



An
Coimisiún
Pleanála

Inspector's Report PL-501682-KY-26

Development	Construction of 85 residential units, creche, road access and ancillary site works.
Location	Caherslee, Mounthawk and Carrigeendaniel, Tralee, Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	2660350
Applicant(s)	Ruden Homes Ltd
Type of Application	Permission
Planning Authority Decision	Grant Permission + Conditions
Type of Appeal	Third Party Normal Planning Appeal
Appellant(s)	Ruden Homes Ltd Moirá Herlihy
Observer(s)	None
Date of Site Inspection	25 th August 2026
Inspector	Irené McCormack

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1.0 Site Location and Description

- 1.1. The appeal site is located approximately 1.6km northwest of Tralee Town. It is a greenfield site with a stated site area of c 3.256 hectares.
- 1.2. The topography of the site is uneven with a gentle slope in various parts of the site with maximum elevation of c.12m OD and decreasing to c.8m OD.
- 1.3. The surrounding use is primarily residential with existing residential development to the east, south and west of the site. To the north of the site, there is agricultural land.
- 1.4. There is an existing private access to the site via a farm gate at the site's northwestern corner, adjacent to the R551. There are existing footpaths and cycle lanes along the R551. The site is in close proximity to a number of amenities including shops, schools and other services. The site is located within a 20-minute walk to Tralee town centre and has access to various bus routes within walking distance of the site. There is an existing public bus stops located on R551 approximately 350m south from the proposed entrance of the site (bus route 290B and 274).

2.0 Proposed Development

- 2.1. The application comprises permission to:
 - Construct 85no. residential units, consisting of,
 - 2no. two storey detached houses (4 bed),
 - 26.no two storey semi-detached houses (3 bed),
 - 4.no two storey semi-detached houses (4 bed),
 - 35.no two storey terrace units (2&3bed),
 - 2.no Duplex terrace blocks (three storey) consisting of 8 no. terrace house units (2 bed), and 8.no 1 Bed Apartments,
 - ancillary crèche with 2.no 1 Bed Apartments over.
 - The proposed development also includes a dedicated pedestrian / cycle path traversing the site with new access at the proposed main entrance off Caherslee Road (R551) & a second dedicated pedestrian / cycle path connection also proposed off Caherslee Road (R551).

- Ancillary infrastructure works will include connection to the public sewer, construct a new wastewater pumping station and infrastructure, surface water attenuation, water utilities services, public lighting, bin stores, bicycle racks, landscaping, new vehicular access to the development via 1.no new site entrance from Caherslee Road (R551) and all associated site development works.

3.0 Planning Authority Decision

3.1. Decision

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

3.1.1. The following conditions are noted:

- Condition no. 2 – Development Contributions.
- Condition no. 3 – states:

Before the development commences, the developer shall lodge with the Planning Authority a cash deposit or bond of an insurance company to secure the provision and satisfactory completion and maintenance until taken in charge by the Council of road, footpaths, drains, public open space, public lighting and other services required in connection with the development, coupled with an agreement empowering the Council to apply such security or part thereof for the satisfactory completion and maintenance as aforesaid of any part of the development. The amount of the security shall be €1,141,500.000

Reason: To ensure the satisfactory completion of the development.

- Condition no. 6 - states:
 - (a) *The management and maintenance of the proposed development following its completion shall be the function and responsibility of a properly constituted management company.*
 - (b) *Prior to the commencement of any development on this site, the developer shall enter into an agreement with the Planning Authority under Section 47 of the Planning and Development Act 2000 to deal with the ongoing management and maintenance of the development including responsibility for maintenance of all shared areas and services including service road, footpaths, water supply, storm and foul drainage, public lighting, electrical, telephone and other underground services.*
 - (c) *The Section 47 agreement shall provide for the establishment of a management*

company whose legal status shall be proven to be adequate to provide for the ongoing management and maintenance in perpetuity of the facilities within the development.

Reason: In the interest of orderly development and to provide for the ongoing management and maintenance of the proposed development which will not be taken in charge by the Local Authority.

- Condition no. 9 relates to a comprehensive landscaping scheme to be submitted
- Condition no. 13 states:

(a) The 750mm sewer throughout the site shall be upsized as part of the development to a minimum of 1050mm diameter to details agreeable to Kerry County Council. The length of upsizing should, as a minimum, extend from the entrance to the proposed development to the furthest downstream boundary of

the site. A terminal manhole allowing for future upgrade of the downstream 750mm should be provided at this location.

(b) No unattenuated stormwater connections should be allowed into this 750/1050mm sewer. Any connections from the proposed attenuated stormwater system into the 750mm / 1050mm sewer should include non-return valves.

(c) All details above should be agreed with Kerry County Council prior to construction.

(d) The 750mm sewer appears to be a combined storm/foul sewer therefore Úisce Éireann should also be consulted in relation to the above

Reason: In the interests of orderly development and environmental protection.

- Condition no. 14 – Mitigation measures as set out in Ecological Impact Assessment.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The report provides a summary of the proposed development and submissions received. The report reviews the characteristics of the site and the proposed development, the planning history and notes that lands currently zoned as R1 New/Proposed Residential under Variation No.1 to the current County Development Plan. The principle of the proposal is therefore acceptable.
- Regarding density the density of 32uph while of the lower end of the scale the report states that this is consistent with the urban context and therefore, considered acceptable.

- The proposed apartments also comply with the provisions as set out in the Guidelines with regard to floor areas, storage, private open space etc.
- No significant infrastructure, traffic and transportation or environmental including biodiversity issues were raised.
- It was considered that the proposal would not be seriously injurious to the residential amenity of the area. Residential amenity of future occupants addressed above with regard to development standards.
- Recommendation to grant subject to conditions.

3.2.2. Other Technical Reports

Archaeologist – report recommends a condition should attach to any grant of permission that all soil stripping/ground works should be monitored by a suitably qualified archaeologist and a report on this monitoring and any further investigations or mitigation that may arise from it should be submitted to the planning authority on completion.

Housing Estate Unit – This report set out a number of points including the need for a masterplan incorporating the adjoining lands or the adding lands in the applicants ownership. Other comments related to Road Safety Audit, car parking including EV requirements and boundary treatments. It is set out that the triangular area to the southeast corner around the pumping station should be fenced off.

Active Land Management and Economic Development -recommends a condition re. passive and active play compliance

Flooding, Coastal & Marine Unit – report sets out that that 750mm sewer throughout the site shall be upsized as part of the development to a minimum of 1050mm diameter to details agreeable to Kerry County Council. **Condition no. 13 relates.

Tralee MD Roads and Transportation – No objection subject to conditions.

Environmental Assessment Unit – No objection subject to conditions. The submission of EclA and AA screening report noted. No concerns raised.

Environment Section – No objection subject to conditions.

3.3. Prescribed Bodies

Uisce Eireann – Report dated 27th May 2026 includes the following:

Uisce Éireann (UÉ) has reviewed the plans and particulars submitted with the application and has the following observations;

The applicant has engaged with Uisce Éireann via a Pre-Connection Enquiry (our reference: CDS24008712) and Uisce Éireann can confirm that a Confirmation of Feasibility (COF) has been issued to the applicant in March 2025 advising that water and wastewater connections are feasible without requiring infrastructural by Uisce Éireann.

The lapse in time between the COF issue date and this application is generally not considered good practice in assessing the feasibility of a proposed development. However, due to the location of the development and recent assessments of infrastructure in the area for other purposes, Uisce Éireann is satisfied to deal with further assessment of connections from the proposed development by way of Condition.

The report includes a number of conditions of a standard nature.

3.4. Third Party Observations

The PA report list 10 no. submissions. The following concerns were raised:

- Traffic congestion and road safety.
- No consistent with the character of the area.
- Residential amenity, Overlooking/Loss of privacy.
- Invasive species.
- Infrastructure Capacity.
- Noise and light pollution.
- Flooding concerns.

4.0 Planning History

KCC 25/60073 – Permission to construct 85no. residential units. Withdrawn.

KCC 14/397502 – Permission granted to EXTEND DURATION OF PERMISSION, which was for a 10 year permission for the development of site at Mounthawk, Caherslee and Croogorts, Tralee, Co. Kerry. The development will consist of the

construction of 53 no. dwellinghouses, 40 no. serviced sites, 2 no. underground attenuation tanks, creche and associated site works. This permission lapsed in 2019.

KCC 13/397502 - Permission Refused to EXTEND DURATION OF PERMISSION, which was for a 10 year permission for the development of site at Mounthawk, Caherslee and Croogorts, Tralee, Co. Kerry. The development will consist of the construction of 53 no. dwellinghouses, 40 no. serviced sites, 2 no. underground attenuation tanks, creche and associated site works

An Bord Pleanála PL 81.227107 / KCC 07/307502 – Permission granted in June 2009 for a 10 year permission for the development of site at Mounthawk, Caherslee and Croogorts, Tralee, Co. Kerry. The development will consist of the construction of 53 no. dwellinghouses, 40 no. serviced sites, 2 no. underground attenuation tanks, creche and associated site works.

5.0 Policy Context

5.1 Development Plan

Kerry County Development Plan 2022-2028 incorporating Variation No. 1 – Tralee Municipal District Settlements’ Plan

- The site is zoned R1 New/Proposed Residential
- The site is part of the site identified as TR-3 in the Settlement Capacity Audit for Tralee town, with an Estimated Density of 30-50 units/ha

Volume 6 – 2 Land Use Zoning of the KCDP definitions-

Zoning –New/Proposed Residential - Provide for new residential development in tandem with the provision of the necessary social and physical infrastructure.

Description – For new residential areas/town extensions to ensure the provision of high quality new residential environments. Provide an appropriate mix of house sizes, types and tenures in order to meet household needs and to promote balanced communities. May also include a range of other ancillary uses for residential, particularly those that have the potential to foster the development of new residential communities.

Volume 1 – Written Statement

Chapter 3 - Core & Settlement Strategy

- Tralee is identified as a ‘Key Town’ in the settlement hierarchy.
- Objective KCDP 3-4 Deliver at least 30% of all new homes in the Key Towns of Tralee and Killarney within the existing built-up footprint of the settlements.
- Table 3.7: Population & Housing Growth 2022-2028

Settlement		Population		Housing		Land Zoning Required	
		Population 2016 (CSO)	Population 2022 (est.)	2022-2028 Pop. Growth	Housing Target	Existing Zoned Land (ha)	Zoned Land Required (ha)
County		147,707	156,902	9,363	7,000		
Key Town	Tralee	23,691	25,297	2,663	2,087	84.0	84.0
	Killarney	14,504	15,487	1,630	1,277	67.3	67.3
		38,195	40,784	4,293	3,364		

Chapter 4 – Town and Villages

Section 4.2.4 Placemaking

KCDP 4-10 - Ensure the creation of attractive, liveable, well designed, high-quality urban places that are home to diverse and integrated communities that enjoy an enhanced quality of life and well-being.

KCDP 4-17 Facilitate the development of sustainable compact settlements with the “10-minute” town concepts, whereby, a range of community facilities and services are accessible in short walking and cycle timeframes from homes, with walkways and link routes to Greenways or are accessible by high quality public transport services connecting people to larger scaled settlements delivering these service.

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

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

KCDP 4-23 Encourage and facilitate, in consultation with relevant stakeholders, the development of green infrastructure that recognises the synergies that can be achieved with regard to the following: • Provision of open space amenities • Sustainable management of water • Protection and management of biodiversity • Protection of cultural heritage • Protection of protected landscape sensitivities.

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

Section 4.3.8 Residential Densities and Building Heights

Objective 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).

Section 4.4.1.2 Key Town

Chapter 6 - Sustainable Communities

This chapter targets the requirements for establishing and maintaining healthy, sustainable and inclusive communities through the provision of community and social infrastructure, appropriate housing and broader social inclusion policy across a range of sectors.

Section 6.2.3 *Housing for Sustainable Communities* and 7.3 *Housing Policies* include - it is a policy of Kerry County Council to: • Encourage and foster the creation of attractive mixed-use sustainable communities which contain a variety of housing types and tenures with supporting community facilities, public realm, and residential amenities.

Section 6.3.6 Childcare -Access to affordable and high-quality childcare is an essential requirement for an equitable society, a thriving economy and sustainable communities and is a critical part of our nation's infrastructure. Childcare provision in Kerry is reaching capacity and new planning approaches and sustained investment are required, to ensure 125 effective access to childcare provision is maintained.

KCDP 6-52 -It is an objective of the Council to facilitate the provision of childcare facilities and new and refurbished schools on well- located sites within or close to

existing built-up areas, that meet the diverse needs of local populations.

Chapter 7 -Housing for All

This chapter deals with Housing Policy based on the housing needs identified in the Housing Needs Demand Assessment and Housing Strategy for Kerry in Volume 6 of the Plan.

Housing Policies

KCDP 7-6 - Facilitate the housing needs of people in their local communities through actively providing / assisting the provision of housing in settlements as identified in the Settlement Strategy and the Housing Strategy.

KCDP 7-7 Ensure that arrangements for the provision of Social Housing are made having regard to the current Housing Strategy in accordance with Part V of the Planning & Development Act 2000 as amended.

KCDP 7-8 Have regard to and promote increased residential densities in the towns and other appropriate locations in accordance with the policies of the NPF, RSES, Housing for All and the 'Sustainable Residential Development in Urban Areas' Guidelines 2009 (DoEHLG).

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

KCDP 7-10 Ensure that housing developments are completed to a standard that is in accordance with Kerry County Council's Taking in Charge Policy for Private Housing Developments.

Chapter 11 – Environment

Urban Ecology

Objective KCDP 11-25 Support projects such as the swift nesting project (that are compatible with protection of our architectural heritage); pollinator friendly initiatives, tree planting, nature based sustainable urban drainage systems and other actions that seek to enhance urban wildlife.

Chapter 13 - Water & Waste Management

Section 13.2.4 Storm Water Management -Objectives KCDP 13-21 – KCDP 13-26

Volume 6 – Section 1 relates to Development Management Standards & Guidelines

Section 1.3.5 Bonds and Securities - *‘To ensure the satisfactory completion and maintenance of developments undertaken by private developers, the Council will impose, where appropriate, as a condition of permission that a security be lodged with the Council, to achieve that end. The security shall consist of a cash deposit, security bond or other security acceptable to the Planning Authority, which shall be lodged with the Planning Authority prior to the commencement of the development. The amount of the bond and security will be determined on a case-by-case basis to cater for all types of development.’*

Section 1.5 Residential Development - This section sets out the Development Management Standards for residential development in towns and villages.

Section 1.4 Design General

Section 1.5 Residential Development

Section 1.5.1 Urban Design /Section 1.5.1.1 Design Statements

Section 1.5.2 Density

Section 1.5.4 General Residential Development Design Standards

Section 1.5.4.2 Estate Design

Section 1.20.6 Parking in Residential Areas

In general, residential layouts should not be dominated by car parking along access roads. New residential development should take account of the following criteria:

- The design standards and guidance set out in the Design Manual of Roads and Streets DMURS (as amended).
- Car parking for detached and semi-detached housing should generally be within the curtilage of the individual house site.
- Car parking for apartments should generally be at basement level. Where this is not possible, parking should be in small scale informal groups overlooked by residential units.

Table 4 illustrates the car parking standards for different types of development.

These planning areas are as follows:

Area 1 Retail core areas (Tralee, Killarney & Listowel)

Area 2 Lands Located within town centres (Areas zoned M2)

Area 3 All other areas (& other settlements)

(note: the retail core & town centres M2 lands are shown on the land use zoning maps in the relevant towns plan & LAPs)

Table 4: Parking Requirements

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

5.1. Tralee Municipal District Local Area Plan 2024-2030

The principal town in the Tralee Municipal District (MD) is Tralee which is designated as a Key Town in the Regional Spatial Economic Strategy for the Southern Region (RSES) and the Kerry County Development Plan 2022-2028 (KCDP).

Section 3.1.2 *Development of Tralee Town* -The future development of Tralee and its renewal will focus on the development of higher-density neighbourhoods, co-working opportunities, smarter use of information technologies and patterns of mixed land use which can help reduce the need to travel by car and the development of a circular economy. There must be a reduction of the dependence on and use of vehicular traffic in Tralee, an increase in alternative modes of transport and a renewed focus on the development of infill and brownfield sites.

Appendix A

Density and Yield - The Planning Authority seeks to ensure that all developments are carried out in a sustainable manner and comply with the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024). The appropriate density for applications for housing developments will be determined by and ensure the provision of a mix of unit types in proximity to existing and proposed transport and service infrastructure, in order to meet and adapt to the changing demographic trends and household profiles in a neighbourhood. The plan in its preparation had regard to the density ranges set out in Section 3.3 of the Sustainable

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

The appeal site is identified as part of TR-3 in the Settlement Capacity Audit

Tralee - Settlement Capacity Audit of Zoned Land										
ID	Zoning	Road Access	Footpaths	Public Lighting	Foul/Storm Sewer	Water Supply	Tier	Area (ha)	Estimated Density Units p/ha	Potential Yield Units
TR-1	R1	✓	✓	✓	✓	✓	1	1.59	30 - 50	48 - 80
TR-2	R1	✓	✓	✓	✓	✓	1	2.37	30 - 50	71 - 119
TR-3	R1	✓	✓	✓	✓	✓	1	10.53	30 - 50	316 - 527

5.1.1. Tralee Town Local Transport Plan

The Transport Plan identifies indicative road, cycle and pedestrian connectivity within and around the site.

5.2. National

5.2.1. National Planning Framework (2025)

The National Planning Framework 2025 sets out that the ‘major policy emphasis on renewing and developing existing settlements established under the NPF 2018 will be continued, rather than allowing the continual expansion and sprawl of cities and towns out into the countryside, at the expense of town centres and smaller villages.’

Relevant Policy Objectives include:

- National Policy Objective 7: Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements and ensure compact and sequential patterns of growth.
- National Policy Objective 9: Deliver at least 30% of all new homes that are targeted in settlements other than the five Cities and their suburbs, within their existing built-up footprints and ensure compact and sequential patterns of growth.
- National Policy Objective 11: Planned growth at a settlement level shall be determined at development plan-making stage and addressed within the objectives of the plan. The consideration of individual development proposals on zoned and serviced development land subject of consenting processes under the Planning and Development Act shall have regard to a broader set of considerations beyond the targets including, in particular, the receiving capacity of the environment.

Implements carbon budgets and sectoral emissions ceilings and sets a roadmap for taking decisive action to halve our emissions by 2030 and reach net zero no later than

2050. By 2030, the plan calls for a 40% reduction in emissions from residential buildings and a 50% reduction in transport emissions. The reduction in transport emissions includes a 20% reduction in total vehicle kilometres, a reduction in fuel usage, significant increases in sustainable transport trips, and improved modal share.

5.2.2. Climate Action Plan, 2025

- Climate Action Plan 2025 (CAP25) is the third statutory annual update to Ireland's Climate Action Plan under the Climate Action and Low Carbon Development (Amendment) Act 2021. 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.
- Implements carbon budgets and sectoral emissions ceilings and sets a roadmap for taking decisive action to halve our emissions by 2030 and reach net zero no later than 2050. By 2030, the plan calls for a 40% reduction in emissions from residential buildings and a 50% reduction in transport emissions. The reduction in transport emissions includes a 20% reduction in total vehicle kilometres, a reduction in fuel usage, significant increases in sustainable transport trips, and improved modal share.

5.2.3. Delivering Homes, Building Communities 2025 - 2030

The government's housing Action Plan on housing supply and targeting homelessness to 2030. Delivering Homes, Building Communities aims to accelerate the delivery of new homes, to deliver 300,000 by the end of 2030.

5.2.4. National Biodiversity Action Plan (NBPA) 2023-2030

The 4th NBAP strives for a "whole of government, whole of society" approach to the governance and conservation of biodiversity. The aim is to ensure that every citizen, community, business, local authority, semi-state and state agency has an awareness of biodiversity and its importance, and of the implications of its loss, while also understanding how they can act to address the biodiversity emergency as part of a renewed national effort to "act for nature".

This National Biodiversity Action Plan 2023-2030 builds upon the achievements of the previous Plan. It will continue to implement actions within the framework of five strategic objectives, while addressing new and emerging issues:

1. Objective 1 - Adopt a Whole of Government, Whole of Society Approach to Biodiversity
2. Objective 2 - Meet Urgent Conservation and Restoration Needs
3. Objective 3 - Secure Nature's Contribution to People
4. Objective 4 - Enhance the Evidence Base for Action on Biodiversity
5. Objective 5 - Strengthen Ireland's Contribution to International Biodiversity Initiatives

5.3. Section 28 Ministerial Guidelines

5.3.1. The following Section 28 - Ministerial Guidelines are considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

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

Table 3.5 - Areas and Density Ranges Key Towns and Large Towns (5,000+ Population)

Key Town / Large Town - Suburban/Urban Extension 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. It is a policy and objective of these Guidelines 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, and that densities of up to 80 dph (net) shall be open for consideration at 'accessible' suburban / urban extension locations (as defined in Table 3.8)

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

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

- SPPR 1 - Separation Distances
- SPPR 2 - Minimum Private Open Space Standards for Houses
- Policy and Objective 5.1 - Public Open
- SPPR 3 - Car Parking
- SPPR 4 - Cycle Parking and Storage

- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2025).
- The Architectural Heritage Protection Guidelines for Planning Authorities 2011.
- Childcare Facilities – Guidelines for Planning Authorities (2001).

5.3.2. **Other Guidance**

- Design Manual for Urban Roads and Streets (DMURS) (2019).

5.4. **Policy Context - Development Bond**

5.4.1. **Planning and Development Act, 2000 (as amended)**

Section 34(4)

(4) Conditions under subsection (1) may, without prejudice to the generality of that subsection, include all or any of the following:

(g) conditions for requiring the giving of adequate security for satisfactory completion of the proposed development.

(m) conditions for requiring the provision of roads, including traffic calming measures, open spaces, car parks, sewers, watermains or drains, facilities for the collection or storage of recyclable materials and other public facilities in excess of the immediate needs of the proposed development, subject to the local authority paying for the cost of the additional works and taking them in charge or otherwise entering into an agreement with the applicant with respect to the provision of those public facilities.

5.4.2. **Ministerial Guidelines**

Development Management Guidelines (2007)

- Section 7.3 Basic criteria for conditions

‘Certain basic criteria have often been suggested as a guide to deciding whether to impose a condition. These include whether the condition is:

- *Necessary;*
- *Relevant to planning;*
- *Relevant to the development to be permitted;*
- *Enforceable;*
- *Precise;*

- Reasonable.

In addition, it is useful before deciding to impose a condition to consider what specific reason can be given for it: if the only reason which can be framed is a vague, general one, the need for or relevance of the condition, or its validity, may be questionable.'

- Section 7.13 of the Guidelines refers to residential development and conditions requiring security for completion:

'It is essential that permissions for residential development are subject to a condition under which an acceptable security is provided by way of bond, cash deposit or otherwise so as to secure its satisfactory completion. The amount of the security, and the terms on which it is required to be given, should enable the planning authority, without cost to themselves, to complete the necessary services (including roads, footpaths, water mains, sewers, lighting and open space) to a satisfactory standard in the event of default by the developer. The condition should require that the lodgment of the security should be coupled with an agreement that would empower the planning authority to realise the amount of the security at an appropriate time and apply it to meet the cost of completing the specified works. Planning authorities should also ensure that the bond is of sufficient duration to allow them time to inspect the development after the expiration of permission and still call in the bond if necessary. A security condition could also provide for the recalculation of the amount specified in the condition by reference to the House Building Cost Index (or other appropriate Index) if the development to which the permission relates is not commenced within a specified period after the granting of the permission. The bond should be refunded on satisfactory completion of the development.'

- Section 7.3.5 includes-

'...A condition that requires a developer to carry out additional works may be reasonable but the provisions of section 34(4)(m) of the Planning Act may come into play in some cases where such a condition is attached. Section 34(4)(m) of the Act allows for planning authorities to impose conditions to require a developer to carry out additional works, such as the provision of roads, traffic calming measures, open spaces, car parks, sewers, watermains or drains, facilities for the collection or storage of recyclable materials and other public facilities in excess of the immediate needs of the proposed development, subject to the local authority paying for the cost of the

additional works and taking them in charge or otherwise entering into an agreement with the applicant with respect to the provision of those public facilities. If such a condition is attached the planning authority will be liable for the costs of the services over and above the requirements of the development.

5.4.3. Other

Office of the Planning Regulator (OPR)Practice Note 3 (PN03) - Planning Conditions.

Appendix B Planning Conditions Compendium

E. relates to *Financial Contributions*

Additional Notes	Sub-Heading	Condition Ref No.	Sample Condition Wording	Sample Reason	Post-Permission Compliance Required
	Security for Completion (until taken in charge by local authority)	E.8	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, public lighting, 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 Bord Pleanála for determination.	To ensure the satisfactory completion and maintenance of the development until taken in charge.	✓
	Security for Completion	E.9	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 of roads, footpaths, public lighting, watermains, drains, 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 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 Bord Pleanála for determination.	To ensure the satisfactory completion of the development.	✓

6.0 Natural Heritage Designations

The site is not located within or adjacent to any designated Natura 2000 site. The nearest Natura 2000 site(s) are as follows:

- Special Area of Conservation: Tralee Bay Complex SPA (Site Code 004188) at c. 2.63km southwest of the site.

7.0 EIA Screening

- 7.1.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this

report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

8.0 The Appeal

8.1. Grounds of Appeal

8.1.1. First Party - Appeal against condition no's 3, 6 and 13

The grounds of appeal can be summarised as follows:

Condition no. 3

- It is set out that the bond requirement is excessive and not in accordance with legislative requirements and the 2007 Development Management Guidelines. The first party request this be modified.
- Section 34(4)(g) of the Planning and Development Act 2000 (as amended) is for adequate security to allow for satisfactory completion. No methodology of how the €1,141,500 bond was calculated was demonstrated other than reference to 761 linear metres x €1500. Regardless of the method of calculation the bond/security requirement is excessive.
- Section 7.13 of the Development Management Guidelines allows flexibility around the form and amount of the security to be agreed between the developer and local authority at compliance stage. Where agreement cannot be reached the developer has a right of referral to ACP.
- Office of the Planning Regulator (OPR) Practice Note 3 (PN03) - Planning Conditions provides further guidance and includes 'the form and amount of security shall be agreed between the PA and development or in default referred to ACP.
- It is set out that the current wording is with a specific amenity does not allow the applicant the right to refer the matter to ACP for determination, if the developer disagrees with the LA.
- This is a basic fundamental right of any developer and should be available especially where the bond calculation is unclear and significantly overestimated.

- Request for ACP to modify the condition to reflect standard wording for bonds whereby the form and amount shall be agreed between the PA and developer, in default referred to ACP.

Condition no. 6

- Condition no 6 requires maintenance in ‘perpetuity’.
- It is argued that there is a contradiction between condition no.3 and no. 6. Condition no. 3 requires a significant bond for a satisfactory completion of the development until taken in charge and condition no .6 states that the development will not be taken in charge and is to be managed by a management company.
- A ‘Taking in Charge’ drawing (ref. 2024/17/07) accompanied the planning application. It is set out that the development includes a standard residential development which includes areas that would be typically taken in charge by the LA , once the development has been completed.
- Condition no. 6 is contradictory and fails the basic criteria for planning conditions as set out in section 7.3 of the Development Management Guidelines.
- The first party request this condition be removed in its entirety.

Condition no. 13

- Section 34(4)(m) of the PDA can require a developer to upsize or overdesign public infrastructure however this is subject to ‘the local authority paying for the cost of the additional works and taking them in charge or otherwise entering into an agreement with the applicant with respect to the provision of those public facilities.’
- It is set out that the proposed development does not generate the need for or require an upsized foul/storm water disposal sewer.
- Condition no. 13 requires the applicant to upsize the sewer but fails to explicitly outline how the LA/Uisce Eireann will compensate the applicant and provides no details of any cost sharing agreements aspart of the condition. This is ultra vires and not in accordance with Section 34(4)(m) of the PDA.
- It is further argued that condition no. 13 fails the “reasonable test” as set out in section 7.3.5 of the Development Management Guidelines.

- Request that the condition is removed or modified so that the cost of upsizing the sewer is covered by the LA or Uisce Eireann in accordance with the requirements of section 34(4)(m) of the PDA.

8.1.2. Third Party

The grounds of appeal can be summarised as follows:

Traffic, Access and Road Safety

- Concerns about increase in traffic, traffic speed, visibility at junctions, vehicle manoeuvring, unsafe parking, pedestrian crossing facilities and construction traffic.
- The Caherslee Road already experiences heavy traffic volumes especially at per hours during school drop off and collection times.
- Road conditions are unsafe for children and the cycle lane is unsegregated and children use the footpath as this is safer.
- National planning policy promotes active travel but Caherslee does not provide sufficient protection for vulnerable road users and the development will increase conflict between vehicles and pedestrians.
- Concerns raised about Traffic Impact Report methodology including conflicts with withdrawn application TIA documentation (25/60073), traffic counts data, impact of adjoining development, sampling errors as the count occurred over a single day, proximity to uncontrolled T-junctions, reference to future signalised junction interfering with the curtilage of PS – Mouthhawk House (RPS TTP209) and the future impact if adjacent lands were development.
- The TTA does not meet the Transport Infrastructure Ireland Traffic and Transport Assessment Guidelines (May 2014).
- Concern that the issues raised in the KCC Housing Estate Units and Roads and Transportation report were not addressed.
- A number of suggested conditions are set out by the appellant.

Infrastructure Capacity

- Insufficient evidence has been provided as regards water capacity, wastewater capacity, surface water arrangements, public transport availability and road network capacity.

Ecological Impact and Biodiversity

- Concern raised as regards the timing and nature of the walkover on the 7th January 2026 and the reliability of the EclA. Multi-seasonal surveys required.
- It is argued that tree species could not be reliably identified without foliage.
- No assessment of the hedgerows for bats was carried out and it is set out that additional bat surveys are required during the summer months.
- A winter daytime walkover is not a reliable method of establishing the presence of hedgehog on the site.
- Concern is all raised about the EclA and the conclusions reached regarding amphibians, butterflies and birds.
- EIA Screening Report was desktop only.
- Condition no. 14 requires compliance with mitigation measures set out in Section 7 of the EclA, having regard to the identified building duration of 36 months this would result in pre-construction surveys taking place over the winter months which is not appropriate.
- Concern is raised about the receiving environment and the biodiversity benefits of the existing hedgerow as an ecological corridor.
- Concern EIA Screening report was a desktop study only.

Invasive Species

- Any grant of permission to include an appropriately worded condition to address the Japanese knotweed identified on the site.

Density, Height, Visual Impact and Character of the Area

- It is argued that the density, height and the trajectory of future development plans is not consistent with the Development Plan and the need to respect the established character of the area and established privacy of the adjoining dwellings.

- The existing character of the area is low density.
- It is set out that the development will negatively impact the scenic amenity of the Tralee – Fenit which runs along the northern boundary of the wider landholding.

*An unsigned handwritten statement on the impact of the development on the receiving environment accompanied the appeal.

Residential Amenity

- The layout will result in undue overlooking and loss of privacy in partial the homes on Hillview Drive.
- Clarity regarding boundary treatment sought.

Compliance with County Development Plan and Planning Policy

- It is set out the development is inconsistent with objectives of the KCDP 2022-2028 and 'any relevant Local Area Plan'.

Construction Phase Impacts

- Concern is raised as regards construction traffic and other constructed related impacts including noise and dust, risk to pedestrians and school children etc. Appropriate condition required in this regard.

8.2. Applicant Response

A response to the third party appeal was received on 10th August 2026. The response notes the following:

Traffic, Access and Road Safety

- It is set out that traffic surveys were undertaken during both morning and evening peak periods and while it was concludes that some queuing can occur it remains well below the roads capacity of c. 1500 vehicles per lane.
- The TTA modelling determined that the development would generate a modest number of peak hour trips at 23 inbound and 43 outbound movements during the morning peak. Analysis of the potential expansion of up to 220 units concluded that the junction would continue to operate comfortably within capacity without requiring a signalisation junction.

- Regarding the junction it is set out that the sight distance of 49m at 2.4m back from the road edge is consistent with DMURS and a design speed of 50kmph will be provided at the junction. The proposed raised junction table will provide traffic calming to the Caherslee Road and will reduce traffic speed. Condition no. 18 relates and the applicant states that an additional pedestrian crossing can be incorporated on the R551 Caherslee Road.
- It is noted that car parking concerns are not expanded on by the appellant but that 187 car parking spaces have been provided in compliance with the Compact Settlement Guidelines (2024).
- It is set out that the development will enhance active travel measures through the addition of a shared 3.0m pedestrian and cycle facility which will connect to existing facilities.
- Regarding traffic counts it is set out that the TTA remains valid as it measured two-way flows on the R551 Caherslee Road which are directly relevant to the development. The assessment was prepared in accordance with the Traffic and Transport Assessment Guidelines 2014 published by TII.
- Under KCC 25/60073 concerns were raised that there was a potential traffic hazard at the proposed signalised crossroad junction with twelve directional movements to the south of the currently proposed. This application was withdrawn and the current proposed T-junction with six directional movements submitted. The current arrangement has been demonstrated through traffic modelling to operate within capacity and does not require signalisation.
- It is set out that there is no gap in the traffic analysis. The traffic counts were undertaken during peak times with schools and colleges were fully active and the approach is consistent with TRICS database methodology.
- A technical Note accompanied the response and sets out that the additional junctions in general serve smaller residential areas (less than 100 units) and traffic analysis indicates that they would be largely unaffected by the development, with saturated flows typically in the 30-40% range.
- There is no reason the development would impact the curtilage of Mounthawk House PS.

- It is stated that the traffic analysis within the TTA expressly included traffic generated by potential future development lands and concluded even with 220 additional units there would be no impact on the operation of traffic along the R551 Caherslee Road.
- A Construction Traffic Management Plan can be prepared and implemented by condition if deemed necessary.
- The documentation includes a response to the concerns raised that the PA did not adequately address the concerns in the KCC Housing Estates Unit and Roads and Transportation reports.
- The response notes KCC Roads Dept. raised no objections.

Infrastructure Capacity

- *Water Supply /Wastewater* – The response refers to the Engineering and Infrastructure Report submitted and the Confirmation of Feasibility dated 328/02/2025 from Uisce Eireann which demonstrate that the existing public water and public sewer network have adequate capacity to accommodate the development.
- *Surface water* – it is stated that surface water management has been designed in accordance with national guidance and best practice standards incorporating a sustainable drainage system (SUD's) . Surface water will be attenuated on site and discharged at a controlled rate equivalent to greenfield runoff conditions, designed to accommodate 1 in 100-year rainfall event with a 20% allowance for climate change.
- *Public Transport* – The R551 Caherslee Road is served by two buses the 290B and 274 with a bus stop 550m from the entrance. It is further stated that the town centre and train station are within a 29 minute walk or 7 min cycle.

Ecology

- The response includes an Ecology Technical Note.
- *Field Surveys/Trees* – The first party acknowledge that the EclA survey work was undertaken during winter and identified this is a limitation. However, the surveys provided sufficient information to reliably classify the habitats present and assess

their ecological value noting that the site comprises predominately improved agricultural grassland with boundary hedges.

- It is set out that the coniferous trees referenced are located outside the application site.
- *Bats* –No potential roosts features were identified on the site.
- *Hedgehog* – The EclA concluded no evidence of hedgehog and no suitable hedgehog hibernacula or other overwintering features were identified.
- *Amphibians* – In this case there is an absence of suitable breeding habitat.
- *Lepidoptera's/Butterflies* – The EclA does not rely on the winter survey to demonstrate the absence of Lepidoptera's/Butterflies but the quality and suitability of habitats. Habitat suitability is an accepted component of ecological assessment where dedicated species survey are not considered proportionate.
- *Birds* – The EclA assesses whether the site supports habitats of significance for breeding or wintering birds that could be adversely affected by the development..
- *EIA Screening* – It is set out that all appropriate legislative procedures were followed during the preparation of the EIA screening.
- *Pre-Construction Surveys* – The EclA states that pre-construction surveys will take place within the appropriate season.
- *Receiving Environments* – The EclA notes that hedgerow can only be removed outside of the breeding season consistent with the Wildlife Act. The northern hedgerow is on low ecological value and the landscape plan will enhance the biodiversity and priorities native species.
- *Invasive Species* – it is set out that the appeal relates to Japanese knotweed within no, 8 Hillview Drive. This is outside of the site and not the responsibility of the applicant. No Japanese knotted was identified on the site. However, the EclA has a contingency in place in the event invasive species are found during construction.

Density, Height, Visual Impact and Character of the Area

- *Density* – it is set out that density is in compliance with the KCCDP and the Compact Settlement Guidelines.

- *Height, Character and Visual Impact*
 - The design has been carefully considered to have regard to the surrounding context including the placement of the 3-storey blocks .
 - The development will not impact the greenway and the design incorporates generous landscaping which softens the development. The greenway is located within an evolving urban landscape.

Residential Amenity

- *Privacy/Overlooking/Overshadowing* – It is set out that the layout including separation distances satisfies relevant guidance regarding privacy and residential amenity.
- *Noise/Disturbance* – The site is zoned for residential use and located within an established built-up residential area.
- *Boundary treatments* – it is set out that the development retains and enhances existing boundary treatments where practical and introduces new landscaping throughout the site. The northern hedgerow will be removed as it is considered of low ecological value and lacks structural stability with sections exhibiting deadwood and collapsing growth forms.

Compliance with Planning Policy

- It is set out that the development is consistent with relevant national and local planning policy and the zoning of the site and the planning authority raised no concerns in this regard.

Construction Phase Impacts

- A technical Note accompanied the response.
- It is acknowledged that temporary impacts will arise during construction but that these are short-term.
- An outline CEMP was submitted and establishes a framework for environmental managements throughout construction and includes mitigation.
- The requirement for a Construction Traffic Management Plan can be included by condition if deemed necessary.

8.3. Planning Authority Response

None

8.4. Observations

None

9.0 Assessment

9.1. Introduction

9.1.1. The case involves the original application and the revised proposal submitted as further information. Unless otherwise stated, my assessment and any references hereafter to the 'proposed development/scheme' are based on the revised scheme submitted as further information, that being the scheme on which the KCC decision is based.

9.1.2. Having inspected the site and examined the application details and all other documentation on file, including all the submissions received in relation to the appeal, and having regard to relevant local/national policies and guidance, I consider that the main issues in this appeal can be addressed as follows:

- Principle of Development
- Design Strategy & Impact on Residential Amenity
- Ecology
- Traffic and Transportation
- Drainage
- First Party Appeal against condition No's 3, 6 and 13

9.2. Principle of Development

Proposed Development

9.2.1. Permission is sought to for 85 residential units and a creche facility with associated internal roads, footpaths, cycle lanes, vehicle/bicycle parking, landscaping and public open space and all associated site works at Caherslee, Mounthawk and Carrigeendaniel, Tralee, Co. Kerry. Access to the development will be via a new entrance forming an uncontrolled T junction off of the R551 regional road. The breakdown of unit types is as follows:

- 2 no. detached houses (4 bed)

- 4 no. semi-detached houses (4 bed)
- 26 no. semi-detached houses (3 bed)
- 35 no. terraced houses (2/3 bed)
- 8 no. duplex terraced houses (2 bed)
- 8 no. duplex terraced houses (1 bed)
- 2 no. apartment units (1 bed)

9.2.2. Zoning

- 9.2.3. The site is zoned *R1 New/Proposed Residential - Provide for new residential development in tandem with the provision of the necessary social and physical infrastructure* in the Tralee Municipal District Local Area Plan 2024-2030 and the Kerry County Development Plan 2022-2028. Lands zoned R1 New/Proposed Residential are described as ‘for new residential areas/town extensions to ensure the provision of high quality new residential environments. Provide an appropriate mix of house sizes, types and tenures in order to meet household needs and to promote balanced communities. May also include a range of other ancillary uses for residential, particularly those that have the potential to foster the development of new residential communities.’ The proposed residential units are ‘Permitted in Principle’ on residentially zoned ‘R’ lands.
- 9.2.4. The principle of a mixed residential tenure development and creche is consistent with this zoning objective.
- 9.2.5. Tralee is designated as a Key Town in the Regional Spatial Economic Strategy for the Southern Region (RSES) and the Kerry County Development Plan 2022-2028 (KCDP).
- 9.2.6. Section 3.10.2 Settlement Hierarchy of the Kerry County Developmental 2022-2028 establishes that Tralee is identified as a ‘Key Town’ in the settlement hierarchy. Objective KCDP 3-4 seeks to deliver at least 30% of all new homes in the Key Towns of Tralee and Killarney within the existing built-up footprint of the settlements.
- 9.2.7. In addition, Section 3.1.2 *Development of Tralee Town of the* Tralee Municipal District Local Area Plan 2024-2030 establishes that ‘the future development of Tralee and its renewal will focus on the development of higher-density neighbourhoods, co-working

opportunities, smarter use of information technologies and patterns of mixed land use which can help reduce the need to travel by car and the development of a circular economy. There must be a reduction of the dependence on and use of vehicular traffic in Tralee, an increase in alternative modes of transport and a renewed focus on the development of infill and brownfield sites.'

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

9.2.9. *Density*

9.2.10. The submissions from the third party raised concerns above the proposed density in the context of the surrounding pattern of development. The third party contends that the density is too high and not consistent with the development plan. The overall net density for the site is 32 units per hectare.

9.2.11. The population projections for County Kerry are set out in the Core and Settlement Strategy of the KCDP. The KCDP is aligned, in so far as is practicable, with the national and regional policy objectives set out in the NPF and RSES. Table 3.7: Population & Housing Growth 2022-2028 establishes a housing target of 2187 units in Tralee with a population growth of 2,663.

9.2.12. Appendix A of the Tralee MD LAP *Density and Yield* states that 'the Planning Authority seeks to ensure that all developments are carried out in a sustainable manner and comply with the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024). The appropriate density for applications for housing developments will be determined by and ensure the provision of a mix of unit types in proximity to existing and proposed transport and service infrastructure, in order to meet and adapt to the changing demographic trends and household profiles in a neighbourhood.' The plan in its preparation had regard to the density ranges set out in Section 3.3 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) (SRCDSG). The appeal site is identified as part of TR-3 in the Tralee MD LAP Settlement Capacity Audit with a

density range of 30-50 uph and is aligned with the Core and Settlement Strategy for the growth of Tralee.

9.2.13. Section 3.3 of the SRDCSG outlines settlement ranges for different settlement types. Table 3.5 addresses the density guidelines for Key Towns /Large Towns - Suburban/Urban Extension as establishes 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. The density at 32 unit per hectare is therefore in line with the guidelines.

9.2.14. In my opinion, the proposed residential density would be acceptable having regard to the need to balance the design with the characteristics of the site, in particular, the transition between the adjacent detached dwellings on standalone sites and the location c. 1.63km from the town centre accessible by public footpath. Therefore, I am satisfied that the density of 32uph is consistent with the Compact Settlement Guidelines 2024 and the provisions of Volume 2 Section 1.5.2 *Density* of the Development Plan and will not represent overdevelopment of the site.

9.2.15. Conclusion

9.2.16. The third party contends that the development is inconsistent with objectives of the KCDP 2022-2028 and 'any relevant Local Area Plan'. This is a very broad statement and has not been expanded on further by the third party.

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

9.3. **Design Strategy & Impact Residential Amenity**

Design, Form and Layout

9.3.1. An architectural design statement is submitted with the application which sets out the

overall architectural rationale and approach. The architectural design statement states that the site has very particular characteristics and a number of physical constraints that have influenced the final design solution. It is a triangular shaped sloping site with challenges for laying out an accessible residential scheme. A significant service wayleave also traverses the site. The site slopes gradually throughout the site in various directions.

- 9.3.2. The third party appeal raises a number of concerns as regards the design and layout of the scheme relative to the character of the area. Particular concern is raised with respect to separation distance and the three storey duplex units.
- 9.3.3. The Development Plan establishes that applications will be required to adhere to the guidance contained in the 'Urban Design Manual - A Best Practice Guide' (Department of the Environment, Community and Local Government, 2009) and the design of schemes should promote best practice in architectural design, consistent with the aims of the 'Government Policy on Architecture 2009-2015' (Department of Environment, Community and Local Government, 2009) to support good architectural quality..
- 9.3.4. The Compact Settlement Guidelines (2024) replace the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities issued as Ministerial guidelines under Section 28 of the Act in 2009 and whilst the accompanying manual to the Compact Settlement Guidelines has yet to be published the Guidelines establish a renewed focus on the 'renewal of existing settlements and on the interaction between residential density, housing standards and quality urban design and placemaking to support sustainable and compact growth'. The 2024 Guidelines contain four SPPRs as follows:
- 9.3.5. SPPR 1(separation distance) – Concern is raised by the third parties that adequate separation distance has not been provided from homes on Hillview Drive. SPPR1 states, when considering a planning application for residential development, a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained and there shall be no specified minimum separation distance at ground level or to the front of houses, duplex units and apartment units in statutory development plans and planning applications shall be determined on a case-by-case basis to prevent undue loss of privacy. The Commission will note that in

general rear garden depths are in the region of 11m and while the houses backing onto the rear garden of properties of Hill View provide for minimum separation distances of c. 6.5m from the rear two storey projecting elements of the houses backing on the Hillview Drive properties the combined separation distance between the properties is in excess of 16m.

- 9.3.6. SPPR 1 provides that ‘separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces’. The rear boundaries of properties on Hill View drive at relatively low and therefore in the event the Commission is minded to grant planning permission a condition requiring details of boundary treatment to be submitted including the replacement of the proposed 1.8m concrete panel fence with a 2m high capped and plastered rear boundary wall. This would be more appropriate in my opinion, and when combined with the separation distances, I am satisfied that there will be no undue overlooking in this instance. The PA raised no concerns in this regard. I consider the application to be consistent with SPPR 1.

I would have some concerns as regards the boundary treatment proposed throughout that site and the resilience of same. However, I am satisfied that boundary treatment can be addressed by way of condition similar to condition no. 9 of the PA recommendation should the Commission deem this appropriate.

- 9.3.7. SPPR 2 (Minimum Private Open Space Standards for Houses) – All houses proposed have rear gardens are in accordance with Table 5.1 Minimum Private Open Space Standard for Houses of the Compact Settlement Guidelines. Similarly, the Commission will note that the proposed apartments generally exceed the minimum standards set out in Appendix 1 Minimum Floor Areas and Standards Planning Design Standards for Apartments Guidelines for Planning Authorities, 2023.
- 9.3.8. SPPR 3 – This relates to car parking and states, In intermediate and peripheral locations, the maximum rate of car parking provision for residential development, where such provision is justified to the satisfaction of the planning authority, shall be 2 no. spaces per dwelling. The number of car parking spaces being proposed as part of this development is a total of 187 spaces, of which 160 are allocated to residential

units, 18 are allocated as visitor spaces (including 7 no accessible spaces) and 9 no. spaces allocated for the creche. Car parking for each house is provided with an allocation of 2 per houses within the curtilage or street parking.

9.3.9. The site is located in zone 3 and as such the car parking provision is in accordance with Table 4: car parking standards for different types of development as set out in Volume 6 – Section 1 relates to Development Management Standards & Guidelines of the Development Plan. Therefore, I consider that the car parking provision is appropriate and in accordance with SPPR 3.

9.3.10. SPPR 4 – This relates to the quantity and design of cycle parking and storage. As part of the development there will be a total of 5 no. bike stores with 10no. bike holders for residents containing 50 no. bicycle spaces, 5 no. bike stores with 10 no. bike holders for visitors containing 50 no. bicycle spaces, and 1 no. bike store with 5 no. bicycle spaces for the creche resulting in a total of 105 no. bicycle spaces being proposed as part of the development. The detached, semi-detached and end terrace units will all have use of their rear garden area for bike storage. I am satisfied that this is in accordance with SPPR 3.

9.3.11. Chapter 4 of the Compact Settlement Guidelines focuses on planning and design at settlement, neighbourhood and site levels. An assessment of the proposed development against the stated 'key indicators of quality design and placemaking' is outlined in the following table;

Table 1 – Assessment of Key Indicators of Quality Design and Placemaking

(i) Sustainable and Efficient Movement	(a)(b) The proposed development is located c. 1.6km from the town centre. The provisions within the proposed development are planned to actively contribute and promote environmental sustainability and future proof for enhanced active travel measures by providing for further connections to adjoining lands. The proposed development also includes dedicated pedestrian / cycle paths traversing the site with access at the proposed main entrance off Caherslee Road. A second dedicated pedestrian / cycle path connection has also been provided off Caherslee Road further south. The site is approximately 10-15 mins walk and a 5
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	mins cycle to the town centre to the south-east which offers a wide range of amenities and services. The immediate locality of Caherslee also offers amenities and services such as convenience stores, pharmacy, service station and Mounthawk Secondary School amongst many others. A bus service is available from Caherslee to the Town Centre and Manor area with services typically hourly. Further nationwide connections are available from the town Bus & Railway stations. (c) The application includes a Traffic & Transport Assessment. Access the site via a new entrance from the R551 regional road which will comprise an uncontrolled T junction. The proposed road layout has been designed to comply with the Design Manual for Urban Roads and Streets (DMURS) in order to provide safe, attractive and vibrant streets that promote a well-connected and sustainable residential development. I refer the Commission to section 9.5 of this report. The PA raised no traffic concerns subject to conditions. (d) This relates to car parking. I refer the Commission to section commencing 9.3.8 above.
(ii) Mix and Distribution of Uses	(a) The proposal comprises the development of lands identified in the Tralee MD LAP for residential development and will add to the housing stock in Tralee. The scheme provides a range of unit types and mix of unit sizes in addition to providing a new childcare facility. A key objective of the Housing Strategy is to ensure that there is enough zoned land to meet existing and anticipated needs, local authorities should also ensure, based on the analysis carried out for the HNDA and that there is an appropriate mix of dwelling types and sizes to cater for a range of housing needs. The HNDA notes that current needs assessment indicates that while family type units continue to be required that the primary need currently

	is in the area of smaller units – 1 & 2 bedroom units. For the planning and delivery of future Social Housing, the programme will be rebalanced to reflect this primary need and the provision of multi-unit/ apartment developments will form a significant feature of future programmes. The proposed unit mix incorporating: ▪ 2 no. detached houses (4 bed) ▪ 4 no. semi-detached houses (4 bed) ▪ 26 no. semi-detached houses (3 bed) ▪ 35 no. terraced houses (2/3 bed) ▪ 8 no. duplex terraced houses (2 bed) ▪ 8 no. duplex terraced houses (1 bed) ▪ 2 no. apartment units (1 bed) The scheme incorporates 1, 2, 3 and 4 bedroom units. I am satisfied that the proposed unit mix and proposed creche is acceptable and in accordance with Section 6.2.3 <i>Housing for Sustainable Communities</i> and 7.3 <i>Housing Policies</i> of the Development: • Encourage and foster the creation of attractive mixed-use sustainable communities which contain a variety of housing types and tenures with supporting community facilities, public realm, and residential amenities. (b) City and town centre policy is not applicable. (c) The proposed development suitably caters for service/amenities which will be enhanced by the proximity to Tralee town centre. (d) As outlined in section 9.2 of this report, the proposed quantum of development represents an appropriate density for the site.
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	(e) The site is located within walking distance of numerous amenities and services. (f) The unit mix is in accordance with the Development Plan.
(iii) Green and Blue Infrastructure	(a) The site comprises predominately improved agricultural grassland with boundary hedges. The first party contend that the development retains and enhances existing boundary treatments where practical and introduces new landscaping throughout the site. The northern hedgerow is the most significant landscape feature within the site. It is proposed to remove this hedgerow as it is considered of low ecological value and lacks structural stability with sections exhibiting deadwood and collapsing growth forms. Site inspection determined that the hedgerow is inconsistent in parts. The planting overview includes 93 Trees to be planted throughout the site and native hedgerows which will support wildlife corridors. The landscaping strategy includes recolonised native meadows throughout allowing natural regeneration without introducing wildflower seed. This strategy supports the delivery of a high-quality, biodiversity-enhancing public spaces that complies with the KCDP 2022–202 and the All-Ireland Pollinator Plan. The lands to the north-east of the site are in the ownership of the applicant and a draft masterplan for the development of these lands accompanies the application. A masterplan drawing no. 2024/17/12 demonstrates how the proposed development will interact with these lands. The proposed development has been designed to allow for future connections to the northern parcel of land. The draft masterplan indicates the future intentions in relation to the proposed cycle lanes connecting with the Tralee Greenway route. Whilst I note the third party concerns as regards the development impacting negatively on the Greenway, I do not agree. The site is removed from the greenway presently and any future connections as indicated as part of the draft masterplan

	would be a welcome addition in terms of sustainable travel options and permeability. The proposal includes an integrated network of urban green spaces, including a large central green spaces, perimeter walkways and pockets of green link spaces. (c & d) One of the primary landscape objectives is to implement a combined SUDS strategy for the development. It is proposed to used nature-based solutions internally within the development such as permeable paving, bioretention tree pits. The surface water generated is then attenuated/infiltrated to a level such that the discharge will not exceed the GFF, designed to accommodate 1 in 100-year rainfall event with a 20% allowance for climate change. I am satisfied that the Green Infrastructure proposed is consistent with KCDP objectives 4-22 and 4-23, Section 1.5.4.5 <i>Landscape Plans</i> of Appendix 6 and KCDP 13-24 Support the incorporation of Sustainable Urban Drainage Systems (SUDs) in all public and private development in urban areas.
(iv) Public Open Space	(a) Policy and Objective 5.1 - Public Open Space of the Compact Settlement Guidelines provide that '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. Different minimum requirements (within the 10-15% range) may be set for different areas.' Section 1.5.4.4. of the KCDP sets out that 'Public open space should be provided at a minimum rate of 15% of total site area' and on brownfield sites or infill sites, a minimum of 10% may be provided as public open space. The proposed public open space has been separated into 5 zones throughout the site. The zones have the following breakdown: ▪ Zone 1: 1,160m²

	▪ Zone 2: 966m² ▪ Zone 3: 415.2m² ▪ Zone 4: 1,665m² ▪ Zone 5: 383.8m² ▪ Zone 6: 128.7m² This results in a combined total of 4,718.7m² of open space. The open space accounts for 16.85% of the net site area. (b) In accordance with the Apartment Guidelines the applicant is required to provide communal amenity space for the apartments in addition to private amenity space and public open space. No specific communal open space has been identified. However, having regard to the overall open space provision, I am satisfied that both public open space and communal open space can be accommodated on site. In the event the Commission is minded to grant planning permission I am satisfied that this matter can be addressed by way of a comprehensive landscaping scheme for the site which in addition to addressing matters raised above could clearly delineate public and communal open spaces and address both quantity and qualitative design. I am satisfied that the overall quantum of open space is acceptable and in accordance with the KCDP and relevant guidelines.
(v) Responsive Built Form	The scheme provides for a mix of dwelling types and tenure across the site. The design has incorporated a variety of house types into the scheme and by using a simple palette of materials we have created an architecturally coherent design. The houses vary from 2 storeys to the 3 storey duplex units throughout and relate appropriately to one another in terms of scale. A varied approach to fenestration, canopies and elevational details also help to create architectural character throughout the streetscapes.

	I am satisfied that the proposed development is consistent with KCDP 4-10 - Ensure the creation of attractive, liveable, well designed, high-quality urban places that are home to diverse and integrated communities that enjoy an enhanced quality of life and well-being and KCDP 7-6 - Facilitate the housing needs of people in their local communities through actively providing / assisting the provision of housing in settlements as identified in the Settlement Strategy and the Housing Strategy. (a & b) As set out above the proposed development adheres to minimum separation distances and where adjacent to established development a tiered building height approach has been applied. The proposed creche is located at the top of the estate directly accessible from the access road, the houses and apartments are interspersed within the scheme and all green spaces are overlooked. I am satisfied that design and layout is acceptable and the development generally will have minimal or limited visual impact on adjoining lands and surrounding development. (c) The proposal will strengthen the overall urban structure and will provide for future opportunities to create new linkages. (d) The layout actively engages with all internal road frontages. (e) The proposal embraces modern architecture and urban design using simple architectural language for the residential blocks to act as a backdrop to the public realm. The varying architectural styles reduce any visual monotony in the scheme further enhanced by the varying and considered scale of the various forms. Regarding the concerns raised about the two no. three storey duplex units, due to their location embedded within the development and removed from any third party properties, I am satisfied that the proposed duplex units are acceptable in terms of height and provide further variety in terms of design and architectural character to the scheme and this is a welcome addition.
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	I am satisfied that the development at a maximum three storeys is not significant and will be screened by mature trees to the south and southwest of the site and will be further enhanced by additional screening as proposed. On approach to the site from the town centre the development will be screened by the already established pattern of development. I am satisfied that the visual impact of the development is acceptable. (f) Materials and finishes will be durable and sympathetic to the surrounding context, to include brick and render, slate roofs, aluminium powder coated clad canopies, and composite windows and rainwater goods. The PA raised no concerns as regards proposed finishes.
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Summary: Having regard to the foregoing, I consider that the proposed development would be consistent with the relevant provisions of the Compact Settlement Guidelines (2024) and would be acceptable in terms placemaking standards including the Kerry County Development Plan 2022-2028.

Conclusion

In conclusion, I am satisfied that the design and layout of the development is acceptable. Subject to compliance with the attached schedule of conditions including revised boundary treatment, I consider the proposed development will adequately assimilate into the landscape at this location on zoned land and that there will be no significant detrimental impacts on adjoining residential properties by reason of separation distances or undue overlooking. The development will not represent an unacceptable visual impact at this location given the established urban context and pattern of development in the area including similar type housing developments.

9.4. Ecology

- 9.4.1. A Ecological Impact Assessment accompanied the application. Third party concerns were raised regarding the timing and nature of the walkover on the 7th January 2026 and the reliability of the EclA and the multi-seasonal surveys were required.

- 9.4.2. In response to the appeal the first party acknowledge that the EclA survey work was undertaken during winter and identified this is a limitation. However, the surveys provided sufficient information to reliably classify the habitats present and assess their ecological value noting that the site comprises predominately improved agricultural grassland with boundary hedges. Having visited the site, I am satisfied that that the EclA has adequately described the baseline conditions on the site.
- 9.4.3. Concern is also raised the tree species could not be reliably identified without foliage. In the first instance in the absence of foliage tree species can be identified using other identifying features, in any case no tree species were identified on site. The Commission will note that the trees referenced by the third party are located outside the application site and will not be impacted by the development. No significant trees have been identified within the development site boundary.
- 9.4.4. The only significant feature on the site is a hedgerow which form part of the northern site boundary. Concern is raised about the receiving environment and the biodiversity benefits of the existing hedgerow as an ecological corridor. As set out above it is proposed to remove the existing northern hedgerow on the site hedgerow. The first party contend that the hedgerow is of low ecological value and the landscape plan will enhance the biodiversity and priorities native species. I note that existing hedgerow does not represent a complete ecological corridor and while it is preferable to retain established landscape features, the already disjointed hedgerow network combined with the proximity of residential development the associated boundary walls, in this instance, I am satisfied that the hedgerow can be removed and the proposed landscaping scheme will provide a biodiversity net gain on the site.
- 9.4.5. The third party also raises concerns that the first party is relying of winter surveys to determine the impact of the development on bat roosts hedgehogs, Amphibians, Lepidoptera's/Butterflies and birds.

Bats

- 9.4.6. Concern was raised the no assessment of the hedgerows for bats was carried out and additional bat surveys are required during the summer months. As noted above the trees identified in the EclA has having a moderate bat roost potential are located outside the site and not proposed for removal or disturbance. Therefore, there is no

requirements to undertake additional surveys. No potential roosts features were identified on the site.

Hedgehogs

- 9.4.7. The third party contends that a winter daytime walkover is not a reliable method of establishing the presence of hedgehog on the site. The Commission will not that the EclA concluded no evidence of hedgehog and no suitable hedgehog hibernacula or other overwintering features were identified. The assessment conclusion was based on habitat suitability.

Amphibians

- 9.4.8. Regarding amphibian I note the first party state that there is an absence of suitable breeding habitat and the highly managed nature of the site with no ponds, drainage ditches or other aquatic breeding habitat significant impacts on amphibians are unlikely. On the basis of my site inspection, I would agree.

Lepidoptera's/Butterflies

- 9.4.9. The EclA does not rely on the winter survey to demonstrate the absence of Lepidoptera's/Butterflies but the quality and suitability of habitats such as the presence of low botanical diversity with limited nectar resources. Habitat suitability is an accepted component of ecological assessment where dedicated species survey are not considered proportionate.

Birds

- 9.4.10. The EclA assesses whether the site supports habitats of significance for breeding or wintering birds that could be adversely affected by the development. The NBDC records relate to the wider 2km grid square and do not demonstrate that all recorded species occur within or depend on the site. In accordance with the Wildlife Act, vegetation clearance will be undertaken outside the bird nesting season or subject to a pre-construction nesting bird inspection by a suitable qualified ecologist. I am satisfied that is approach is acceptable given the habitats on the site.

Invasive Species

- 9.4.11. The third party raised concerns about Japanese knotweed with reference to a Japanese knotweed being identified at a property on Hillview Drive. The first party argue that this is outside of the site and not the responsibility of the applicant and that

no Japanese knotweed was identified on the site. In any case the Commission will note that the EclA includes measures to address invasive species that in the event invasive species are found during construction. This matter can be addressed by way of condition; in the event the Commission is minded to grant planning permission.

9.4.12. The EclA confirms that no designated nature conservation sites are present on the application site. The nearest designated sites, Tralee Bay Complex Special Protection Area (SPA) and Tralee Bay and Magharees Peninsula, West to Cloghane Special Area of Conservation (SAC), are located over 1.5km from the site and that no significant ecological pathways were identified that could result in impacts on these areas (I refer the Commission to section 10 and Appendix 2 of this report).

9.4.13. While it is acknowledged that the proposed works pose a potential risk of temporary, negative impacts to environmental receptors, the report concludes that pre-construction surveys and the implementation of detailed mitigation strategies will effectively reduce these risks to negligible levels, with no long-term impacts. Additional measures have been proposed to negate any potential residual effects. Having regard to the foregoing, I would agree.

9.4.14. With respect to third party concerns that Condition no. 14 requires compliance with mitigation measures set out in Section 7 of the EclA and having regard to the identified building duration of 36 months this would result in pre-construction surveys taking place over the winter months which is not appropriate. I refer the Commission to section 7.1 Pre-Construction Surveys of the EclA which stated that *'At least one month in advance of construction, and within the appropriate season, the following surveys must be carried out*

- *Pre-commencement survey for Invasive species if more than 12 months has passed since the OCSC site survey.*
- *Pre-commencement survey for Protected plant species if more than 12 months has passed since the OCSC site survey.'*

All survey must be carried out within the 'appropriate season' and are not defined by the 36 months building duration.

9.4.15. The Commission will note that Environmental Assessment Unit of KCC raised no objection and noted that an EclA and AA screening reports have been submitted as

part of the application are considered to be complete and that the landscaping proposals as outlined in the landscape plan and report submitted are considered to be satisfactory.

Conclusion

- 9.4.16. Having regard to the above and combined with the landscaping strategy as discussed in Table 1, I am satisfied the EclA is acceptable and the proposed development will not significantly impact the ecological integrity of the site or its surroundings and is in accordance with Objective KCDP 11-25 to support pollinator friendly initiatives, tree planting, nature based sustainable urban drainage systems and other actions that seek to enhance urban wildlife.

9.5. Traffic and Transportation

- 9.5.1. The third party raised a number of traffic and transportation concerns including the increase in traffic generated by the development and associated impacts and concerns regarding the methodology employed in the Traffic Impact Assessment.
- 9.5.2. As part of this new application, it is proposed to access the site via a new entrance from the R551 regional road which will comprise an uncontrolled T junction. The proposed road layout has been designed to comply with the Design Manual for Urban Roads and Streets (DMURS) in order to provide safe, attractive and vibrant streets that promote a well-connected and sustainable residential development.

Traffic Impact Assessment

- 9.5.3. Specific concern was raised about Traffic Impact Assessment including conflicts with documentation accompanying withdrawn application (25/60073), in addition to traffic counts data, impact of adjoining development, sampling errors as the count occurred over a single day, proximity to uncontrolled T-junctions, and the future impact if adjacent lands were development.
- 9.5.4. Regarding reference to withdrawn application KCC 25/60073, it is set out that under KCC 25/60073 concerns were raised about a potential traffic hazard at the proposed signalised crossroad junction which was located to the south of the current location and included twelve directional movements. As a result, this application was withdrawn and the current proposed T-junction with six directional movements submitted. The first party contended that the current arrangement has been demonstrated through

traffic modelling to operate within capacity and does not require signalisation. It is further set out that there is no gap in the traffic analysis. The traffic counts were undertaken during peak times with schools and colleges were fully active and the approach is consistent with TRICS database methodology. The counts were taken at the main junctions accessing the proposed development.

9.5.5. I draw the Commissions attention to the Tralee Town zoning map which includes an indicative road and T-junction at the location of the proposed entrance and site access road. The proposed access location and internal road therefore reflects the Tralee MD LAP 2024-2040 and KCDDP 2022-2028 in this regard.

9.5.6. As regard the traffic surveys the first party state that these were undertaken during both morning and evening peak periods on the 16th January 2025 and while it was concluded that some queuing can occur it remains well below the roads capacity of c. 1500 vehicles per lane. The first party state that that traffic count was prepared in accordance with the Traffic and Transport Assessment Guidelines 2014 published by TII and measured two-way flows on the R551 Caherslee Road which are directly relevant to the development. I am satisfied that this approach is consistent with best practice.

9.5.7. Regarding the traffic impact generated by the proposed development. I refer the Commission to the TTA accompanying the application. It is stated that the expected year of completion for Phase 1 of the development is taken to be 2028. In accordance with the "Traffic and Transport Assessment Guidelines, TII 2014", a traffic analysis was carried out for the AM & PM peak hours for the following time periods.

- Base Year 2025
 - Opening Year 2028
 - Opening Year + 5 Year Forecast 2033.
 - Opening Year + 15 Year Forecast 2043.
- The TTA modelling determined that the development would generate a modest number of peak hour trips at 23 inbound and 43 outbound movements during the morning peak. Furthermore, analysis of the potential expansion of up to 220 units on the lands to the north (masterplan drawing no. 2024/17/12 relates) concluded that the junction would continue to operate comfortably within capacity without

requiring a signalisation junction. The traffic analysis within the TTA expressly included traffic generated by potential future development lands and concluded even with 220 additional units there would be no impact on the operation of traffic along the R551 Caherslee Road.

9.5.8. The TTA establishes the main conclusions of the LinSig traffic analysis as follows:

‘Junction 1 - Caherslee Regional Road R551 / Proposed Development

- The proposed junction will be an uncontrolled T junction. The proposed T junction of Caherslee Road R551 / Proposed Development is shown to be operating within capacity for all future design years. The maximum degree of saturation for traffic is 46.0% for Arm 2 Caherslee Road for the evening peak hour in 2028 increasing to 50.5% in the design year 2043. There is no requirement to signalise this junction based on the traffic analysis.*
- The maximum degree of saturation for traffic exiting the proposed development is 32.8% in the design year 2043 for the morning peak hour. ‘*

9.5.9. Regarding the impact on adjoining junctions. The Commission will note that a Technical Note accompanied the first party response to the appeal and sets out that the additional junctions in general serve smaller residential areas (less than 100 units) and traffic analysis indicates that they would be largely unaffected by the development. Similarly, as regards concerns that the increase in traffic would result in unsafe road conditions for children using bicycles on the Caherslee Road as the cycle lane is unsegregated and children use the footpath as this is safer and that this is not consistent with national policy to promote active travel. The Commission will note that presently there is a designated footpath and cycle lane on both sides of the Caherslee Road which provides for active travel means and the design, layout and operation of the pedestrian and cycle infrastructure on the public road is not a matter for the applicant to address as this is outside of the first party remit.

9.5.10. Overall, I am satisfied that the traffic generated by the proposed development would be acceptable at this location on zoned serviced lands in an urban area and there is adequate capacity in the local road network to accommodate the development and would be acceptable in terms of traffic and pedestrian safety.

9.5.11. As regards concerns raised about construction traffic, I agree with the first party that construction traffic will be temporary and for a limited duration only. In addition, the outline CEMP submitted establishes a framework for environmental managements throughout construction and includes mitigation and I note the first party have stated a Construction Traffic Management Plan can be prepared and implemented by condition if deemed necessary. In the event the Commission is minded to grant planning permission this matter can be addressed by way of condition, in my opinion.

KCC Housing Estates Units (HEU) and Roads and Transportation reports

9.5.12. The third party raised concerns that the matters raised by the Housing Estates Unit (HEU) and Roads and Transportation reports of KCC were not addressed in the PA's assessment. In response the first party set out the following:

- A masterplan (Dwg. No. 2024/17/520, Rev. B) was submitted.
- The TTA includes an allowance for the potential 220 units on adjoining lands
- Any development of the adjoining lands will be subject to a separate planning application.
- Regarding the controlled use of the southern entrance, it is stated that bollards will be erected to prevent the 3m shared pedestrian/cycle lane being used as a vehicular access.
- As regards the potential conflicts with pedestrian and cyclist on the Caherslee Road at the proposed T-junction of Caherslee Road, It is out that the stop line is set back from the existing cycle lands of the R551 Caherslee Road and is designed to provide priority to cyclist crossing the junction. Furthermore, noting the sightline concerns raised, it is set out that the sight distance of 49m at 2.4m back from the road edge is consistent with DMURS and a design speed of 50kmph will be provided at the junction. In addition, the proposed raised junction table will provide traffic calming to the Caherslee Road and will reduce traffic speed.
- The first party state that the submission of a Road Safety Audit is not necessary given the simple uncontrolled T-junction design. However, a RSA can be undertaken if required by condition of ACP.
- The response notes KCC Roads Dept. raised no objections.

9.5.13. In the first instance the Commission will note that neither the Housing Estates Unit (HEU) nor the Roads and Transportation section opposed the proposed development. Having regard to the documentation on file including that submitted in response to this appeal, I am satisfied that the applicant has adequately addressed the matters raised in the reports of Housing Estates Unit (HEU) and the Roads and Transportation. However, having regard to the concerns raised about the interactions between the proposed junction and traffic, cyclist and pedestrian traversing this junction utilising the Caherslee Road, in particular cyclists and pedestrians, I recommend a Stage 1/2 Road Safety Audit be conditioned in the event the Commission is minded to grant planning permission.

Mounthawk House Protected Structure

9.5.14. Concern was raised that the development would impact on the curtilage/setting of Mounthawk House, a Protected Structure located opposite the proposed vehicular entrance to the site. I agree with the first party that there is no reason the development would impact the curtilage of Mounthawk House PS by reason of the location on the opposite side of the road, removed from and independent of the setting and curtilage of Mounthawk House. I have no concerns in this regard.

Public Transport

9.5.15. The site is located within a 20-minute walk from Tralee Town Centre. The first party state that the R551 Caherslee Road is served by two buses the 290B and 274 with a bus stop 550m from the entrance. The 290 connects the site to 'Tralee Square', 'MTU' and 'Tralee University Hospital'. The bus frequency is once every hour from 08:00 to 18:00. There are additional bus routes available in Tralee Town centre, including the Route 279 serving Tralee to Killorglin; Route 272 serving Tralee to Ballybunion; Route 13 serving Limerick to Tralee and Route 284 serving Tralee to Killarney and Tralee train station. The town centre and train station are within a 29minute walk or 7 min cycle from the site. In addition, the site is within walking distance of other services and amenities and as set out above Caherslee Road is served by a footpath and cycle lane on both sides of the road. I am satisfied that the site is accessible and adequately served by public transport with suitable onward connecting services also available.

Conclusion

- 9.5.16. It is inevitable that traffic in all forms will increase as more housing comes on stream. However, I am satisfied that the components are in place to facilitate access to the proposed site and to encourage existing and future residents to increase modal shift away from car use to more sustainable modes of transport. The proposed development is located at a well-served urban location close to a variety of amenities and facilities. The site is within walking distance of a bus service.

Any additional traffic generated will not be significant in terms of traffic impact and unlikely to have any significant detrimental traffic impact on the adjacent road network.

9.6. Drainage

- 9.6.1. Third party concerns were raised that insufficient evidence has been provided as regards water capacity, wastewater capacity and surface water arrangements.
- 9.6.2. An Engineering and Infrastructure Report accompanied the planning application.

Public Water

- 9.6.3. In terms of water supply, there is an existing watermain on the Caherslee Road (R551) along the site to the East (see drawing no. 10312-ENG-PL-XX-DR-C-002-05). It is proposed to connect into this line to give operational flexibility in providing water to the new estate. A pre-connection application to Uisce Eireann was made on 07/10/2024 (CDS24008712/CDS24008715) regarding the connection to the existing foul and watermain network. Irish Water provided a Confirmation of Feasibility on 28/03/25 (CDS24008712).

Wastewater

- 9.6.4. It is proposed to discharge foul effluent to the existing Irish Water Foul Sewer located at R551. Irish Water issued a Confirmation of Feasibility regarding the proposed connection on 28/03/25 (CDS24008712). Due to the challenging topography of the site a Pumping station and consequent rising main is also being proposed to facilitate the discharge of 20 no. units into the foul network. The pumping station has been located to the southern corner of the site and the foul water from the 20 no. units will be collected into the pumping station and discharge into the main foul network at Manhole F12 via 80mm HDPE Rising main (see drawing no. 10312-ENG-PL-XX-DR-C-005-05).

9.6.5. I refer the Commission to the Uisce Éireann report dated 27th May 2026 which notes the passage of time since the COF, *'however, due to the location of the development and recent assessments of infrastructure in the area for other purposes, Uisce Éireann is satisfied to deal with further assessment of connections from the proposed development by way of Condition'*. A review of Uisce Éireann's water capacity register for Tralee on 22nd September 2026 indicated capacity Available - LoS improvement required = Capacity Available to meet 2035 population targets - Level of service (LoS) improvement required. Leakage reduction and/or capital investment will be required to maintain/improve levels of service as demand increases. These proposals will be developed & prioritised through the National Water Resources Plan and investment planning process. Similarly, a review of Uisce Éireann's Wastewater Capacity for Tralee indicated 'space capacity is available'. On the basis of the above, I am satisfied that sufficient water and wastewater capacity is available in the public system to accommodate the development.

Surface Water (Condition no. 13)

- 9.6.6. The proposed surface water drainage network will collect surface water runoff from the site via a piped network prior to discharging off site via the two proposed attenuation tanks, flow control devices and separators arrangement as noted above. In order to reduce the effects of the surface runoff on potential flooding, a Stormwater Management Plan will be applied to surface water discharges. Surface water management has been designed in accordance with national guidance and best practice standards incorporating a sustainable drainage system (SUD's) including permeable paving, tree pits and rainwater butts. Surface water will be attenuated on site and discharged at a controlled rate equivalent to greenfield runoff conditions, designed to accommodate 1 in 100-year rainfall event with a 20% allowance for climate change. Surface water runoff from the site's road network will be directed to the proposed pipe network via conventional road gullies with additional surface water runoff from driveways and roofs also routed to the proposed surface water pipe network.
- 9.6.7. The stormwater network proposed for the development will discharge in the existing stormwater network located on the west side of the site. As part of the development works, the existing 750mm stormwater sewer will be upsized to a 1050mm diameter pipe from the northern boundary to the northeast lower connection point. As no non-

attenuated stormwater will connect to the 750mm stormwater pipe that crosses the site, it is proposed to retain the existing 750mm pipe size in that section. Only the pipe gradients will be adjusted to achieve appropriate cover and to prevent clashes with other services, thereby allowing the proposed finished floor levels of the development to remain unchanged. Non-return valves will be installed to ensure protection, and it is confirmed that no non-attenuated stormwater will discharge into the 750mm/1050mm stormwater sewer.

- 9.6.8. The Commission will note that condition no 13 requires the 750mm sewer throughout the site to be upsized as part of the development to a minimum of 1050mm diameter to details agreeable to Kerry County Council. This condition is on foot of the report received by the PA from the Flooding, Coastal and Marine Unit of KCC (dated 14th July 2025). The report provides no justification for the proposed upsizing and makes no reference to the Engineering Report submitted by the applicant nor the design considerations.
- 9.6.9. This condition has been appealed by the first party. The first party argue that while Section 34(4)(m) of the PDA can require a developer to upsize or overdesign public infrastructure this is subject to ‘the local authority paying for the cost of the additional works and taking them in charge or otherwise entering into an agreement with the applicant with respect to the provision of those public facilities.’ The first party contend that the proposed development does not generate the need for or require an upsized foul/storm water disposal sewer. It is further argued that condition no. 13 requires the applicant to upsize the sewer but fails to explicitly outline how the LA/Uisce Eireann will compensate the applicant and provides no details of any cost sharing agreements as part of the condition. This is ultra vires and not in accordance with Section 34(4)(m) of the PDA. It is further argued that condition no. 13 fails the “reasonable test” as set out in section 7.3.5 of the Development Management Guidelines.
- 9.6.10. I draw the Commission attention to section 3 of the Engineering and Infrastructure Report accompanying the application. Section 3 states that the proposed stormwater layout plans were shared with Uisce Éireann as part of the pre-connection process during which Uisce Éireann indicated that no records exist of the 750mm stormwater sewer traversing the site or extending to the northern boundary. The first party state that a joint site inspection was carried out with the Town Foreman for the Tralee Municipal District, Kerry County Council and this conformed that the existing 750mm

sewer functions mainly as a storm sewer and is only used as an ancillary overflow to the foul network during storm events. This overflow is estimated to operate during peak conditions only, approximately 10% of the time.

- 9.6.11. Having regard to the Engineering and Infrastructure report submitted and the design of the proposed storm sewer network including discharge to greenfield run off rates and own got the fact the existing 750mm sewer functions mainly as a storm sewer and is only used as an ancillary overflow to the foul network during storm events, in my opinion, the upsizing of the sewer is not required to facilitate the development and as such the condition should be revised to reflect consistency with Section 34(4)(m) of the Act the cost of upsizing the sewer is covered by the LA or Uisce Eireann in accordance with the requirements of section 34(4)(m) of the PDA.

Flood Risk

- 9.6.12. The site is not located in any identified flood zone. The PA raised no flood risk concerns.

Conclusion

The submission by Uisce Eireann raised no objection to the water supply and foul drainage proposals subject to conditions. I further note the PA raised no objections to the site services and surface water proposals. I am also satisfied that there is no potential flood risk in the vicinity of the proposed site.

9.7. First Party Appeal against condition No's 3, 6 and 13

Condition No. 3

- 9.7.1. Condition no. 3 relates to the imposition of a €1,141,500.00 development bond until taken in charge by the Council of road, footpaths, drains, public open space, public lighting and other services required in connection with the development...
- 9.7.2. It is set out that the bond requirement is excessive and not in accordance with legislative requirements and the 2007 Development Management Guidelines in so far as Section 7.13 of the Development Management Guidelines allows flexibility around the form and amount of the security to be agreed between the developer and local authority at compliance stage. Where agreement cannot be reached the developer has a right of referral to ACP. The first party request the condition be modified to reflect flexibility around the amount of the bond to be agreed.

- 9.7.3. Furthermore, Section 34(4)(g) of the Planning and Development Act 2000 (as amended) provides for adequate security to allow for satisfactory completion. The first party argue that no methodology of how the €1,141,500 bond was calculated was demonstrated other than reference to 761 linear metres x €1500. Regardless of the method of calculation the bond/security requirement is excessive.
- 9.7.4. The Commission will note that Section 7.13 of the Development Management Guidelines allows flexibility around the form and amount of the security to be agreed between the developer and local authority at compliance stage. Where agreement cannot be reached the developer has a right of referral to ACP. The first party also note that the Office of the Planning Regulator (OPR) Practice Note 3 (PN03) - Planning Conditions provides further guidance and includes 'the form and amount of security shall be agreed between the PA and development or in default referred to ACP.' It is set out that the current wording with a specific amenity does not allow the applicant the right to refer the matter to ACP for determination, if the developer disagrees with the LA and that this is a basic fundamental right of any developer and should be available especially where the bond calculation is unclear and significantly overestimated.
- 9.7.5. In response to the appeal that PA offer no clarity as regards the method of calculation nor is there any reference to the calculation method in the KCDP or Development Contribution Scheme. On the basis of the evidence on file, I am not in a position to adequately assess the methodology employed in calculating the bond amount and or review/justify the bond amount and the matter cannot be adequately ventilated. Therefore, in the event the Commission is minded to grant planning permission, I recommend a revised condition be attached to any grant of planning permission to include that 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.

Condition no. 6

- 9.7.6. Condition no. 6 requires maintenance in 'perpetuity'.
- 9.7.7. The first party argued that there is a contradiction between condition no. 3 and no. 6. Condition no. 3 requires a significant bond for a satisfactory completion of the development until taken in charge, condition no.6 states:

(a) The management and maintenance of the proposed development following its completion shall be the function and responsibility of a properly constituted management company.

(b) Prior to the commencement of any development on this site, the developer shall enter into an agreement with the Planning Authority under Section 47 of the Planning and Development Act 2000 to deal with the ongoing management and maintenance of the development including responsibility for maintenance of all shared areas and services including service road, footpaths, water supply, storm and foul drainage, public lighting, electrical, telephone and other underground services.

(c) The Section 47 agreement shall provide for the establishment of a management company whose legal status shall be proven to be adequate to provide for the ongoing management and maintenance in perpetuity of the facilities within the development.

Reason: In the interest of orderly development and to provide for the ongoing management and maintenance of the proposed development which will not be taken in charge by the Local Authority

9.7.8. The first party state that a 'Taking in Charge' drawing (ref. 2024/17/07) accompanied the planning application and that the development includes a standard residential development which includes areas that would be typically taken in charge by the LA, once the development has been completed. It is further argued that condition no. 6 is contradictory and fails the basis criteria for planning conditions as set out in section 7.3 of the Development Management Guidelines.

9.7.9. Section 7.3 *Basic criteria for conditions* of the Development Management Guidelines includes '*Certain basic criteria have often been suggested as a guide to deciding whether to impose a condition. These include whether the condition is:*

- *Necessary;*
- *Relevant to planning;*
- *Relevant to the development to be permitted;*
- *Enforceable;*
- *Precise;*
- *Reasonable.*

In addition, it is useful before deciding to impose a condition to consider what specific reason can be given for it: if the only reason which can be framed is a vague, general

one, the need for or relevance of the condition, or its validity, may be questionable’.

9.7.10. I would agree with the first party that condition no. 6 contradicts condition no. 3 and by reason of the contradictory nature of the conditions *‘the need for or relevance of the condition, or its validity, may be questionable’.*

9.7.11. Subject to adherence to certain ‘conditions and requirements’ the Kerry County Council *Taking in Charge Policy Document* (reviewed 22/9/2026 www.kerrycoco.ie/planning/development-management/housing-estates/) sets out that the PDA (Section 180) states that where a development includes the construction of two or more houses and where the development, including all site works infrastructure etc., is completed to the satisfaction of the Planning Authority, the Authority shall where requested (a) by the person carrying out the development or (b) by the majority of the qualified electors who are owners or occupiers of the houses, as soon as may be, initiate the procedures under Section 11 of the Roads Act, 1993 (The legislative provision for such taking in charge procedure is set down in the Roads Act, 1993, Section 11, and the Planning and Development Act, 2000, Section 180). Furthermore, objective KCDP 6-18 and KCDP 7-10 of the KCDP set out that it is an objective of the Council to *‘ensure that housing developments are completed to a standard that is in accordance with Kerry County Council’s Taking in Charge Policy for Private Housing Developments.’*

9.7.12. As noted above the first party has provide a ‘Taking in Charge’ drawing, in addition condition no. 3 requires a development bond for the satisfactory completion and maintenance until taken in charge by the Council, condition no. 6 contradicts condition no. 3 and therefore as per Section 7.3 of the Development Management Guidelines, I am not satisfied that the imposition of condition no. 6 is necessary or enforceable given the contradictions in condition no. 3 and 6. In the event the Commission is minded to grant planning permission, I recommend condition no. 6 be omitted and replaced with an appropriately worded condition.

Condition no. 13

9.7.13. I refer the Commission to section 9.6 (stormwater/Condition no. 13) of this report.

10.0 Environmental Impact Assessment

- 10.1.1. This section should be read in conjunction with Appendix A and section 9.4 of this report.
- 10.1.2. The application addresses the issue of EIA within an EIA Screening Report that contains information to be provided in line with Schedule 7A of the Planning Regulations. I have had regard to same in this screening assessment. The EIA Screening Report identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.
- 10.1.3. This proposed development is of a class of development included in Schedule 5 to the Planning Regulations. Schedule 5 to Part 2 of the Planning Regulations provides that mandatory EIA is required for the following classes of development:

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

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

- Class 15 of Schedule 5 relates to any project listed in Part 2 of Schedule 5 which does not exceed a quantity, area or other limit specified in Part 2 in respect of the relevant class of development, but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.
- 10.1.4. A detailed description of the development is outlined in section 3.1 of the report. In summary, the proposed development is for 85 residential units, creche and associated site works on a site area of c.3.256ha. ha greenfield site. Having regard to classes 10(b)(i) and 10(b)(iv) of Schedule 5 to Part 2 of the Planning Regulations, the proposed development is subthreshold in terms of the mandatory submission of an EIA. The nature and the size of the proposed development is below the applicable class 10(b) thresholds for EIA.
- 10.1.5. As outlined above, the criteria at Schedule 7 to the Planning and Development Regulations 2001 (as amended) are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the

environment that should be the subject of environmental impact assessment. I would note that the third party raised concern that the EIA Screening report was a desktop study only. Section 4.3 of the EIA Screening Report sets out that as part of the preparation of the Appropriate Assessment Screening Report and Ecological Impact Assessment Report, a site walkover was undertaken by a suitably qualified and experienced environmental ecologist from O'Connor Sutton Cronin & Associates. This involved the undertaking of a site survey, and the inspection of the surrounding habitat around the site. Therefore, the EIA Screening was not limited to a desktop study.

10.1.6. The criteria within Schedule 7 to the Planning Regulations are relevant in considering whether this proposed development would be likely to have significant effects on the environment that could and should be the subject of EIA. The residential use proposed would be similar to the surrounding land uses in the area. The proposed development would not increase the risk of flooding and it would not give rise to significant use of natural resources, the production of waste, pollution, nuisance or a risk of accidents. The development would be served by municipal foul wastewater drainage and water supplies. I note that the site is not designated for the protection of the landscape or of natural heritage. With mitigation measures in place, including pre-development testing and monitoring of groundworks, I am satisfied there will be no significant impact on archaeology. The site is not located within an Architectural Conservation Area. The closest Protected Structure is Mounthawk House (RPS-KY-0935) is located approximately 0.3km northwest of the site. Mouthhawk House is set on a large site, surrounded by mature trees and set back from the public road. I note concerns referenced in the third-party submission as regard the impact on the heritage however owing to the location of the site removed from Mounthawk House, I am satisfied that the development will not impact the existing character and setting on the Protected Structure. I am satisfied that there will be no significant detrimental impact on the Protected Structures as a result of the development.

10.1.7. The site does not support substantive habitats or species of conservation significance, as highlighted in the Ecological Impact Assessment submitted with the application. A very limited range habitats was recorded during survey. The site proposed for development consists largely of improved agricultural grasslands. Surveys of the adjacent areas found no habitats listed on Annex I of the EU Habitats Directive were found within the survey area. No plants subject to the Flora Protection Order (2015)

were found to occur within the area surveyed. No protected mammal species were found to occur within the area proposed for development. No evidence of bats was found, there are no trees on site, all trees are located outside of site and these trees were determined to have a moderate roosting potential. In addition, there was little connectivity between the site and surrounding areas. The small area of conifers and broadleaved trees on the west boundary of the site could have potential roosting qualities. These will not be impacted by the development. I refer the Commission to section 9.4 of this report.

10.1.8. The nature and the size of the proposed development alongside this existing development remains below the applicable class 10(b) thresholds for EIA.

10.1.9. The reports submitted with the application address a variety of environmental issues and the environmental impacts of the proposed development. The reports demonstrate that, subject to the various recommended construction and design-related mitigation measures, the proposed development would not have a significant impact on the environment. I have had regard to the characteristics of the site, the location of the proposed development, and the type and characteristics of the potential impacts. Having regard to the Schedule 7A information, I have examined the sub-criteria and all submissions, and I have considered all information that accompanied the application and appeal. In addition, noting the requirements of Article 103(1A)(a) of the Planning Regulations, the first party has provided a statement indicating how the available results of other relevant assessments have been taken into account on the effects of the project on the environment carried out pursuant to European Union legislation other than the EIA Directive.

10.1.10. Section 6.0 of the EIA screening information prepared by the first-party appellant addresses the implications and interactions of the proposed development and concludes that the development would not be likely to have significant effects on the environment. I am satisfied that all other relevant assessments have been identified for the purposes of screening for EIA. I have had regard to all of the reports detailed above and I have taken them into account in this assessment, together with the Strategic Environmental Assessment of the Development Plan. I am satisfied that the information required under Article 103(1A)(a) of the Planning Regulations has been submitted.

10.1.11. I have completed an EIA screening assessment of the proposed development with respect to all relevant considerations, as set out in Appendix A to this report. I am satisfied that the location of the project and the environmental sensitivity of the geographical area would not justify a conclusion that the proposed development would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects that would be rendered significant by their extent, magnitude, complexity, probability, duration, frequency or reversibility, and this opinion extends to my conclusion that the proposed development is subthreshold in terms of the mandatory submission of an EIA based on class 14 of Part 2 to Schedule 5 of the Planning Regulations. In these circumstances, the application of the criteria in Schedule 7 of the Planning Regulations to the proposed subthreshold development demonstrates that it would not be likely to have significant effects on the environment and that an EIA is not required should a decision to grant planning permission for the project be arrived at. This conclusion is consistent with the EIA screening information submitted with the subject application and the opinion of the Planning Authority. A Screening Determination can be issued confirming that there is no requirement for an EIA Report to be prepared for the project based on the above considerations.

11.0 AA Screening

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

Screening Determination Conclusion

11.1.2. I am satisfied the potential for significant effects, as a result of the proposed development the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is not required.

11.1.3. I am satisfied the potential for significant effects, as a result of surface and foul waters generated during the construction and operational stages, on the qualifying interests of the applicable Natura 2000 sites can be excluded having regard to the following:

- During the construction stage, surface water will be attenuated/part treated within the site and the nature of any discharges is temporary/of a relatively low volume relative to the recovering surface water and marine environments.

- Should a pollution event occur during the construction phase, due to the accidental spillage or release of contaminants, this would not be of such magnitude so as to have a significant adverse effect on downstream water quality in Tralee Bay due to the level of separation and the dilution arising from the volume of water between the sites.
- There will be an improvement in surface water run-off during the operational phase, relative to the existing situation, as surface water will be attenuated/ part treated within the site.
- Foul and surface waters will discharge to the existing combined foul and surface water network and will travel to Tralee WWTP for treatment prior to discharge to Tralee Bay; the Tralee WWTP is required to operate under EPA licence and meet environmental standards, further upgrade is underway and the foul discharge from the proposed development would equate to a very small percentage of the overall licenced discharge at Tralee WWTP, and thus would not impact on the overall water quality within Tralee Bay.
- There is no potential for impacts on the qualifying interests due to noise and other disturbance impacts during construction and operational phases given the level of separation between the sites. While there is a potential risk of noise and disturbance during construction to ex-situ qualifying species, no significant effects are predicted as it is unlikely that the qualifying species will use habitats within the subject lands and in any case the proposed development is not likely to result in a significant increase in noise and disturbance over the existing levels.

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

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

12.0 Water Framework Directive

- 12.1.1. There are no watercourses on the appeal site.
- 12.1.2. An assessment of the proposed development has been undertaken with regard to the objectives set out in Article 4 of the EU Water Framework Directive. The nearest surface waterbody is the Hospital Tralee River, which is located 641m east of the site. The river is listed by the EPA as the Hospital Tralee (IE_SH_23L010200) and is a part of the 23Tralee Bay-Feale catchment. The 23 Tralee Bay-Feale catchment profile states 'This catchment includes the area drained by the River Feale and all streams entering tidal water in Tralee Bay and between Clogher Head and Kilconly Point, Co. Kerry, draining a total area of 1,784km²'. The Hospital Tralee River flows in a southerly direction until it joins the River Lee, subsequently flowing into Tralee Bay and the Atlantic Ocean. Based on the most recent water quality information (2016-2021), the Hospital Tralee River has an overall Water Framework Directive (WFD) status of 'Moderate.
- 12.1.3. Having considered the nature, scale, and location of the proposed development including the location removed for any watercourse and proposed connection to public stormwater and wastewater network, it is concluded that the proposal will not result in any risk of deterioration in the status of any water body, including surface waters (rivers and lakes), groundwater, transitional waters, or coastal waters. This applies to both qualitative and quantitative status, and in respect of temporary and permanent effects.
- 12.1.4. In addition, the proposed development will not adversely affect the achievement of established environmental objectives, including the protection, maintenance, and improvement of water body status, as required under the Directive.

12.1.5. Accordingly, the proposed development is considered to be compliant with the requirements of Article 4.

13.0 Recommendation

Having regard to the residential land use zoning of the site, the nature and scale of the proposed development, and the provisions of the Kerry County Development Plan 2022-2028 and Tralee Municipal District Local Area Plan 2024-2030, it is considered that, subject to compliance with the conditions set out below, would contribute to the provision of new residential development in an appropriately zoned site, would constitute a satisfactory mix and quantum of residential development, would provide acceptable levels of residential amenity for future residents, would not detract from the character and setting of the area, would not seriously injure the residential amenities of the area or of property in the vicinity, would not have an adverse impact on the environment and would be acceptable in terms of traffic and pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

14.0 Reasons and Considerations

Having read the appeal and submissions on file, had due regard to the provisions of the Kerry County Development Plan 2022-2028 and Tralee Municipal District Local Area Plan 2024-2030 and other relevant guidance, site inspection carried out and all other matters arising. I recommend that permission is granted subject to the conditions set out below.

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 and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Mitigation and monitoring measures outlined in the plans and particulars, including the Ecological Impact Assessment submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of protecting the environment and in the interest of public health.

3. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(i) A plan to scale of not less than [1:500] showing –

- The provision of clearly defined public open space and clearly defined communal open space (in accordance the Planning Design Standards for Apartments Guidelines for Planning Authorities, 2023)
- the functionality of the green spaces to include details of multifunctional green spaces inclusive of playground, kick about area, seating and gathering areas
- The species, variety, number, size and locations of all proposed trees and shrubs [which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder.
- Hard landscaping works, specifying surfacing materials, furniture and finished levels.

(ii) Details of all site boundary treatments. Details to be agreed shall include the following:

- Boundary treatments shall comply with the provisions of Section 1.5.4.11 – Screen Walls in Urban Areas, Volume 6, Kerry County Development Plan 2022-2028.
- Boundary fences shall not contain timber panels or component.
- proposals to appropriately fence off and screen the pumping station located in the southeast corner of the site.

(iii) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.

(iv) A timescale for implementation.

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.

4. All groundwork and/or soil stripping associated with the proposed development should be archaeologically monitored , under licence from the National Monuments Service, and a report on the results submitted to the planning authority on completion.

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

5. All roads, footpaths and cycleways, where applicable, 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 drawing which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: in the interests of permeability and the proper planning and sustainable development.

6. (a) The development shall be satisfactorily named and numbered. Details to be submitted prior to commencement of development.
(b) A revised Site Layout Plan shall be submitted prior to commencement of development showing the location of name plates and directional signage around the estate.

Reason: In the interests of orderly development

7. (a)The 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.

8. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, 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 in the interest of residential amenity.

9. 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 with, the planning authority prior to commencement of any development.

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

10. Details of the materials, colours and textures of all the external finishes to the proposed buildings 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.

11. Details of signage, waste management and hours of operation of the proposed creche shall be submitted to, and agreed in writing with, the planning authority prior to

commencement of development.

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

12. (a) Public lighting shall be provided as outlined in the External (Public) Lighting Report received by the planning authority on the 23rd April 2026, unless otherwise agreed in writing with the planning authority .

(b) All external lighting shall be fitted and maintained with 'warm white spectrum' bulb type lighting, with 2700K or lower and with 0% tilt and uplift.

Reason: in the interests of public safety, environmental protection and visual amenity.

13. Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a detailed Construction Environmental Management Plan (CEMP) for the written agreement of the planning authority. The CEMP shall incorporate details for the following: collection, recovery and disposal of construction waste, surface water run-off from the site, on-site road construction, and environmental management measures during construction including noise control, dust and vibration control and monitoring of such measures. A record of daily checks that the construction works are being undertaken in accordance with the CEMP shall be kept at the construction site office for inspection by the planning authority. The agreed CEMP shall be implemented in full in the carrying out of the development.

Reason: in the interests of environmental protection, residential amenities, public health and safety and environmental protection.

14. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the Environmental Protection Agency's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness, these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. 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 proper planning and sustainable development.

15. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays and between 0800 and 1400 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 residential amenities of property in the vicinity.

16. Prior to the commencement of development, the developer shall enter into a Connection Agreement with Uisce Eireann to provide for a service connection to the public water supply and wastewater collection network.

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

17. (a) Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority.

(b) Any requirements to upsize the entirety of the 750mm sewer on the site to a minimum of 1050mm diameter, where such works are not required to facilitate the development shall be agreed (inclusive of costs) with the Local Authority/Uisce Eireann in advance of development commencing on site.

Reason: in the interest of public health and surface water management.

18. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall be in accordance 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).

Reason: in the interests of amenity and of traffic and pedestrian safety.

19. 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. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: in the interests of visual and residential amenity.

20. The childcare facility shall be finished to an operational standard prior to the occupation of the residential units unless otherwise agreed with the planning authority.

Reason: To ensure that childcare facilities are provided in association with residential units, in the interest of residential amenity.

21. Prior to the commencement of development, a Stage 1/2 Audit shall be submitted to the Local Authority for written agreement. All findings of the Road Safety Audit shall be closed out, signed off and incorporated into the development. A Stage 3 /4 Road Safety Audit shall be undertaken if appropriate at the appropriate stage, closed out, signed off and the recommendations incorporated into the development. All costs associated with this condition shall be borne by the applicant.

Reason: In the interest of traffic safety.

22. A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

Reason: In the interest of sustainable transport and safety

23. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained and 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.

24. Prior to commencement of development, the developer 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 provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may 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 plan of the area.

25. (a) Prior to the commencement of any house or duplex unit in 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 houses and duplex 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 specified house or duplex unit for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental 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.

26. 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.

27. 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 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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

Irené McCormack

Senior Planning Inspector

29th September 2026

Appendix A: Screening Determination

A. CASE DETAILS		
An Bord Pleanála Case Reference ACP PL-501682-26-KY		
Development Summary	85 no. residential units , creche and associated site works.	
	Yes / No / N/A	Comment (if relevant)
1. Was a Screening Determination carried out by the PA?	Yes	EIA not required
2. Has Schedule 7A information been submitted?	Yes	
3. Has an AA screening report or NIS been submitted?		An Appropriate Assessment Screening Report was submitted with the application. An Ecological Impact Assessment was also submitted with the application.
5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA		SEA and AA were undertaken in respect of the Kerry County Development Plan 2022-2028 (Variation No. 1 of the Kerry County Development Plan 2022-2028)

B. EXAMINATION	Where relevant, briefly describe the characteristics of impacts (i.e. the nature and extent) and any Mitigation Measures proposed to avoid or prevent a significant effect (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)		
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	The proposed development would provide for a new residential development at an urban location. The scale and character of which is consistent with the R1- New /Proposed Residential zoning and identified as TR-3 in the Tralee Settlement Capacity Audit. Part of the land to the north identified for access are zoned R2 – Existing Residential.	No
1.2 Will construction, operation, decommissioning or demolition works causing physical changes to the locality (topography, land use, waterbodies)?	The proposed residential development has been designed with standard measures to address potential impacts on surface water and groundwaters in the locality.	No
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	Construction materials will be typical for an urban development of this nature and scale.	No
1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?	Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Use of such materials would be typical for construction sites. Any impacts would be local and temporary in nature and the implementation of the standard construction practice measures outlined in the Outline Construction Environmental	No

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

	with the Greater Dublin Strategic Drainage Study (CDSDS). The GDSDS (Vol. 2, Chapter 6.3.4)	
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of standard measures within the Outline Construction Phase Environmental Management Plan would satisfactorily address potential risks on human health. No significant operational impacts are anticipated for the piped water supplies in the area.	No
1.9 Will there be any risk of major accidents that could affect human health or the environment?	No significant risk is predicted having regard to the nature and scale of the development. The site is not at risk of flooding.	No
1.10 Will the project affect the social environment (population, employment)	Development of this site would result in an increase in population in this area. The development would provide housing and a childcare facility that would serve towards meeting an anticipated demand in the area.	No
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	No	No
2. Location of proposed development		
2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following: a) European site (SAC/ SPA/ pSAC/ pSPA) b) NHA/ pNHA c) Designated Nature Reserve d) Designated refuge for flora or fauna	The nearest European sites are listed in Table 3.5 of the AA Screening Report. Protected habitats or habitats suitable for substantive habituating of the site by protected species were not found on site during ecological surveys. The proposed development would not result in significant impacts to any protected sites, including those downstream.	No

e) Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan		
2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be significantly affected by the project?	The proposed development would not result in significant impacts to protected, important or sensitive species	No
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	The site is not within the Architectural Conservation Area (ACA) or located within the grounds of any structures listed on the Record of Protected Structure (RPS). There are no recorded monument listed in the Record of Monuments & Places within or adjacent to the proposed development site. Previous archaeological testing of this site and adjacent lands in 2006 (Planning Reference 07/307502) uncovered numerous archaeological features to the north, north-east and east of the proposed development site but nothing of archaeological significance within the current development site. The impact of the development is not anticipated to be significant.	No
2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?	No such features are in this urban location, while the site is a greenfield site it is located immediate and backland to the built-up area of Tralee Town.	No
2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	The development will implement SUDS measures to control surface water run-off. The development would not increase risk of flooding to downstream areas with surface water to discharge at greenfield runoff rates.	No
2.6 Is the location susceptible to subsidence, landslides or erosion?	No	No
2.7 Are there any key transport routes(eg National primary Roads) on or around the location which are susceptible to congestion or	A Traffic and Transport Assessment accompanied the application. The site is served by a local road network. There	No

which cause environmental problems, which could be affected by the project?	are sustainable transport options available for future residents. No significant contribution to traffic congestion is anticipated to arise from the proposed development.	
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be significantly affected by the project?	The site is in close proximity to hospitals and schools. However, there is no negative impact anticipated as a result of the proposal.	No
3. Any other factors that should be considered which could lead to environmental impacts		
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	No existing or permitted developments have been identified in the immediate vicinity that would give rise to significant cumulative environmental effects with the subject project.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	No
3.3 Are there any other relevant considerations?	No	No
C. CONCLUSION		
No real likelihood of significant effects on the environment.	Agreed ☐	ElAR Not Required
Real likelihood of significant effects on the environment.	☐	
D. MAIN REASONS AND CONSIDERATIONS		
Having regard to • the nature and scale of the proposed development, which is below the threshold in respect of classes 10(b)(i), 10(b)(iv) and 14 of Part 2 to Schedule 5 of the Planning and Development Regulations 2001-2022; • the location of the proposed residential units on lands zoned on land 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' and with the northern most access located on R2 – Existing Residential zoned lands in the Kerry County Development Plan 2022-2028 Variation No. 1 – Tralee Municipal District Settlements' Plan and the results of the Strategic Environmental Assessment of the Development Plan;

- the nature of the existing site and the pattern of development in the surrounding area;
- the availability of mains water and wastewater services to serve the proposed development;
- the location of the development outside of any sensitive location specified in Article 299(C)(1)(a)(v) of the Planning and Development Regulations 2001, as revised.
- the guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage and Local Government (2003);
- the criteria set out in Schedule 7A of the Planning and Development Regulations 2001
- the features and measures proposed by the applicant that are envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified to be provided as part of the project Outline Construction Phase Environmental Management Plan, Ecological Impact Assessment, Archaeological Impact Assessment and the Engineering Services Report. It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not, therefore, be required.

The Commission concluded that the proposed development would not be likely to have significant effects on the environment, and that an environmental impact assessment report is not required.

Appendix B: Standard AA Screening Determination

Screening for Appropriate Assessment Test for likely significant effects	
Step 1: Description of the project and local site characteristics	
Brief description of project	Construction of 85 dwelling, creche and associated site works.
Brief description of development site characteristics and potential impact mechanisms	• The subject site is a greenfield site to the west of Tralee town. • The site itself is not situated within a European site, the closest Natura 2000 site being 1.5km away at Tralee Bay Complex SPA • The proposed surface water drainage network will collect surface water runoff from the site via a piped network prior to discharging off site via the two proposed attenuation tanks, flow control devices and separators arrangement. • The proposed water supply will be taken from the Uisce Eireann network. • Wastewater will be a piped collection system discharging to the Uisce Eireann system located on the public road. • There is no watercourse on the site.
Screening report	Yes
Natura Impact Statement	No
Relevant submissions	N/A
Step 2. Identification of relevant European sites using the Source-pathway-receptor model <u>Zone of Influence</u>	

All of the European sites present in the vicinity of the proposed development are listed in Table 3.4 of the AA Screening Report and the QIs/SCIs of the European sites in the vicinity of the proposed development are provided in Table 3.5.

In carrying out my assessment I have had regard to the nature and scale of the project, the distance from the site to Natura 2000 sites, and any potential pathways which may exist from the development site to a Natura 2000 site, aided in part by the EPA Appropriate Assessment Tool (www.epa.ie). Site synopsis and conservation objectives for each of these Natura 2000 sites are available on the NPWS website. In particular the attributes and targets of these sites are of assistance in screening for AA in respect of this project. I have also visited the site.

Habitat Impact

The site is not within or directly adjoining any Natura 2000 sites. Tralee Bay Complex SAC (site code 004188) and the Tralee Bay and Magharees Peninsula, West to Cloghane SAC (site code 002070) are the closest Natura 2000 sites to the proposed development at c1.5 and 1.6kms respectively. There is not watercourse on site and therefore no direct hydrological connection. In addition, most of the intervening land reflect significant urban development.

Accordingly, I do not consider that there is potential for any direct impacts such as habitat loss / modification, direct emissions, or species mortality/disturbance

The site is greenfield site and landcover at the proposed project site is classified as improved agricultural grassland (GA1) and the northern boundary consists of a disjointed hedgerow. There are no Annex I habitats present within the proposed development site or immediate environs. The main habitats within the proposed project site comprise hedgerow and treeline (located outside of the development boundary). The habitat types are described in greater detail in the Ecological Impact Assessment Report accompanying this application. As noted no signs of SCI birds were recorded here, or in the fields surrounding the proposed development site during site surveys. The vegetation onsite does not provide suitable foraging habitat for wading birds. The proposed development will not result in any significant deterioration in habitat quality or loss of habitat within the Tralee Bay SPA. Therefore, it is concluded that the proposed development will not result in any loss, deterioration or fragmentation of habitat within Natura 2000 sites. I refer the Commission to section 9.4 , Section 10.0 Appendix 1 of this report.

Surface Water

Storm water from the site will discharge to an existing surface water system. This surface water route from the site currently exists, no additional potential for impacts has been identified. Furthermore, I note that standard construction practices and best practice construction measures, as relates to the prevention of

surface water pollution at construction stage, as outlined in detail in the Outline Construction and Environmental Management Plan would prevent polluted surface water from entering the surface water drainage network. These installations have not been introduced to avoid or reduce an effect on any effect on any Natura site and would be introduced as a standard measure on such housing developments, regardless of any direct or indirect hydrological connection to a Natura 2000 site. They constitute the standard approach for construction works in an urban area. I am satisfied that the surface water design features proposed at operational stage will ensure the quality of surface water run-off will be sufficient so as not to result in any likely significant effects on any Natura 2000 site. Notwithstanding, and even if these standard work practices were not employed, or should they fail for any reason, and pollutants enter Tralee Bay indirectly via the public surface water network, I am satisfied that any such contaminants would be sufficiently dispersed and diluted within the surface water network and within the estuarine/marine environment of Tralee Bay, such that likely significant effects on those Natura 2000 sites within and adjacent to Tralee Bay can be ruled out.

Wastewater

All foul drainage will discharge to the existing Irish Water Foul Sewer located at R551. The foul water from the site will then be pumped to Tralee Wastewater Treatment Plant (WWTP) where it will be treated and discharged to Tralee Bay (lower Less Estuary). Therefore, there is an indirect pathway from the proposed development to the

Disturbance

The construction and operational phases have the potential for disturbance related to increased dust, noise, lighting, and human activity. Given the distance between the site and the nearest designated sites (1.5/1.6km), I do not consider that there is potential for significant construction-related disturbance effects

Other European Sites and potential Impact Mechanisms

The AA screening report identified 11 European sites within 15km of the site. The Commission will note that the AA Screening Report excluded all European sites from further consideration in the screening report because there is no hydrological or other connectivity, and because of the distances involved.

Having regard to the above and the potential indirect pathway via storm water and wastewater, my screening assessment will focus on the impact of the proposal on the conservation objectives of the Tralee Bay Complex SAC (site code 004188) at 1.5km, and the Tralee Bay and Magharees Peninsula, West to Cloghane

SAC (site code 002070) at 1.6km. I am satisfied that all other site can be eliminated from further consideration due to hydrological or other connectivity, and separation distances.

3. European Sites at risk

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

The Tralee Bay Complex SPA is located along the coast of north Co. Kerry between Ballyheige in the north, Tralee in the east and Stradbally in the west. The site includes the inner part of Tralee Bay, including Derrymore Island, the inlets of Barrow Harbour and Carrahane Strand, Akeragh Lough, Lough Gill, and much of the intertidal habitat from Scraggan Point at the northern end of the agharees Peninsula around the coast to c. 2 km south of Ballyheige. Inner Tralee Bay is well sheltered by the Derrymore Island peninsula. The intertidal sediments vary from muddy sands on the upper shore to firm rippled sands on the lower, more exposed shore. The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for the following species: Whooper Swan, Light-bellied Brent Goose, Shelduck, Wigeon, Teal, Mallard, Pintail, Scaup, Oystercatcher, Ringed Plover, Golden Plover, Grey Plover, Lapwing, Sanderling, Dunlin, Black-tailed Godwit, Bar-tailed Godwit, urlew, Redshank, Turnstone, Black-headed Gull and Common Gull. It is also of special conservation interest for holding an assemblage of over 20,000 wintering waterbirds.

Tralee Bay and Magharees Peninsula, West to Cloghane SAC - This large site in Co. Kerry stretches from Tralee town westwards to Fenit Harbour and Cloghane, encompassing Tralee Bay, Brandon Bay and the Magharees Peninsula. It includes extensive mudflats at the eastern end, the beaches of Derrymore Island, the sand dunes and lagoons of the Magharees Peninsula, as well as the rocky headlands at its end. Both the Tralee and Brandon (Owenmore) estuaries feature wide expanses of sheltered intertidal flats, often fringed with saltmarsh vegetation. Plant species are typically scarce on the flats, although there are some eelgrass (*Zostera* spp.) beds and patches of green algae (e.g. *Ulva* spp. and *Enteromorpha* spp.). The eelgrass beds at Derrymore Island include *Zostera noltii*, a species which has a limited distribution in Ireland. A variety of polychaetes (worms) and bivalve molluscs are also present in the intertidal sections. This site is of considerable ecological and conservation significance for the excellent diversity of habitats it contains, many of which are listed on Annex I of the E.U. Habitats Directive. The occurrence of a species listed on Annex II of the E.U. Habitats Directive adds further importance to the site. The presence of a number

of Red Data Book species, including the largest population of Natterjack Toads in Ireland, is also notable, as is the occurrence of several species listed on Annex I of the E.U. Birds Directive.

Table 1- European Sites: Tralee Bay Complex SPA (site code 004188) and Tralee Bay and Magharees Peninsula, West to Cloghane SAC (site code 002070)

European Site (code)	Qualifying interests Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections	Consider further in screening Y/N
Tralee Bay Complex SPA (site code 004188)	A038] Whooper Swan (<i>Cygnus cygnus</i>) [A046] Brent Goose (<i>Branta bernicla hrota</i>) [A048] Shelduck (<i>Tadorna tadorna</i>) [A050] Wigeon (<i>Anas penelope</i>) [A052] Teal (<i>Anas crecca</i>) [A053] Mallard (<i>Anas platyrhynchos</i>) [A054] Pintail (<i>Anas acuta</i>) [A062] Scaup (<i>Aythya marila</i>) [A130] Oystercatcher (<i>Haematopus ostralegus</i>) [A137] Ringed Plover (<i>Charadrius hiaticula</i>) [A140] Golden Plover (<i>Pluvialis apricaria</i>) [A141] Grey Plover (<i>Pluvialis squatarola</i>) [A142] Lapwing (<i>Vanellus vanellus</i>) [A144] Sanderling (<i>Calidris alba</i>) [A149] Dunlin (<i>Calidris alpina alpina</i>) [A156] Black-tailed Godwit (<i>Limosa limosa</i>) [A157] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A160] Curlew (<i>Numenius arquata</i>) [A162] Redshank (<i>Tringa totanus</i>) [A169] Turnstone (<i>Arenaria interpres</i>) [A179] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A182] Common Gull (<i>Larus canus</i>)	c.1.5km to the south	There is no spatial overlap or hydrological link between the site and the protected area. Due to the distance from the site and lack of hydrological connection, direct and indirect impacts do not pose a significant risk to the SPA Based on the scale and nature of the works, construction phase effects such as dust will be localised and unlikely to cause an impact on the SPA at a distance of 1.5km across an established urban environment. The proposed residential development could potentially result in an increase in nutrients discharging to Tralee Bay via the Wastewater Treatment Plant (WWTP). Increased nutrients can	No

	[A999] Wetlands		potentially impact on estuarine habitats by changing baseline ecological conditions and increasing algal growth. Based on the planned occupancy, the P.E. for the proposed development has been calculated at 313. A review of Uisce Eireann's Wastewater Capacity for Tralee indicated 'space capacity is available' Given the limited scale of the proposed development and the ability of the WWTP to cater for the additional loading, no impact is expected	
Tralee Bay and Magharees Peninsula, West to Cloghane (site code 002070)	[1130] Estuaries [1140] Mudflats and sandflats not covered by seawater at low tide [1150] Coastal lagoons [1160] Large shallow inlets and bays [1170] Reefs [1210] Annual vegetation of drift lines [1220] Perennial vegetation of stony banks [1230] Vegetated sea cliffs of the Atlantic and Baltic coasts [1310] Salicornia and other annuals colonising mud and sand [1330] Atlantic salt meadows (Glaucopuccinellietalia maritimae)	c.1.6km to the south	There is no spatial overlap or hydrological link between the site and the protected area. Due to the distance from the site and lack of hydrological connection, direct and indirect impacts do not pose a significant risk to SAC. Based on the scale and nature of the works, construction phase effects such as dust will be localised and unlikely to	No

	[1410] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [2110] Embryonic shifting dunes [2120] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2130] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2170] Dunes with <i>Salix repens</i> ssp. <i>argentea</i> (<i>Salicion arenariae</i>) [2190] Humid dune slacks [6410] <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [91E0] Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [1355] <i>Lutra lutra</i> (Otter) [1395] <i>Petalophyllum ralfsii</i> (Petalwort)		cause an impact on the SAC at a distance of 1.6km across an established urban environment. The proposed residential development could potentially result in an increase in nutrients discharging to Tralee Bay via the Wastewater Treatment Plant (WWTP). Increased nutrients can potentially impact on estuarine habitats by changing baseline ecological conditions and increasing algal growth. Based on the planned occupancy, the P.E. for the proposed development has been calculated at 313. . A review of Uisce Eireann's Wastewater Capacity for Tralee indicated 'space capacity is available' Given the limited scale of the proposed development and the ability of the WWTP to cater for the additional loading, no impact is expected	
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Summary

- During the construction phase of development all construction phase water will be directed to the drainage system. Best practice standards, environmental guidelines and mitigation measures will be defined in the CEMP and adhered to in order to avoid impacts on soil quality; therefore, overall, significant effects from pollution impacts on the existing land and soils environmental are not anticipated during the construction phase.

- The drainage design for the proposed development has been designed in accordance with the principles of Sustainable Urban Drainage Systems (SUDS) as per the recommendations of the Greater Dublin Strategic Drainage Study (GDSDS) which have been incorporated into the project at design stage, such as tree pits, and soak-aways throughout the site to enhance storm water infiltration. Surface water from the operational phase of the proposed development will ultimately be discharged at a controlled rate to the public network. The implementation of appropriate control measures (including an emergency spill response plan) and best management practices will reduce the risk of accidents from polluting substances entering soil and groundwater. The risk of disasters (typically considered to be natural catastrophes e.g., very severe weather event) or accidents (e.g., fuel spill, traffic accident) is considered low.

I am satisfied that no risks to the conservation objectives of any Natura 2000 sites are considered likely due one or more of the following:

- Lack of direct connectivity between the proposed works areas and the designated areas. There will be no loss of habitat within any Natura 2000 site as a result of the proposed works. It is not anticipated that the loss of any species of conservation interest will occur as a result of the proposed works due to injury or mortality.
- Significant buffer between the proposed works area and the designated area. No significant risk of disruption to any Natura 2000 sites are likely during this project.
- The nature of the site's conservation objectives
- No habitat fragmentation to any Natura 2000 site is predicted.
- There will be no additional emissions of water from the site. Drainage and wastewater will be to existing mains. No emissions are predicted that will impact upon any Natura 2000 site.

Based on a consideration of the likely impacts arising from the proposed works and a review of their significance in terms of the conservation interests and objectives of the Natura 2000 Sites screened, no significant impacts have been identified on the Natura 2000 sites as a result of the proposed development.

I refer the Commission to section 4 Screening conclusion and statement of the AA screening report. I agree with the conclusion presented therein

4. Where relevant, likely significant effects on the European site(s) ‘in-combination with other plans and projects’

In combination or Cumulative Effects

Section 3.4.12 of the AA Screening Report identifies other developments near the site and potential in combination impacts. The AA identifies that none the large grants of planning identified above, or any other significant projects are proposed or currently under construction that could potentially cause in-combination effects on European sites. Therefore, it is considered that in-combination effects with other existing and proposed works in proximity to the application area would be unlikely, neutral, not significant, and localised. It is concluded that effects on European sites as a result of the project, either alone or combination with other projects, are predicted to be negligible and unlikely.

Overall Conclusion- Screening Determination

I conclude that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is not required.

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

- During the construction stage, surface water will be attenuated/part treated within the site and the nature of any discharges is temporary/of a relatively low volume relative to the recovering surface water and marine environments.
- Should a pollution event occur during the construction phase, due to the accidental spillage or release of contaminants, this would not be of such magnitude so as to have a significant adverse effect on downstream water quality in Tralee Bay due to the level of separation and the dilution arising from the volume of water between the sites.
- There will be an improvement in surface water run-off during the operational phase, as surface water will be attenuated/ part treated within the site.

- Foul and surface waters will discharge to the existing combined foul and surface water network and will travel to Tralee WWTP for treatment prior to discharge to Tralee Bay; the WWTP is required to operate under EPA licence and meet environmental standards, further upgrade is underway and the foul discharge from the proposed development would equate to a very small percentage of the overall licenced discharge at WWTP, and thus would not impact on the overall water quality within Tralee Bay.
- There is no potential for impacts on the qualifying interests due to noise and other disturbance impacts during construction and operational phases given the level of separation between the sites. While there is a potential risk of noise and disturbance during construction to ex-situ qualifying species, no significant effects are predicted as it is unlikely that the qualifying species will use habitats within the subject lands and in any case the proposed development is not likely to result in a significant increase in noise and disturbance over the existing levels.

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