



An
Coimisiún
Pleanála

Commission Order
PL-321908-25

Planning and Development Act 2000, as amended

Planning Authority: Kerry County Council

Planning Register Reference Number: 24/60025

Appeal by Peter Sweetman against the decision made on the 23rd day of January, 2025 by Kerry County Council to grant, subject to conditions, a permission to National Parks and Wildlife Service in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construct a raised platform walkway/cycleway from the Dinis car park to the Torc (Cardiac Hill) car park, located between the N71 roadway and the Muckross lake shore, inclusive of signage and ancillary site works at Torc, Muckross, Killarney, County Kerry, as amended by the further public notice received by the planning authority on the 21st day of November, 2024 as follows: revised plans include alterations to Dinis car park.

Decision

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

Reasons and Considerations

Having regard to the provisions of the Kerry County Development Plan 2022-2028, particularly KCDP11-27 (to support the preservation and enhancement of the general level of broadleaf tree cover and to ensure that development proposals satisfactorily retain trees and or provide additional native planting), KCDP11-3 (to work with all stakeholders to conserve, manage and enhance natural heritage including habitats, species and landscapes of conservation interest and promote increased awareness of heritage), and KCDP11-2 (to maintain nature conservation value and integrity of Special Area of Conservation, Special Protection Area and proposed Natural Heritage Areas), to the nature, scale and design of the proposed development and its location within a sensitive rural area, to the Inspector and Ecologist Reports, and to the significant health and safety improvement for pedestrians and cyclists, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the natural environment, ecological integrity and visual amenities of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Stage 1

In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on the Killarney National Park Special Protection Area (site code: 004038) and the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment Special Area of Conservation (site code: 000365) in view of the conservation objectives of those sites and that an Appropriate Assessment under the provisions of S177U of the Planning and Development Act, 2000, as amended, was required.

Appropriate Assessment Stage 2

Following an examination, analysis and evaluation of the Natura Impact Statement, associated material submitted including the submitted further information, the Commission considers that:

- (i) Adverse effects on site integrity of Killarney National Park Special Protection Area can be excluded in the view of the conservation objectives of this site and no reasonable scientific doubt remains as to the absence of such effects.
- (ii) Adverse effects on the site integrity of Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment Special Area of Conservation can be excluded in view of the conservation objectives of this site and no reasonable scientific doubt remains as to the absence of such effects.

This conclusion is based on the following:

- detailed assessment of construction and operational impacts, having regard to information submitted with the application and at appeal stage,

- detailed consideration of the impacts of the proposed development on the conservation objectives of the European sites and the qualifying interests of these sites,
- the nature and scale of works including the design of the platform and the minor level of permanent and temporary tree loss and habitat loss impacting on the woodland habitat,
- effectiveness of mitigation measures proposed including application of planning conditions, and
- the proposed development will not affect the attainment of conservation objectives for the qualifying interests.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 7th day November, 2024 and further information received by An Coimisiún Pleanála on the 25th day of September, 2025 and the 25th day of March 2026, 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. The mitigation measures contained in the submitted Natura Impact Statement (NIS) shall be implemented.

Reason: To protect the integrity of European Sites.

3. The mitigation measures contained in the submitted Ecological Impact Assessment (EclA), shall be implemented.

Reason: To protect biodiversity and the environment.

4. All works shall be supervised by an on-site Ecological Clerk of Works who will report on compliance with the relevant mitigation measures. The Ecological Clerk of Works shall be empowered to halt works where they consider that the continuation of the works is likely to result in a significant pollution or siltation incident or impact on protected habitats or species, and on-site works will cease until authorised to continue by the planning authority. A compliance monitoring report shall be prepared by the Ecological Clerk of Works and shall be submitted to the planning authority at the end of the main construction period.

Reason: To ensure compliance with mitigation measures and to protect biodiversity.

5. All trees within and on the boundaries of the site shall be retained and maintained with the exception of those shown for removal and trimming in the schedule and drawings submitted to An Coimisiún Pleanála on the 25th day of September, 2025. All works for the removal, trimming and protection of trees to be retained shall be in accordance with the submitted Tree Survey Report submitted to the planning authority on the 7th day of November, 2024. All works shall be supervised by an on-site suitably qualified and experienced arborist or tree surgeon who will submit a report on compliance with the relevant measures.

Reason: To protect trees and planting during the construction period.

6. Prior to the commencement of felling/works, trees with bat roosting potential shall be surveyed by a suitably qualified Ecologist who is appropriately qualified and experienced in undertaking bat surveys and in line with best practice at the appropriate time of year to confirm the absence of roosting bats. In the event that a previously undetected bat roost is identified and is likely to be disturbed, the applicant shall acquire a derogation licence under Regulation 54 of the European Communities (Bird and Natural Habitats) Regulations 2011 prior to the commencement of the relevant works. Prior to the removal of trees and/or works to building, the bat survey results, methodologies for felling/works and any derogations shall be submitted for the written agreement of the planning authority.

Reason: For the protection of bats, a protected species.

7. Prior to the commencement of construction, a suitably qualified Ecologist who is appropriately qualified and experienced in undertaking invasive alien species (IAS) surveys and in line with best practice at the appropriate time of year shall carry out a survey of the site for invasive alien species (IAS) designated under the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations (2011). A verification report shall be submitted to the planning authority prior to commencement of construction. Should any IAS be found, an IAS Management Plan is also to be provided to the planning authority. Implementation of any IAS Management Plan shall be monitored and signed off by the project ecologist in agreement with the planning authority. No works are to take place until actions of an IAS Management Plan are completed. Depending on the IAS in question, post-construction monitoring may be required to ensure controls have been successfully carried out. Any records of IAS found on the site are to be submitted to the planning authority and the National Biodiversity Data Centre (NBDC) using the NBDC standard reporting form to inform future planning and ensure monitoring.

Reason: To prevent the spread of alien invasive species and to protect the integrity of European Sites.

8. 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 set out a detailed methodology for construction works in accordance with the details submitted with the application including for the location and set up of compounds, phasing of works and specific mitigation measures for construction stage as set out in the submitted Natura Impact Statement and Ecological Impact Assessment. The CEMP shall incorporate details for the following: collection and disposal of construction waste, surface water run-off from the site, on-site road construction, environmental management measures during construction including working hours, lighting, 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 and public health and safety.

9. 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 interests of traffic safety and convenience.

10. Prior to commencement of development, the developer shall agree in writing with the planning authority, details of biodiversity and enhancement measures which shall be implemented as part of the project. These measures shall be in accordance with section 12 Enhancement Opportunities of the submitted Ecological Impact Assessment. All agreed measures shall be completed within 18 months of the completion of this development under the supervision of an appropriately qualified and experienced specialist.

Reason: To protect biodiversity.

11. (a) Prior to commencement of development, the developer shall submit a Stage 2 Road Safety Audit for the development, prepared in accordance with Transport Infrastructure Ireland (TII) Road Safety Audit Standards Publication and shall submit this for the written agreement of the planning authority. Where the audit identifies the need for design changes, revised designs shall be submitted to, and agreed in writing with, the planning authority. The developer shall carry out all necessary works in accordance with the agreed revised design.
- (b) Post construction, the developer shall submit a Stage 3 Road Safety Audit for the development prepared in accordance with Transport Infrastructure Ireland Road Safety Audit Standards Publication and shall submit this for the written agreement of the planning authority. Where the audit identifies the need for remedial works, design details shall be submitted to, and agreed in writing with, the planning authority. The developer shall carry out all necessary works in accordance with the agreed design.

- (c) The development shall not be brought into operational use until all works have been carried out to the written satisfaction of the planning authority.

Reason: In the interests of traffic safety and orderly development.

12. Prior to commencement of development, the developer shall submit details of the location and design of signage to serve the proposed development, for the written agreement of the planning authority. The signage shall be in accordance with the Traffic Signs Manual and Transport Infrastructure Ireland Specifications and to the specifications of Kerry County Council.

Reason: In the interests of traffic and pedestrian safety.

13. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public road. 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: In the interest of traffic safety and the proper planning and sustainable development of the area.



Declan Moore
Planning Commissioner of An Coimisiún
Pleanála duly authorised to authenticate
the seal of the Commission.



Dated this 30th day of September 2026