provides for a total of 400no. surface car parking spaces including 354no residential parking spaces, 14 visitor space, 20 accessible space and 12no spaces of the creche. In addition, 174 no bicycle parking spaces have been located throughout the site for both residents and visitors, this is in addition to in-curtilage parking.
- 8.9.2. In terms of residential car parking, regard is had to the standards set out in the KCDP (Volume Six, section 1.20.7 and Table 4) and the Compact Settlement Guidelines (SPPR 3), the standards in both documents are maximum standards. The proposed scheme allows for the provision of 368 no. residential parking spaces (including visitor spaces) which equates to an average of c1.5 no. spaces per dwelling. The quantum of parking proposed is well below the maximum number of spaces permitted in both the KCDP and Compact Settlement Guidelines which I calculate as 531 no. spaces and 490 no. spaces respectively.
- 8.9.3. In terms of parking for the creche, the standards set out in the KCDP, Volume Six, section 1.20.7 and Table 4 are relevant. As per the details provided in Table 4, childcare facilities outside of core retail areas and town centres can be provided with parking at a maximum rate of 1no parking space per 4 children and 1no parking space per staff member. According to this standard, the proposed creche which is designed to cater for 60no. children and a stated maximum of 20 no. employees, would generate a demand of up to 35 no. car parking spaces. As detailed on Drawing. No: 22258-PLA-009 Rev. B the proposal provides a total of 13no car parking spaces for the creche including two accessible parking spaces and, a separate set down area.

- 8.9.4. The quantum of parking proposed within the scheme is low compared the maximum permitted standards outlined in the KCDP and Compact Settlement Guidelines. However, I note that both the KCDP (as varied) and Compact Settlement Guidelines support a modal shift away from the private car to more sustainable modes of transport such as public transport, cycling and walking. The KCDP in Volume 6, section 1.20.7 Car Parking Standards, allows for a flexible approach to parking standards where such a case is substantiated, there is no traffic safety issue, and where it is clearly demonstrated that the standard should be adjusted to facilitate the site-specific context. While the Compact Settlement Guidelines state in section 5.3.4 that car parking ratios should be reduced at all urban locations, and should be minimised, substantially reduced or wholly eliminated at locations that have good access to urban services and to public transport. In areas where car parking is reduced local authorities should be satisfied that the mobility needs of residents and workers can be satisfied (e.g. through shared mobility solutions such as car and bike share).
- 8.9.5. The quantum of parking proposed within the scheme is supported in the applicants 'Statement of Consistency' which references the sustainable location of the subject development and the desire to achieve modal shift away from the private car. In this regard I note that the proposed development site is located within a reasonable walking distance of Tralee Town Centre and, as demonstrated in the applicants social and community audit, is accessible to a range of services and facilities that will meet the day-to-day needs of future residents of the scheme, including education, healthcare, retail, recreational, professional services and public transport. The proposed scheme would be served by pedestrian and cyclist infrastructure and includes for the provision of bicycle parking.
- 8.9.6. The proposed creche would be easily accessible to both pedestrians and cyclists and the dedicated set down area would facilitate more efficient drop-off and collection for users of the facility, reducing the demand on dedicated parking spaces. Additionally, I note that the layout of the scheme includes for additional visitor parking spaces within proximity to the creche that would cater for excess demand should the need arise.

- 8.9.7. The application documentation includes a Mobility Management Plan that includes a package of measures to be put in place to encourage and support sustainable travel patterns amongst the users of the proposed development with the aim to reduce the demand and use of the car and to highlight and facilitate the use of alternative modes of transport. The measures outlined in the MMP include upgrade works to Clash Road, including improved footpaths and the provision of cycle lanes, to improve connectivity to and from the site, a marketing campaign promoting sustainable modes of transport and, for the creche, the promotion of incentives such as The Bike to Work Scheme, public transport support and car-pooling to employees. The measures outlined in the MMP are considered reasonable.
- 8.9.8. Further to the above, I note that no significant parking issues were raised by KCC Roads and Transportation Department or by the planning authority in their assessment of the application or in their decision to grant permission.

EV Charging Infrastructure:

- 8.9.9. In terms of infrastructure provision of the charging of EV vehicles, the application documentation includes an Electric Vehicle Charging Point and Infrastructure Report which outlines how the proposed scheme complies with the relevant development management standards of the KCDP (section 1.20.7.1) and with relevant buildings regulations. In accordance with the details submitted:
- 100% of all on-curtilage private parking spaces at each dwelling house have been provided with the infrastructure to cater for an electric vehicle charging point
 - 120 no. or ca 60% (1:3) of all residential off-curtilage (public/on-street) car parking spaces have been provided with the infrastructure for EV charging points including 12 no. operational charging points
 - For the non-residential (crèche) element a total of 9 no. or ca 70% car parking spaces have been provided with the infrastructure for EV charging points including 2 no. operational charging points

Bicycle Parking.

8.9.10. The proposed scheme includes for the provision of 174 no. bicycle parking spaces. The planning authority in their assessment of the application did not raise any objection to the quantum of bicycle parking proposed; however, they did include a condition that provision be made within the scheme for larger non-standard cycles e.g. cargo bikes and child trailers (condition 28). In the event of a grant of permission I would recommend a similar condition so as to ensure compliance SPPR 4 of the Compact Settlement Guidelines

Conclusion: Parking

8.9.11. While I accept that the quantum of car parking provided in the scheme is low, I am satisfied that the provision of car parking below the maximum permitted standard is adequately supported in both the KCDP (as varied) and the Compact Settlement Guidelines and is appropriate for this site. I consider that such a proposal is supported by the conclusions and recommendations of the applicants MMP and is consistent with the principle of promoting sustainable travel. In addition, I am satisfied that, subject to condition, the proposal would deliver adequate bicycle parking and electric vehicle charging infrastructure. In conclusion, I have no objection to the level of parking provided for this LRD and I am satisfied that that no material contravention arises.

8.10. Drainage and Flood Risk:

8.10.1. The proposed development site is predominantly greenfield and comprises several agricultural fields, defined by treelines, hedgerows and open drainage ditches. The drainage ditches are described in the application documentation as maintenance drains that are interconnected within the site but not hydrologically connected to any watercourses outside of the site. Ground conditions (saturation) and vegetation (reeds etc) observed during site inspection indicate poor drainage at the site, particularly towards the southeast corner, in the vicinity of Gods Acre (famine graveyard).

8.10.2. The applicants' proposals for surface water drainage are set out in the Drainage Impact Assessment (DIA) and Infrastructure Report submitted with the application.

The drainage issues raised in the appeal are addressed in the applicant's appeal response document and the accompanying review statement by DOSA Consulting Engineers.

8.10.3. As detailed in the applicants supporting documentation, the proposed development site offers two viable options for surface water discharge, as follows:

- Option 1 – Discharge to the existing public stormwater network on Clash Road with ultimate discharge to the Lee (Tralee)_040 River.
- Option 2: - Discharge to the existing Kerry County Council public stormwater network on Racecourse Road via an existing 450mm diameter pipe from the site. The stormwater network on Racecourse Road is a 750mm pipe that extends to an existing outfall at the Big River, c800m to the west. (Detailed on Fig. 3.0, p. 10 of the applicant Drainage Impact Assessment Report).

Both options were presented to KCC at preplanning stage with the Council citing Option 2 as the preferred option. Option 2 has been incorporated into the proposed scheme. The Commission will note that, as per Drawing No. 6724-2021-E, the area is served by separate storm water and foul sewer drainage infrastructure on Racecourse Road. For clarification, the applicant is not proposing to discharge storm water from the site to the foul sewer network which is under the control of Uisce Eireann.

8.10.4. In accordance with the details provided, the proposed storm water drainage system has been designed to cater for all surface water runoff from hard surfaces within the proposed development including roadways, roofs, parking areas etc. Runoff from the site is to be collected via a piped network and attenuated prior to discharging off site. Final discharge rates will be at Qbar greenfield run-off rates. The storm water network and attenuation tanks are designed to accommodate the 100-year return period plus an additional 20% to account for the effects of climate change.

8.10.5. Objective KCDP SP-24 (TMDSP, p.17), requires Sustainable Urban Drainage Systems (SuDS) including nature-based surface water drainage solutions to be

incorporated into the design of new developments of scale. As outlined in the supporting documentation, the applicant's approach to SuDS was informed by discussions with the KCC, who advised against the use of permeable paving and infiltration basins, the latter based on safety concerns and, by completed site investigations. In this regard it is noted that poor infiltration results recorded at the site affect the efficiency of SuDS measures that rely on infiltration as a disposal method. Notwithstanding, the scheme has been designed to incorporate nature-based surface water drainage solutions in the form of rain gardens and tree pits. The applicants contend that the proposed drainage strategy maximises the sites available potential for nature-based solutions.

8.10.6. Regarding the existing drainage ditches within the site, these are to be replaced by filter drains and connected either directly to the existing Kerry County Council Stormwater asset or to the proposed internal stormwater network.

8.10.7. Concerns have been raised in the appeal regarding the proximity of one of the proposed raingardens to Gods Acre, on the grounds that it would result in an increased risk of soakage into the graveyard with consequent desecration of burial remains. This matter is addressed in the response document from DOSA Consulting engineers. In accordance with the details provided, the proximity of the raingarden and its associated attenuation tank will have no effect on surrounding lands. The proposed raingardens are described as nature-based solution techniques that are designed for the treatment of stormwater runoff as opposed to any form of water attenuation. They are associated only with the green area in which they are located and will act no differently to any infiltration in these areas except that filtration through the rain gardens will be collected via a land drain and directed to the attenuation system prior to discharge. Additionally, it is noted that the existing open drain along the western boundary of Gods Acre (within the applicant's lands) is to be replaced with a filter drain and connected to the proposed drainage network within the site. The applicants contend that this arrangement will improve on the current scenario and be a benefit to the protection of this parcel of land.

8.10.8. In terms of flood risk, I note that the proposed development was assessed by KCC Flooding Coastal and Marine Unit who identified the site as being within Flood Zone

C and as being at low risk of fluvial and coastal flooding. They identified the main flood risk to the development as being associated with pluvial flooding and failure of the proposed storm drainage / SuDS system within the site and, deemed it critical that the proposed surface water drainage systems are built and maintained correctly. In this regard, they recommended that permission be granted subject to conditions, including the condition that a fully developed site-specific Operation and Management Plan and Schedule for the storm drainage and SuDS infrastructure be submitted to and agreed in writing with the planning authority prior to the commencement of development (see Condition 15 as attached to the local authority grant of permission). I agree with the approach taken by the Flooding Coastal and Marine Unit / planning authority in this regard and would recommend that the Commission include a similar condition in the event of a grant of permission.

Conclusion: Drainage and Flood Risk:

8.10.9. Following consideration of the information submitted with the application and appeal, including submissions received, I would be of the opinion that the applicant's approach to the management of surface water on site is acceptable and in accordance with the stated objectives of the KCDP (as varied). I am satisfied that it has been demonstrated that surface waters generated on site can be collected and disposed of in an appropriate and sustainable manner and that, subject to appropriate condition, the development of this site as proposed would not result in the displacement of surface water or contribute to flooding. I note that the Local Authority raised no concerns with the proposals subject to compliance with conditions.

8.11. Ecology:

Impact on Bats

8.11.1. The first named appellant alleges bat sightings in the vicinity of the residential unit proposed for demolition. He raises concerns regarding the veracity of the applicant's bat survey report, in particular its failure to include an internal inspection of the

structure despite a potential entry point in the roof suitable for use by roosting bats being identified.

8.11.2. I have reviewed the ecological assessment submitted with the application including the Bat Report and I have inspected the site. I note that the Bat Report was informed by the both desk-based and field-based assessments and that the following surveys were conducted.

- Initial assessment for Bat Habitat Suitability and tree Inspection – 21st September 2023 and 8th May 2024.
- External building inspection – 21st September 2023 and 8th May 2024
- Dusk Emergence and Nighttime Bat Walkover (NBW) – 10th and 27th June and 16th July 2024

8.11.3. The initial assessments identified the one building (vacant residential unit for demolition) and two trees along the southern boundary of the site as having the potential to support roosting bats. The hedgerows and treelines onsite were also identified as providing suitable habitat for foraging bats and as bat flightpaths. The external building inspection identified one potential entry point into the roof of the vacant residential property that could be utilising by roosting bats. However, as no visual evidence that bats were using this potential entry point was identified, the structure was deemed to have a moderate roosting potential.

8.11.4. Subsequent Dusk Emergence and NBW Surveys identified bats foraging and commuting in all areas of the site, using all boundary hedgerow / treelines and areas of grassland onsite as foraging and flight path habitats. 6 bat species were recorded within the site, namely Common pipistrelle, soprano pipistrelle, Leisler's bat, Nathusius' pipistrelle, brown long-eared bat, and Myotis species. However, no bats were identified to be roosting within the trees or buildings onsite. Based on the levels of activity and species of bats recorded during the surveys, the report concluded that the site is of no value to roosting bats and high local value to foraging/commuting bats.

8.11.5. The Bat Report concluded that while the proposed development would result in the loss of foraging and flight path habitats for bats within the site, the implementation of

the mitigation measures as outlined in section 5 of the report, would be sufficient to ensure no significant impacts on bats. I note that the ecological assessments submitted in support of the application were assessed in detail by Kerry County Council's Environmental Assessment Unit. They concurred with the findings of the Bat Report and agreed that the building for demolition provides no more than moderate bat roost potential. They recommended that permission be granted for the proposed LRD subject to compliance with conditions (Condition 17 of the KCC decision is of note).

- 8.11.6. To address the issues raised in the appeal, the applicants have included as part their appeal response, a Technical Note prepared by MOR Environmental. This document notes that since the previous field surveys, the building in question has experienced significant vandalism and fire damage that has further reduced its potential to support roosting bats. The document includes details of an additional Dusk Emergence Vantage Point Survey, which was conducted on the building in 2025. The document acknowledges, as a limitation, the fact that the survey was conducted in September, outside the optimum survey season for identifying maternity roost (typically May-August). The survey recorded bat activity in the area surrounding the building but no roosting or emergence activity at the building itself, supporting the findings of previous surveys.

Ecology – General

- 8.11.7. The first named applicant also alleges that land clearance works were carried out on site prior to any conservation assessment taking place and that these works resulted in the destruction of habitats. While I accept that land clearance works may have occurred on site in advance of ecological field surveys, no evidence has been presented to support the claim that such works resulted in the destruction or loss of protected habitats.
- 8.11.8. Notwithstanding, I note that the environmental assessments submitted with the application including the Ecological Impact Assessment (EcIA), were carried out and approved by suitably qualified and experienced professionals. The EcIA was informed by a detailed desk-based study and a review of all the ecological

information available for the site and wider area as well as field surveys, ensuring a detailed, evidence-based assessment of ecological impact. Based on the collected data, it was concluded that the site was of low local ecological value and of no importance to any Annex I or Annex II species or Red listed birds. It was further concluded that, following the implementation of appropriate mitigation measures (outlined in Section 5.3), the proposed development would not result in any significant impacts on ecological receptors identified either on-site or in the surrounding area.

8.11.9. In addition, I note that the application documentation includes a Landscape and Bio-Diversity Report, a Bio-Diversity Management Plan (EcIA, Appendix C) and Bio-Diversity - Nesting plan (detailed on Drawing. No. D2E-CRT-06) which include for a variety of ecological enhancement measures for the site, many of which have incorporated into the project design, including the surface water drainage strategy and landscaping plan.

Conclusion: Ecology

8.11.10. I have considered the information submitted with the application and appeal including applicants Bat Survey Report and Technical Note and the submission of the first named appellant. I am satisfied, on the basis of the information available, that Bat Report and field surveys were carried out by suitably qualified professionals in accordance with relevant legislation and best practice guidelines. It is evident from the information available that the site is utilised by foraging and commuting bats; however, I am satisfied that the applicants have demonstrated that the site is not currently utilised by roosting bats and that as such a derogation licence is not currently required. Furthermore, I am satisfied that subject to mitigation as outlined in the Bat Report, the proposed scheme would not have a significant adverse impact on local bat populations. Overall, I am satisfied that the proposed scheme has been designed to enhance and protect biodiversity at the site.

8.12. Archaeology and Cultural Heritage:

- 8.12.1. Regarding the impact of the proposed development on archaeological heritage, I note that An Archaeological Test Trenching and Impact Assessment Report (AIAR) accompanies the application. There are no recorded monuments on the subject site; however, the proposed development site lies partially within the zone of notification, of the recorded monument KE029 059, listed as an enclosure (see section 6.12 of this report for further detail). The application site also borders a famine graveyard known locally as God's Acre.
- 8.12.2. In accordance with the AIAR, test trenching was undertaken in December 2023 to ascertain the archaeological potential of the site. Testing was carried out under the supervision of an archaeologist and under licence from the National Monuments Service. Thirty-three trenches were excavated across the site. The total area tested amounted to 6,372 square metres, or 3540 linear metres. Photographs of all thirty-three trenches are included in the report.
- 8.12.3. Testing revealed one previously unrecorded feature of archaeological interest within the subject site. This feature, identified as a fulacht fiadh / burnt mound, is located towards the southern boundary of the site, outside of the zone of notification for KE029 059. No evidence of archaeological features was encountered in the vicinity of enclosure KE029-259, and no trace of the enclosure was found on the subject site. I note that the findings of the AIAR and test trenching are disputed in the grounds of appeal of the first name appellant; however, I note that no evidence has been presented to substantiate the claims outlined in the appeal and as such I do not consider it appropriate to address the matter in any further detail.
- 8.12.4. The County Archaeologist, in his report to the planning authority (August 2025), noted that the identified fulacht fiadh / burnt mound will be impacted by the proposed development. He recommended preservation by record as opposed to preservation in situ which was not considered a viable option in this case as changes to the hydrology of the site and to the ground levels in the vicinity of the monument, resulting from the proposed development, would change the conditions for preservation of organic materials. I accept the recommendation of the County Archaeologist in this regard.

8.12.5. It is the stated opinion of the County Archaeologist that works proposed within the zone of notification of KE029 059, comprising road/turning head and pedestrian cycle paths linking the development to Clash Road, would not have any impact on archaeological features; however, he recommended that all works within the zone be archaeologically monitored, under licence and a report submitted on completion. Additional archaeologically monitoring of all ground works topsoil stripping was also recommended. I agree with recommendations of the County Archaeologist in this regard.

8.12.6. Regarding the impact of the proposed development on God's Acre. This memorial site comprises an area of greenfield with clearly defined boundaries delineated by a band of mature trees and a stone wall which has fallen into a state disrepair. The applicants propose to reinstate the wall where it has fallen and to reinforce the boundary with a 1.8m high paladin fence (on the applicant's side) to prevent direct access from the proposed development site to the burial ground. As previously outlined, the drainage strategy for this site is unlikely to impact the conditions of the memorial site.

Conclusion on Archaeology and Cultural Heritage:

8.12.7. Following consideration of the information submitted with the application and appeal, including submissions received, and the report of the County Archaeologist, I am satisfied that the development of this site as proposed would not have a significant negative impact on archaeology or on God's Acre and I agree with the recommendations of the County Archaeologist in respect of the attachment of conditions.

8.13. Other Matters:

Fire Safety

8.13.1. Regarding the fire safety concerns raised in the grounds of appeal and observation received, I refer the Commission to the comments of the Assistant Fire Officer in their report to the planning authority (dated 27/08/2025) in which they cite no

objection to the proposed scheme. The report also notes applicant's obligation to obtain Fire Safety Certificates for the scheme. In addition, I note that as issues relating to fire safety / compliance with Building Regulations are evaluated under separate legal codes, such issues need not concern the Commission for the purposes of this appeal.

Part V

8.13.2. Regarding requirements under Part V of the Planning and Development Act 2000, as amended and the Affordable Housing Act 2021, I am satisfied having regard to the information on file, including the applicants 'Part V Proposal' that the applicants have entered into discussions with KCC regarding Part V compliance. Condition 6 of the planning authority's grant of permission requires the applicant to enter into an agreement with the planning authority regarding the provision of social housing, prior to the commencement of development, and I recommend that a similar condition be included in the event of a grant of permission. However, I consider that the terms of this agreement, to be a matter for KCC and the applicant.

Planning Conditions

8.13.3. Of the 35no.planning conditions attached to the planning authority's decision, the majority are standard for a development of the nature and scale proposed (financial, procedural, construction, operational, and technical). 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 as in my opinion there is no reasonable justification for same on grounds of scale and/ or construction complexity. Additionally, and as previously noted in section 8.8 Traffic and Transport, the Commission may wish to seek specific costing details justifying the special development contribution of €150,000 required under Condition 4. In this regard I refer the Commission to the Development Management Guidelines for Planning Authorities (2007) which states the following in respect of special development contributions (section 7.12):

A condition requiring a special contribution must be amenable to implementation under the terms of section 48(12) of the Planning Act; therefore, it is essential that

the basis for the calculation of the contribution should be explained in the planning decision. This means that it will be necessary to identify the nature/scope of works, the expenditure involved and the basis for the calculation, including how it is apportioned to the particular development.

9.0 AA Screening

9.1. 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.

9.2. This conclusion is based on:

- Objective information presented in the Appropriate Assessment Screening Report.
- Qualifying interests and conservation objectives of the European sites.
- The distances separating the Site from European sites.
- The lack of hydrological connection.
- The urban setting of the local environment; and,
- The localised nature of the proposed works.

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

10.0 Water Framework Directive Screening

10.1. The purpose of the Water Framework Directive (WFD) is to protect and enhance all waters as well as water dependent wildlife and habitats, with the aim to achieve 'good' water quality status for all waters subject to the WFD and to mitigate against the risk of a decline in the water body quality and quantity status.

10.2. The application includes a Water Framework Directive Assessment Report prepared by Malone O'Regan Environmental. The stated aim of this Assessment is to ascertain whether the project has the potential to impact waterbodies in such a way as to result in a deterioration in that waterbody's status under the Water Framework Directive. If such impacts are found to be possible, then mitigation must be put in place. The report concluded that:

- the Proposed Development will not result in a deterioration in water quality status LEE (TRALEE)_040 or the Big River (Tralee)_010 waterbodies connected to the proposed development.
- The operation of the proposed development under mitigation will not jeopardise the achievement of good surface water quality status or good ecological potential for any direct or indirect waterbody connected, or the achievement of good surface water chemical status; and,
- The operation of the proposed development will not degrade the ecological quality of the protected sites associated with connected waterbodies nor jeopardise the goals and/or targets set out for these protected sites.

Therefore, the Proposed Development will not compromise the objectives and requirements of the WFD within the local area and within the river basin district.

10.3. The proposed development comprises the development of a largescale residential development on a predominantly greenfield site within the development boundary of Tralee in Co. Kerry (refer to section 2 for details). No water deterioration concerns were raised in the planning appeal.

10.4. I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seeks to protect and, where necessary, restore surface & ground waterbodies, in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. 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.

10.5. The reason for this conclusion is as follows:

- The nature of the development including the connection to public water supply, public sewer and storm sewer, and
- lack of direct hydrological connections
- The effectiveness of the mitigation measures proposed and adoption of a CEMP.

10.6. 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.

11.0 EIA Screening

Introduction

- 11.1. The application includes an Environmental Impact Assessment Screening Report prepared by HW Planning. The stated purpose of the EIA Screening Report is to determine whether an Environmental Impact Assessment Report (EIAR) is required for a Large-scale Residential Development at lands located at Clash Road, Muing East (townland), Tralee, County Kerry. Section 4 of the report has regard to the criteria set out in in Schedule 7 of the Planning and Development Regulations 2001, as amended (the 2001 Regs).
- 11.2. This section outlines my assessment of the need for an Environmental Impact Assessment Report (EIAR), which will enable the Commission to make a determination on the matter.

Mandatory Thresholds

- 11.3. There are no activities listed within Part 1 of Schedule 5 of the Planning Regulations (as amended) which relate to the proposed development. It does not fall within the scope of activities listed in Part 1 of Schedule 5 and a mandatory EIA, as classified under Annex 1 is not required.
- Item (10) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for various Infrastructure

Projects. Class 10 (b)(i) relates to the construction of more than 500 dwelling units. The proposed development involves the construction of 245 units and therefore does not exceed the mandatory threshold. Class 10(b)(iv) relates to 'Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use)'. I do not consider that the application site is within a 'business district'. I consider that the site is within part of a 'built-up area' where the 10ha threshold applies. The application site has a total area of 7ha and is therefore significantly below the applicable threshold.

Sub-Threshold Development

- 11.4. Class 15, Part 2, Schedule 5 of the Regulations provides that EIA will be required for 'Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7'.
- 11.5. EIA is required for development proposals of a class specified in Part 1 or 2 of Schedule 5 that are sub-threshold where the Commission determines that the proposed development is likely to have a significant effect on the environment.
- 11.6. Schedule 7 of the Planning and Development Regulations 2001 (as amended) sets out the criteria for assessing whether or not a project will have 'likely' and 'significant' effects on the environment, in which case an EIA is also required. The criteria include, characteristics and location of proposed development, and characteristics of potential impacts. These criteria were considered for the proposed development under the topics recommended in EIAR guidance documents and concludes that the proposed development does not meet the criteria where a subthreshold EIA would be warranted.
- 11.7. I am therefore satisfied, having regard to: -
 - (a) the criteria set out in Schedule 7, in particular
 - a. the nature and scale of the proposed housing development, in an established residential area served by public infrastructure

- b. the absence of any significant environmental sensitivity in the vicinity
 - c. the location of the development outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended)
- (b) the results of other relevant assessments of the effects on the environment submitted by the applicant and the results of the Strategic Environmental Assessment of the Kerry County Development Plan 2022-2028 (as varied) under the SEA Directive
- (c) the features and measures proposed by applicant envisaged to avoid or prevent what might otherwise have been 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, Operational Waste Management Plan, and Archaeological Impact Assessment.

that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report is not required. (See EIA Screening Determination Form 3)

12.0 Recommendation

Having regard to the foregoing assessments, I recommend that permission be granted for the proposed development, subject to conditions, and for the reasons and considerations set out in the following Draft Order.

13.0 Reasons and Considerations

Having regard to the following:

- a) the location of the site within the development boundary of Tralee, designated as a 'Key Town' in the Regional Spatial & Economic Strategy for the Southern Region 2020-2032 and the Kerry County Development Plan 2022-2028(as varied).

- b) the residential zoning for the site and the policies and objectives for the area as set out in the Kerry County Development Plan 2022-2028 (as varied).
- c) Delivering Homes, Building Communities 2025-2030: An Action Plan on Housing Supply and Targeting Homelessness
- d) The provisions of Project Ireland 2040 - National Planning Framework, First Revision (April 2025), which identifies the importance of compact growth.
- e) The provisions of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031, which supports compact sustainable growth and accelerated housing delivery integrated with enabling infrastructure.
- f) The provisions of Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, issued by the Department of Housing, Local Government and Heritage in January 2024.
- g) The provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in July 2025.
- h) The provisions of the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of Environment, Community and Local Government in 2019.
- i) The Climate Action Plan 2025 prepared by the Government of Ireland.
- j) The Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices), 2009.
- k) The nature, scale and design of the proposed development.
- l) the existing pattern of development in the area.
- m) the availability of a wide range of physical, social and community infrastructure and services in the area.
- n) the proposed infrastructure upgrade works that will improve the sites accessibility and connectivity.
- o) the submissions received.
- p) The reports from the Planning Authority.

it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable density of development in

this urban location, would not seriously injure the residential or visual amenities of the area or properties in the vicinity, would not seriously impact the archaeological or natural heritage value of the site, would be acceptable in terms of layout, urban design, height and unit mix and would be acceptable in terms of traffic, pedestrian safety and convenience.

The proposed development would be in accordance with the relevant provisions of the Kerry County Development Plan 2022-2028, as varied, save for quantitative standard for public open space provision (Vol. 6 Section 1.5.4.4) where a material contravention can be considered to arise.

Nevertheless, having regard to the overall design quality of the proposed residential scheme, the quality the public open space proposed in terms of its design, layout and location and the quantum and quality of communal and private open space areas proposed within the scheme, it is considered that the proposed scheme would deliver a high standard of residential amenity to future occupants that would be further supported by a variety of open space, amenity and recreational facilities available in Tralee. Therefore, in light of the above and having regard to the urgent need for housing supply to facilitate increased population growth and compact growth in accordance with the National Planning Framework First Revision (April 2025), is considered having regard to the provisions of 37(2)(a) of the Planning and Development Act 2000 (as amended), that the proposed development would be in accordance with the proper planning and sustainable development of the area, and that a grant of permission is therefore warranted in this instance, notwithstanding the above. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area and consistent with the Climate Action Plan, 2025 and the Climate Action and Low Carbon Development (Amendment) Act 2021.

14.0 Recommended Draft Order:

14.1. Appeal by Joseph Kewfi, Thomas Patton and Thomas, Breda and Mary King against the decision made on the 17th day of September 2025 by Kerry County Council to grant permission to KPH Construction.

14.2. Proposed Development

The development will comprise the following: The construction of a residential development of 245 no. residential units with ancillary two storey crèche, landscaping and associated site development works. The proposed development includes the demolition of an existing single-storey dwelling and associated shed and makes provision for 163 no. two storey houses, comprising 58 no. semi-detached units (40 no. 3 bed units and 18 no. 4 bed units) and 105 no. 3 bed terraced units and 82 no. own-door maisonette/apartment units over 2 no. storeys (40 no. 1 bed units, 42no. 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.

14.3. Decision

GRANT permission for the above proposed development, in accordance with the said plans and particulars, based on the reasons and considerations under and subject to the conditions set out below.

14.4. Reasons and Considerations:

In making its decision, the Commission 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.

In coming to its decision, the Commission had regard to the following:

- a) the location of the site within the development boundary of Tralee, designated as a 'Key Town' in the Regional Spatial & Economic Strategy for the Southern Region 2020-2032 and the Kerry County Development Plan 2022-2028(as varied).
- b) the residential zoning for the site and the policies and objectives for the area as set out in the Kerry County Development Plan 2022-2028 (as varied)
- c) Delivering Homes, Building Communities 2025-2030: An Action Plan on Housing Supply and Targeting Homelessness:
- d) The provisions of Project Ireland 2040 - National Planning Framework, First Revision (April 2025), which identifies the importance of compact growth.
- e) The provisions of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031, which supports compact sustainable growth and accelerated housing delivery integrated with enabling infrastructure.
- f) The provisions of Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, issued by the Department of Housing, Local Government and Heritage in January 2024.
- g) The provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in July 2025.
- h) The provisions of the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of Environment, Community and Local Government in 2019.
- i) The Climate Action Plan 2025 prepared by the Government of Ireland.
- j) The Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices), 2009.
- k) The nature, scale and design of the proposed development,
- l) the existing pattern of development in the area

- m) the availability of a wide range of physical, social and community infrastructure and services in the area,
- n) the proposed infrastructure upgrade works that will improve the sites accessibility and connectively
- o) the submissions received.
- p) The reports from the Planning Authority.
- q) The report of the Planning Inspector.

14.5. **Appropriate Assessment (AA): Stage 1**

The Commission completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites, taking into account the nature, scale and location of the proposed development, the documents submitted with the planning application and appeal including the Appropriate Assessment Screening Report, the Inspector's Report, and the submissions on file. In completing the screening exercise, the Commission adopted the report of the Inspector and concluded 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.
- The distances separating the Site from European sites.
- The lack of hydrological connection.
- The urban setting of the local environment; and,
- The localised nature of the proposed works.

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

14.7. Environmental Impact Assessment Screening:

The Commission completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening Report and other documents and drawings submitted by the applicant identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

Having regard to:

- (a) the criteria set out in Schedule 7, in particular
 - a. the nature and scale of the proposed housing development, in an established residential area served by public infrastructure
 - b. the absence of any significant environmental sensitivity in the vicinity
 - c. the location of the development outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended)
- (b) the results of other relevant assessments of the effects on the environment submitted by the applicant and the results of the Strategic Environmental Assessment of the Kerry County Development Plan 2022-2028 (as varied) under the SEA Directive
- (c) the features and measures proposed by applicant envisaged to avoid or prevent what might otherwise have been 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, Operational Waste Management Plan, and Archaeological Impact Assessment.

It considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report is not required.

14.8. Conclusions on Proper Planning and Sustainable Development:

The Commission considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable density of development in this urban location, would not seriously injure the residential or visual amenities of the area or properties in the vicinity, would not seriously impact the archaeological or natural heritage value of the site, would be acceptable in terms of layout, urban design, height and unit mix and would be acceptable in terms of traffic, pedestrian safety and convenience.

The proposed development would be in accordance with the relevant provisions of the Kerry County Development Plan 2022-2028, as varied, save for quantitative standard for public open space provision (Vol. 6 Section 1.5.4.4) where a material contravention can be considered to arise.

Nevertheless, having regard to the overall design quality of the proposed residential scheme, the quality the public open space proposed in terms of its design, layout and location and the quantum and quality of communal and private open space areas proposed within the scheme, it is considered that the proposed scheme would deliver a high standard of residential amenity to future occupants that would be further supported by a variety of open space, amenity and recreational facilities available in Tralee. Therefore, in light of the above and having regard to the urgent need for housing supply to facilitate increased population growth and compact growth in accordance with the National Planning Framework First Revision (April 2025), is considered having regard to the provisions of 37(2)(a) of the Planning and Development Act 2000 (as amended), that the proposed development would be in accordance with the proper planning and sustainable development of the area, and that a grant of permission is therefore warranted in this instance, notwithstanding the above. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area and consistent with the Climate Action Plan, 2025 and the Climate Action and Low Carbon Development (Amendment) Act 2021.

15.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity

2. The period during which the development hereby permitted may be carried out shall be five years from the date of this order.

Reason: In the interest of Clarity.

3. Notwithstanding the provisions of the Planning and Development Regulations 2001, no part of the proposed 245 no. residential units shall be used for the provision of overnight commercial guest accommodation without prior grant of planning permission.

Reason: In the interests of orderly development and residential amenity.

4. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to and agreed in writing within the planning authority prior to the commencement of development. The first phase shall consist of not more than 74 dwelling units and shall include the construction and operation of the childcare facility, together with all associated site development works, unless the developer can demonstrate to the written satisfaction of the planning authority that the childcare facility is not needed at this time.

Prior to commencement of any development on the overall site, details of the first phase shall be submitted to, and agreed in writing with, the Planning Authority. Work on any subsequent phases shall not commence until such time as the written agreement of the Planning Authority is given to commence the next phase. Details of further phases shall be as agreed in writing with the Planning Authority.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

5. (a) The mitigation measures contained in the submitted Ecological Impact Assessment (EclA), and associated appendices shall be fully implemented, except as may be otherwise required or specified by way of planning condition.
- (b) The developer shall appoint a full-time, appropriately qualified environmental manager for the duration of the construction and development phases of the project. This person will be responsible for ensuring that all construction stage environmental control measures are fully implemented and maintained and would also act as the point of contact in the event of any environmental difficulties arising with the project. Contact details of the person appointed shall be forwarded to Kerry County Council in advance of any works commencing on-site.

Reason: In the interests of clarity, environmental protection and the proper planning and sustainable development of the area.

6. The developer shall construct the proposed footpath and cycling infrastructure along the L2073 at the frontage of the development, including associated public lighting and ancillary works. The footpath shall be a minimum of 2m in width. The cycling infrastructure shall be in accordance with the NTA Cycle Design Manual and agreed with the Tralee Area Engineer. The line of the new kerb shall be agreed with the Tralee Area Engineer prior to commencement of

construction. A kerb and gully drainage system shall be installed at the carriageway edge, and this drainage shall be linked to the existing public storm water sewer system. All of the works related to the footpath/cycling infrastructure shall be completed to the satisfaction of the Tralee Area Engineer.

Reason: In the interests of traffic safety and orderly development

7. Details of the materials, colours and textures of all the external finishes to the proposed dwellings and creche shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

8. Proposals for an estate/street name, house/apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas

9. The Landscape and Bio-diversity plan and Boundary Treatment Plan shown on drawing number D2E-CRT-06, prepared by Down to Earth and submitted to the planning authority on the 24th day of July 2025 shall be carried out within the first planting season following substantial completion of external construction works.

In addition to the proposals in the submitted scheme, the following shall be carried out:

- a) Existing hedgerows and treelines to be retained shall be reinforced with additional planting sufficient to ensure dense continuous screens. A mixture of native deciduous and evergreen trees and hedge species shall be used. A plan showing the number, species and location of this additional planting shall be submitted to and for the written approval of the planning authority prior to the commencement of development.

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

Reason: In the interest of residential and visual amenity.

10. In terms of the playground adjacent the creche:

- a) All equipment and surfacing installed shall comply with the requirements of EN1176:2019 and EN1177:2018. An independent inspection report confirming compliance shall be undertaken following completion by RoPSA or other independent body confirming compliance with the codes and a copy submitted to the Local Authority upon completion.
- b) The fall height of any piece as determined by EN1176:2019 shall not exceed 2.5m.
- c) The facility shall be fully enclosed by fencing to EN1176:2019 and shall only be accessed from the creche- direct public access to the playground is not allowed.
- d) At least 50% of the equipment provided shall be inclusive for persons with a difference or include an element within the equipment that is inclusive.

Reason: To allow a balance of play experiences that are beneficial to children of all abilities, at all stages of development within the community. In the interest of safety of users of the facility and to curb the visual impact of the installation.

- 11.** Prior to the commencement of development, the developer shall enter into Connection Agreements with Uisce Éireann (Irish Water) to provide for service connections to the public water supply and wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

- 12. (a)** The attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority

(b) Prior to the commencement of development, the developer shall submit to and for the written agreement of the planning authority, a fully developed site-specific Operations and Maintenance Plan and Schedule for the storm drainage and SuDS infrastructure

Reason: In the interest of public health and surface water management

- 13.** Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall take account of trees within the drawing, Landscape and Biodiversity Masterplan. drawing no. D2E-CRT-06. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interest of amenity and public safety.

- 14.** All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

- 15.** Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the Planning Authority.

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

- 16.** The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse.
- (b) Location of areas for construction site offices and staff facilities.
- (c) Details of site security fencing and hoardings.
- (d) Details of on-site car parking facilities for site workers during the course of construction.
- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include

- proposals to facilitate the delivery of abnormal loads to the site.
- (f) Measures to obviate queuing of construction traffic on the adjoining road network.
 - (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
 - (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works.
 - (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
 - (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.
 - (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.
 - (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
 - (n) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety and environmental protection

17. Prior to commencement of development, a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of reducing waste and encouraging recycling

18. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each unit shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

19.

- (a) The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths, and kerbs, shall comply with the detailed construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads and Streets (DMURS).
- (b) Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of all locations and materials to be used shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of amenity and of traffic and pedestrian safety.

20. All footpaths and cycleways shown to adjoining lands shall be constructed up to the boundaries to provide access to adjoining lands with no obstruction including the erection of any structure which would otherwise constitute exempted development under the Planning and Development Regulations 2001, as amended. These areas shall be shown in a revised taking in charge drawing which shall be submitted to and agreed in writing with the planning

authority prior to commencement of development.

Reason: In the interest of permeability and proper planning and sustainable development.

21. (a) All the recommendations of the Stage 1 Road Safety Audit submitted as part of the application shall be implemented.

(b) On completion of the detailed design a Stage 2 Road Safety Audit shall be undertaken, and all recommendations shall be agreed with the Tralee Area Engineer prior to commencement of development.

(c) On substantial completion of the construction of this proposed development a Stage 3 & 4 Road Safety Audit shall also be undertaken.

Reason: In the interests of traffic safety and orderly development

22. A minimum of 174no. safe and secure bicycle parking spaces shall be provided within the site. Provision should be made for a mix of bicycle types including cargo bicycles and individual lockers. Details of the layout and marking demarcation of these spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

23. Electrical Vehicle Charging Infrastructure shall be provided, as per the particulars received by the Council on 24th July 2025, including the measures set out in the Electric Vehicle Charging Infrastructure Analysis Report and as per the EV Charging Layout Drawing [Drawing Number 6901], as received on 24th July 2025.

Reason: In the interests of orderly development and car parking management.

24.

(a) All mitigation measures in relation to archaeology and cultural heritage as set out in the Archaeological Test Trenching and Impact Assessment Report prepared by Frank Coyne of Aegis Archaeology Limited (July 2025) shall be implemented in full.

(b) The developer shall engage a suitably qualified (licensed eligible) archaeologist to

- a. Oversee the archaeological excavation (licensed under the National Monuments Acts) of the fulacht fiadh/burnt mound identified during test trenching
- b. Monitor (licensed under the National Monuments Acts) all ground works within the Zone of Notification for Enclosure KE029 259 and all site clearance works, topsoil stripping, groundworks, dredging and the implementation of agreed preservation in situ / by record measures associated with the development.

(c) Prior to the commencement of such works the archaeologist shall consult with and forward to the Local Authority archaeologist or the NMS as appropriate a method statement for written agreement. The use of appropriate tools and/or machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary. Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with the National Monuments Service, regarding appropriate mitigation [preservation in-situ/excavation].

The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the

National Monuments Service, shall be complied with by the developer.

- (d) Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of the monitoring and any archaeological investigative work/excavation required. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation, either in situ or by record of places, caves, sites, features or other objects of archaeological interest"

25. The developer shall submit a report prior to occupation of the dwellings, prepared by a third-party consulting engineer, to the Planning Authority certifying the design and quality of all the works undertaken during the construction of the development. The consulting engineer preparing the report shall have Professional Indemnity Insurance and evidence of same shall be submitted with the report. The developer shall also submit the following documents prior to occupation of the houses:

- (a) 5 copies of as-constructed drawings indicating the on-site position of all structures and services. These drawings shall include the location of all sewers, watermains and underground ducting. Details of all pipe sizes, inverts, manholes, cover levels, hydrants, sluice valves, gullies and stop-cock locations as well as all records of pipe tests shall be included as a minimum.

- (b) Certificate that the public lighting is in accordance with KCC policy on public lighting.

- (c) 2 copies of defect-free CCTV Survey of the foul and storm sewers after all remedial works are identified and carried out.

- (e) Copy of a defect-free manhole condition survey of foul and storm manholes.
- (f) 2 copies of defect-free Water Audit after all remedial works are identified and carried out.

Reason: In the interests of orderly development

26.(a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company

(b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

27. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the transfer of a percentage of the land, to be agreed with the planning authority, in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall be referred by the

planning authority or any other prospective party to the agreement, to An Coimisiún Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area

28. (a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant residential units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

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

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

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

29. Prior to commencement of development, the developer shall lodge with the Planning Authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the Planning Authority and the developer or, in default of agreement, shall be referred to An Coimisiún Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

30. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer, or, in default of such agreement, the matter shall be referred to An Coimisiún Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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.

Lucy Roche
Planning Inspector

8th December 2025

Form 1 - EIA Pre-Screening

| | |
|---|---|
| Case Reference | ACP323735-25 |
| Proposed Development Summary | Demolition of structures, construction of 245 residential units, a childcare facility, and all other site and development works |
| Development Address | Clash Road, Muing East (Townland), Tralee, Co. Kerry |
| | In all cases check box /or leave blank |
| 1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (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. |
| 2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)? | |
| <input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP. | State the Class here |
| <input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3 | |
| 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? | |
| <input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road | |

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| <p>development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p> | |
| <p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p> | |
| <p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p> | <p>Relevant thresholds arising from Class 10(b):</p> <ul style="list-style-type: none"> - Class 10(b)(i) – more than 500 dwelling units. - Class 10(b)(iv) – urban development in an area greater than 10ha |

| 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 checked="" type="checkbox"/> | Screening Determination required (Complete Form 3) |
| No <input type="checkbox"/> | |

Inspector: _____ Date: _____

Screening for Appropriate Assessment -Test for likely significant effects

Step 1: Description of the project and local site characteristics

| | |
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| Brief description of project | <p>The proposed development is described in Section 2 of this report. In brief, the project is a large-scale residential development, comprising the demolition of existing structures and the construction of 245 no. residential units, a childcare facility and all associated site works and services.</p> <p>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</p> <p>Wastewater arising from the project will be collected and discharge to an existing foul sewer located at the south of the site where it will drain by gravity to the public wastewater system network in Racecourse Road/ Clash Road and to the Tralee WWTP for treatment prior to discharge to coastal waters in Tralee Bay. Existing foul sewer within the site to be diverted.</p> <p>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). The public surface water network discharges to Ballybeggan River, and in turn to River Lee and to Tralee Bay.</p> |
| Brief description of development site characteristics and | <p>The subject site is located on lands at Muing East, c.2km northeast of Tralee town centre. The site, with a stated area of c.7ha is predominantly greenfield in nature and comprises several agricultural fields and a detached residence and its curtilage.</p> |

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| <p>potential impact mechanisms</p> | <p>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.</p> <p>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 south-westerly directions and ultimately discharge into River Lee and Tralee Bay.</p> <p>In section 6.5 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).</p> <p>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).</p> <p>Site Surveys</p> <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. 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.</p> <p>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 six 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).</p> |
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| | <p>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).</p> <p>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.</p> <p>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)).</p> <p>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.</p> |
| Screening report | Yes (updated at RFI Stage) |
| Natura Impact Statement | Yes (updated at RFI Stage) |
| Relevant submissions | No issues / concerns have been raised in the grounds of appeal regarding appropriate assessment or potential impact of the development on European Sites |

| | 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. | | | |
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| Step 2. Identification of relevant European sites using the Source-pathway-receptor model | | | | |
| The proposed development site is not within or directly adjacent to any European Site nor has any direct hydrological link between the application site and designated site been identified. | | | | |
| The Appropriate Assessment Screening Report (AASR) identifies nine European sites in the precautionary 15km radius of the project. 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. | | | | |
| European Site (code) | Qualifying interests ¹ Link to conservation objectives (NPWS, date) | Distance from proposed development (km) | Ecological connections ² | Consider further in screening ³ Y/N |
| Ballyseedy Wood SAC (site code: 002112) | CO002112.pdf | c.2.41km | None | No |
| Tralee Bay and Magharees Peninsula, West to Cloghane SAC (site code: 002070) | ConservationObjectives.rdl | c.3.23km | Weak indirect link via public storm water network | No |
| Slieve Mish SAC (site code: 002185) | CO002185.pdf | c.4.64km | None | No |

| | | | | |
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| Lower River Shannon SAC (site code: 002165) | Site specific cons obj | c. 9.9km | None | No |
| Akeragh, Banna And Barrow Harbour SAC (site code: 000332) | ConservationObjectives.rdl | c.10.40km | None | No |
| Castlemaine Harbour SAC (site code: 000343) | Site specific cons obj | c. 12.8km | None | No |
| Tralee Bay Complex SPA (site code: 004188) | ConservationObjectives.rdl | c. 3.08km to the southwest | Weak indirect link via public storm water network. Noise / Disturbance | Yes Given the close proximity of the Site to the SPA, the presence of suitable foraging and roosting habitats onsite and potential disturbance effects to designated species, the Tralee Bay Complex SPA will be taken forward for further consideration. |
| Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount | CO004161.pdf | c.4.06km to the northeast. | Noise / Disturbance | Yes |

| | | | | |
|---|--|-----------|------|---|
| Eagle SPA (site code: 004161) | | | | Given the close proximity of the Site to the SPA, the presence of suitable foraging and roosting habitats onsite and potential disturbance effects to designated species, this European site will be taken forward for further consideration. |
| Castlemaine Harbour SPA (site code: 004029) | Site specific cons obj | c. 14.1km | None | No |
| <p>Of the 9no. sites identified within the zone of influence, seven are screened out at the preliminary stage due to nature of the site, scale of the project, absence of direct connections and separation distances. These are: Ballyseedy Wood SAC, Tralee Bay and Magharees Peninsula, West to Cloghane SAC, Slieve Mish Mountains SAC, Lower River Shannon SAC, Akeragh, Banna and Barrow Harbour, Castlemaine Harbour SAC, Castlemaine Harbour SPA. 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.</p> <p>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).</p> | | | | |

| Step 3. Describe the likely effects of the project (if any, alone <u>or</u> in combination) on European Sites | | |
|--|---|--|
| AA Screening matrix | | |
| Site name | Possibility of significant effects (alone) in view of the conservation objectives of the site* | |
| Qualifying interests | | |
| | Impacts | Effects |
| Site 1: Tralee Bay Complex SPA (site code: 004188) QI list: <ul style="list-style-type: none"> Whooper Swan (Cygnus cygnus) [A038] Light-bellied Brent Goose (Branta bernicla hrota) [A046] Shelduck (Tadorna tadorna) [A048] Teal (Anas crecca) [A052] Mallard (Anas platyrhynchos) [A053] Pintail (Anas acuta) [A054] Scaup (Aythya marila) [A062] Oystercatcher (Haematopus ostralegus) [A130] Ringed Plover (Charadrius hiaticula) [A137] | <u>Direct:</u> None <u>Indirect:</u> Loss of, or Disturbance to 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. | None Anticipated It is considered that the Proposed Development will not result in any loss of or disturbance to any Annex I / II species for which the SPA is designated. This conclusion is based on the location and scale of the Proposed Development and the intervening lands separating the Site from the SPA. 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 |

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| <ul style="list-style-type: none"> • Golden Plover (<i>Pluvialis apricaria</i>) [A140] • Grey Plover (<i>Pluvialis squatarola</i>) [A141] • Lapwing (<i>Vanellus vanellus</i>) [A142] • Sanderling (<i>Calidris alba</i>) [A144] • Dunlin (<i>Calidris alpina</i>) [A149] • Black-tailed Godwit (<i>Limosa limosa</i>) [A156] • Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] • Curlew (<i>Numenius arquata</i>) [A160] • Redshank (<i>Tringa totanus</i>) [A162] • Turnstone (<i>Arenaria interpres</i>) [A169] • Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] • Common Gull (<i>Larus canus</i>) [A182] • Wigeon (<i>Mareca penelope</i>) [A855] • Wetland and Waterbirds [A999] | | <p>regular agricultural maintenance, and the absence of any waterbodies within the site that would be considered suitable for waterbird species.</p> <p>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.</p> |
| Likelihood of significant effects from proposed development (alone): | | No |
| If No, is there likelihood of significant effects occurring in combination with other plans or projects? | | No |

| Site name Qualifying interests | Possibility of significant effects (alone) in view of the conservation objectives of the site* | |
|--|---|---|
| | Impacts | Effects |
| <p>Site 2: Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA</p> <p>(site code: 004161)</p> <p>QI list:</p> <ul style="list-style-type: none"> • Hen Harrier (<i>Circus cyaneus</i>) [A082] | <p>As Above</p> | <p>None anticipated:</p> <p>It is considered that the Proposed Development will not result in any loss of or disturbance to any Annex I / II species for which the SPA is designated. This conclusion is based on the location and scale of the proposed development and the intervening lands separating the Site from the SPA.</p> <p>While potentially suitable habitat for foraging hen harriers, the AASR outlines that the site is not of importance to hen harriers noting the following:</p> <ul style="list-style-type: none"> • The winter roosting and breeding surveys did not identify the site being utilised by any hen harrier. • hen harriers prefer well-drained upland bog and heather moorland habitats for breeding • in the winter, hen harrier predominantly utilise heath/bog habitat and often roost communally |
| Likelihood of significant effects from proposed development (alone): | | No |
| If No, is there likelihood of significant effects occurring in combination with other plans or projects? | | No |
| Step 4 Conclude if the proposed development could result in likely significant effects on a European site | | |

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.
- The distances separating the Site from European sites.
- The lack of hydrological connection.
- The urban setting of the local environment; and,
- The localised nature of the proposed works.

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

| WFD IMPACT ASSESSMENT STAGE 1: SCREENING | | | |
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| Step 1: Nature of the Project, the Site and Locality | | | |
| ACP ref. no. | 323735-25 | Townland, address | Clash Road, Muing East (Townland), Tralee Co. Kerry |
| Description of project | | <p>Large-scale residential development: 10-year planning permission for LRD comprising 245 no. residential units and a childcare facility.</p> <p>The proposal includes demolition of existing structures (dwelling and outbuilding) on site.</p> | |
| Brief site description, relevant to WFD Screening, | | <ul style="list-style-type: none"> The site is both greenfield and brownfield in nature. Predominantly, the site comprises several agricultural fields, defined by treelines, hedgerows and drainage ditches. The drainage ditches are described in the application documentation as having no discernible flow of water and are stagnant in nature. My observation during site inspection would support this claim. These open drainage ditches are interconnected throughout the site; however, no hydrological connection from these drainage ditches to any watercourse has been identified. The lands include overgrown grasses, scrub vegetation and rushes. On the date of inspection, the ground was wet underfoot, indicating poor drainage conditions. The topography of the site slopes gradually from the northern boundary in a southerly direction at a height of approximately +29.50m to a low point on the southern boundary which is approximately +20.50m AOD. All the surface waterbodies within 5km from the Proposed Development are located in the Tralee Bay-Feale WFD Catchment [Catchment_ID: 23], with the Proposed Development located fully within the Lee (Tralee)_SC_010 sub-catchment [Subcatchment_ID: 23_8]. | |

| | |
|--|--|
| | <ul style="list-style-type: none"> • A Flood Risk Assessment was included in the planning application. The site is within Flood Zone C. |
| Proposed surface water details | <ul style="list-style-type: none"> • The runoff from the site will discharge to the existing Kerry County Council public stormwater network, which currently discharges from the site via a 450mm diameter pipe to the designated stormwater network that exists on Racecourse Road. This stormwater network along Racecourse Road is a 750mm pipe all the way to an outfall structure at the Big River, c800m to the west • The increased runoff flows will be attenuated to greenfield runoff rates prior to discharging to the public KCC stormwater network. Prior to entering the system, the stormwater generated will be treated through a number of nature-based solutions in line with adopted SuDs measures. • The storm water network and attenuation tanks are designed to accommodate the 100-year return period plus an additional 20% to account for the effects of climate change. • There are no anticipated negative impacts from the proposed design methodology. |
| Proposed water supply source & available capacity | Connection to the public network identified. No capacity issues identified. |
| Proposed wastewater treatment system & available capacity, other issues | Connection to the public network identified. No capacity issues identified. |
| Others? | Not applicable |

Step 2: Identification of relevant water bodies and Step 3: S-P-R connection

| Identified water body | Distance to (m) | Water body name(s) (code) | WFD Status | Risk of not achieving WFD Objective e.g.at risk, review, not at risk | Identified pressures on that water body | Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater) |
|------------------------|--|--|------------|--|---|--|
| River Waterbody | 615m – Nearest point 840m downstream of the surface water discharge point | The Big River (Tralee)_010 (IE_SH_23B040150) | Moderate | Review | | The runoff from the operational site will discharge to the existing stormwater network which in turn discharges to the Big River (Tralee)_010 . Big River (Tralee)_010 waterbody joins to the LEE (TRALEE)_040 before discharging into the Lee K Estuary |
| River Waterbody | c. 1.5km downstream of the surface water discharge point | LEE (TRALEE)_040 | Moderate | Review | | |
| Transitional Waterbody | 6.8km | Lee K Estuary | Moderate | At risk | | |
| Coastal | >10km | Inner Tralee Bay | Moderate | Not at Risk | | |

| | | | | | | | transitional waterbody and ultimately to the Inner Tralee Bay coastal waterbody |
|---|-------------------------------|--|--|---|---|-------------------------------|--|
| Groundwater | Underlying site | Tralee IE_SH_G_226 | Good | Not at risk | | | Drainage |
| Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage. | | | | | | | |
| CONSTRUCTION PHASE | | | | | | | |
| No. | Component | Water body receptor (EPA Code) | Pathway (existing and new) | Potential for impact/ what is the possible impact | Screening Stage Mitigation Measure* | Residual Risk (yes/no) Detail | Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or 'uncertain' proceed to Stage 2. |
| 1. | Clearance works/ Construction | The Big River (Tralee)_010 (IE_SH_23B040150) | None until the construction phase connects the Site to surrounding stormwater drainage | Temporary Following the connection, there is the potential to impair its physico- | Standard Construction Measures / Conditions including submission and compliance with CEMP | No | Screened out: |

| | | | | | | | |
|--------------------------|----------------------------------|--|--|---|--|----|--------------|
| | | | | chemical quality from accidental release of hydrocarbons and/or other materials such as cement onsite | | | |
| 2. | Clearance works/ Construction | LEE (TRALEE)_040 | As above | As above | As above | No | Screened out |
| 3. | Clearance works/ Construction | Lee K Estuary | As above | As above | As above | No | Screened out |
| 4. | Clearance works/ Construction | Inner Tralee Bay | As above | As above | As above | No | Screened out |
| 5.. | Clearance works/ Construction | Tralee IE_SH_G_226 | Drainage | Hydrocarbon Spillages | As above | No | Screened out |
| OPERATIONAL PHASE | | | | | | | |
| 1. | Surface water drainage | The Big River (Tralee)_010 (IE_SH_23B040150) | Surface water discharge to Big River and downstream water bodies | imperceptible negative impact on physico-chemical quality | Implementation of this SuDS measures as outlined in Drainage Impact Assessment | No | Screened out |
| 2. | As above | LEE (TRALEE)_040 | As above | As above | As above | No | Screened out |

| | | | | | | | |
|----------------------------------|----------|-----------------------|----------|--------------------------|----------|----|--------------|
| 3. | As Above | Lee K Estuary | As above | As above | As above | No | Screened out |
| 4. | As Above | Inner Tralee Bay | As above | As above | As above | No | Screened out |
| 5.. | Drainage | Tralee IE_SH_G_226 | Drainage | Hydrocarbon Spillages | As above | No | Screened out |
| DECOMMISSIONING PHASE N/A | | | | | | | |