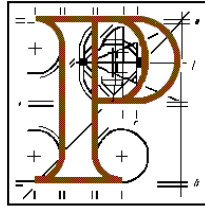


An Bord Pleanála



Inspector's Report

Development: Construct public (western) access road to Killarney National Park and construction of car-park, at Gortadirra and Tomies West townlands, Beaufort, Co. Kerry.

Planning Application

Planning Authority : Kerry County Council
Planning Authority Register Ref. : 14/134
Applicant : National Parks & Wildlife Service
Type of Application : Permission
Planning Authority Decision : Grant permission

Planning Appeal

Appellant(s) : Kerry Association of An Taisce
: Michael Horgan
: Katherine Cremin & Others
: Tony Lowes – Friends of the Irish Environment
Type of Appeal : 3rd Parties v Grant
Observer(s) : Nora Bartlett (Killarney Nature Conservation Group)

Date of site inspection : 9th April 2015

Inspector: **Michael Dillon**

1.0 Site Location and Description

- 1.1 The site, with an unspecified area, is linear, approximately 1.2km in length, located close to the western shore of Lough Leane, and on the northern slope of Tomies Mountain – all to the west of Killarney in Co. Kerry. The site rises gently from 33m OD at the new access, to 53m OD at the proposed car-park (currently a hard-core area used for National Park maintenance vehicles). There is a timber farm gate and a metal barrier controlling access to Tomies Wood – together with some discrete signage for the Killarney National Park. There is a derelict old stone house in the woods beside the car-park location. The southern section of the access road and the proposed car-park are located within the Killarney National Park – the larger northern portion being on private rough grazing land, much of which is overgrown with gorse or waterlogged. Small streams/drains feed from land to the southwest down into the stream which flows along the route of the proposed new access road.
- 1.2 Access to the site is via a wide county road, off the N72 Killarney to Killorglin National Secondary Route, as far as Cullane Bridge. From this junction, there is a branch cul de sac county road (L11203), which serves as access to a number of one-off houses/older farmhouses (approximately 25 in total), farmland and a boating access onto nearby Lough Leane. The road is narrow, and it is only possible to pass two vehicles at passing places, or where the roadside boundary of one-off houses has been set back. There is grass growing in the centre of the road in places. The 80kph speed restriction applies in this area. There is no public lighting and there are no public footpaths. The length of the access road is approximately 600m, from Cullane Bridge to the point where the appeal site commences with widening of the existing cul de sac and divergence from it onto an unsurfaced farm track. This farm track serves as access to two houses, a farmyard, flanking farmland, and Tomies Wood. There is a green avenue off this track leading to Tomies Cottage. The existing access track is almost entirely lined by post and wire fencing on both sides. The existing access track has some gates on it and signage indicating that bicycles and dogs are not permitted. At present there is a widened stretch of the public road where the appeal site commences – used as informal parking for approximately 10 cars (visitors to Tomies Wood). There is one small finger post sign indicating ‘Tomies Wood’ at the point where the current access track leaves the public road.
- 1.3 A new road is to be constructed alongside the northern portion of the existing track. It diverges from it at a farm gate access to Tomies Cottage (now a grass laneway). From this point the proposed new road diverges from the original track – only re-joining it (to run alongside again) at the southern end. The diverging track runs alongside the bed of a small stream – along which there is post and wire fencing. The ground which

the new track is to traverse mostly comprises rough grazing, gorse thickets and scrub woodland: much of it is overgrown and waterlogged.

- 1.4 There is an existing loop walk within Tomies Wood (approximately 6km) along a standard unsurfaced forestry road – passible by vehicular maintenance traffic. The wood comprises mostly old oak with holly understorey. There are some small blocks of birch. The wood was partially planted with coniferous trees in the past. Old stone field boundary walls are still in evidence throughout the wood – with remains of old fields particularly noticeable at the southeastern end. Much of the northwestern portion of the wood has been cleared of *Rhododendron ponticum*, but this invasive species is rampant at the southeastern end. Rhododendron has almost completely colonised large tracts between Sheehy Mountain and Lough Leane – although a walking track has been hacked through to link Tomies Wood, Glena and Dinis Cottage on Muckross Lake – over some very rough ground. This walking trail is not signposted. Within Tomies Wood the principal attraction is O’Sullivan’s Cascade – discretely signposted off the loop trail. There are some spectacular views from the loop walk over Lough Leane, between gaps in the trees. The principal features on the landscape which draw the eye are the enormous Liebherr factory and the lakeside Europe Hotel at Fossa.

2.0 The Proposed Development

- 2.1 Permission sought on 12th March 2014, for development of an access track (approximately 1.2km in length) comprising the following elements-
- Widening of short stretch of existing county road and creating a new access.
 - Construction of new length of asphalt road 4-5m wide with culverts beneath it.
 - Rerouting of bed of stream with rock armouring to banks in places.
 - Construction of car-park (28 spaces) at head of new access road to serve as an entrance to the Killarney National Park: car-park surfaced with crushed aggregate.
 - Surface water drainage and hydrocarbon interceptor at car-park.
 - 1.8m high deer fencing along most of the southwestern side of the new access road.
 - Timber post & wire fence on top of 1.0m wide sod & stone ditch on the boundary with the stream.
 - Temporary siltation ponds during construction phase.
- 2.1.1 The application is accompanied by the following-
- Natura Impact Statement (compiled by Jervis Good, and divided into two parts) – one for the Killarney National Park, Macgillycuddy’s Reeks and Caragh River Catchment candidate Special Area of Conservation (Site code 000365), hereafter

referred to as the SAC; and one for the Killarney National Park Special Protection Area (Site code 004038), hereafter referred to as the SPA.

- Ecological Report.
- Details of 'Klargester' fuel/oil separator at car-park.
- Letters of consent from 3 no. landowners to the making of the planning application.

2.2 The following additional information was received on 18th September 2014-

- Revised cross-sections of proposed access road.
- Cross section drawing of car-park: now to include a macadam surface.
- Sightlines at proposed entrance from county road.
- Flooding issues at double-piped culvert beside the proposed entrance – to include additional 1m diameter flood relief pipe.
- Fencing at the proposed car-park.
- Retention of 2m wide mound which divides new access road from the stream which flanks it (with revised cross sections).
- Indication that land was not available for purchase for a car-park on the existing public road.
- Retractable bollards at the entrance will control access.

2.2.1 The additional information submission is accompanied by the following-

- Revised Natura Impact Statement (again split into two parts) and Ecological Report (to include revised drawings).
- Outline Construction Method Statement.

2.3 Revised public notices were received by the Council on 6th October 2014.

3.0 Development Plan

3.1 When the decision to grant planning permission was made by Kerry County Council, the relevant document was the Kerry County Development Plan 2009-2015. The northern portion of the site (where it ran along an existing farmhouse/forestry access track in the vicinity of Tomies Cottage) was designated 'Secondary Special Amenity' landscape, whilst the principal portion (southern end to the site) was zoned 'Prime Special Amenity' – the highest in three levels of landscape category. Section 12.2.7 states- "Rural Prime Special Amenity Areas are those landscapes which are very sensitive and have little or no capacity to accommodate development. In these areas all development will be prohibited, other than exempted development in accordance with Schedule 2 of the Planning and Development Regulations 2001-2007". The elected representatives agreed to a material contravention of the Plan, in order that planning permission could be granted.

- 3.2 The Kerry County Development Plan 2015-2021 was adopted in February 2015, and came into effect on 16th March 2015.
- The landscape designation has not changed in the new Plan.
 - There are no Views & Prospects impacted by the proposed development.
 - Objective ZL-1 states- “Protect the landscape of the County as a major economic asset and an invaluable amenity which contributes to the quality of people’s lives”.
 - Section 12.2.1 states in relation to “Rural Prime Special Amenity” zoned lands- *‘Rural Prime Special Amenity Areas are those landscapes which are very sensitive and have little or no capacity to accommodate development. In these areas all development will be prohibited, other than normally exempted development in accordance with Section 4, Planning and Development Act 2000-14, Schedule 2 of the Planning & Development Regulations 2001-2013 and Chapter 3.3.2 which will be open to consideration, subject to satisfactory integration into the landscape and compliance with the proper planning and sustainable development in the area’.*
 - Section 3.3.2.3 deals with residential development in rural areas, and, in relation to “Prime Special Amenity” areas, allows for houses for a farm family member engaged in agriculture or horticulture.
 - In relation to “Rural Secondary Special Amenity” lands, development can be considered subject to good planning and integration into the surrounding landscape.

4.0 Planning History

There is no mention made of any recent relevant planning applications in the documentation submitted with this appeal.

5.0 The Planning Authority’s Decision

- 5.1 Arising from the location of part of the site within an area zoned Rural Prime Special Amenity, it was decided to invoke material contravention procedures of the Kerry County Development Plan 2009-2015. Notification was published on 28th November 2014. There were a number of observations received by the Council – against and in favour of the proposed material contravention. A report on the material contravention was prepared for the meeting of Killarney Municipal District on 28th January 2015 – recommending that permission be granted for the proposed development.
- 5.2 By Order dated 29th January 2015, Kerry County Council issued a Notification of decision to grant planning permission subject to 8 no. conditions – the principal ones of which may be summarised as follows-

1. The development shall be carried out in accordance with plans and particulars received by the planning authority on 12th March and 18th September 2014.
2. Requires contractor to submit to Inland Fisheries Ireland, a method statement on road construction, river diversion and culvert placement.
3. Works liable to affect surface waters or aquatic species shall not be carried out between the months of October and April.
4. Relates to electro-fishing.
6. Requires all mitigation measures outlined in the NIS document and Ecological Report to be carried out.
8. Relates to control of access to car-park by way of barriers/bollards.

6.0 Grounds of Appeal

- 6.1 There are four 3rd party appeals from the following-
1. An Taisce, received on 24th February 2015.
 2. Michael Horgan, Lakes & Rivers of Kerry Salmon and Trout Conservation & Protection Association, received on 24th February 2015.
 3. Katherine Cremin & Others, Tomies, received by the Board on 24th February 2015.
 4. Friends of the Irish Environment, received by the Board on 25th February 2015.
- 6.2 The issues raised in the appeals can be summarised in bullet point format as follows-
- Most visitors to Tomies Wood are local, as there are no signposts in this area. Visitors park in the lay-by on the cul de sac (spaces for approximately 10 cars), and then walk approximately 1km through private land to reach Tomies Wood. There is a popular 6km loop walk through the woods – which affords views of O’Sullivan’s Cascade. The current access situation is not ideal, and there is merit in providing alternative access arrangements.
 - Some cars park on the road closer to Lough Leane.
 - The Material Contravention procedure was used to allow permission to be granted in a zone of Rural Prime Special Amenity.
 - The visual amenity of the roadway from Tomies Mountain and from Sheehy Mountain has not been assessed – even though these are popular hiking areas.

- There is insufficient information on usage of Tomies Wood, how people arrive, days of use etc.
- There will be little direct supervision of the new car-park.
- Proximity to Tomies Wood will allow for easier carriage of items such as bicycles and tents. This may lead to increased litter/dumping; introduction of invasive species; harvesting of holly at Christmas; antisocial behaviour at the car-park; fire risk from campfires; disturbance to wildlife.
- Visitors are not at present permitted to bring dogs over the private access road to Tomies Wood. It is proposed to allow dogs on a lead from the new car-park. There are complaints about loose dogs within other areas of the National Park.
- More information is needed on what facilities will be provided at the car-park for children, picnic, camping, barbeque, litter etc.
- The use of the National Park for recreational purposes is acceptable where conditions allow, but nature conservation should be the prime objective. There would not appear to be any damage caused at Tomies Wood at present, except for a small area at O'Sullivan's Cascade (which is to be protected with fencing).
- An estimated six-fold increase in visitor numbers does not take into account the proposed Lough Leane loop walk. This will attract a large number of walkers and cyclists to Killarney. The trail would go from Tomies Wood to Glenna, close to a spot where the White-Tailed Sea Eagle has attempted to breed. The likely impact on the Sea Eagle has not been examined in the Ecological Report. The Manager of the Introduction Project has already expressed his concerns in relation to the proposed development by way of submission to the Material Contravention process.
- It is not clear if cyclists will be permitted on the Tomies Loop Trail. The car-park would make it easier to bring mountain bicycles into the area.
- It is noted that the NPWS could not acquire land for a car-park off the existing road. But it is not clear if attempts have been exhaustive on other parts of the access road.
- The new access road will have to be heavily engineered, and will be costly to construct. A cheaper option would be to construct a footpath only from the existing lay-by. Passive supervision of car-parking on the lay-by could be maintained by existing road users.
- The NPWS should not be trying to run a new road through virgin land with the highest environmental rating.
- The conditions of permission will not be adhered to.
- The NPWS have built barriers to control access at other areas within the National Park, but they have not been maintained. Barriers have been vandalised and do not get replaced.
- Remote car-parks within the National Park are often used at night for deer-poaching.

- Most, if not all of the parties connected with the project are paid from the public purse: which could result in a conflict of interest.
- The Cremin family are adjoining landowners to the National Park, through whose lands the existing access to Tomies Wood runs.
- Tomies Wood is removed from the commercially developed area of the National Park around Muckcross Lake.
- Coniferous planting in the area of Tomies Wood was carried out in the 1950's. At that time, the state accessed Tomies Wood via the lake shore road which is within their property. As harvesting increased, the Cremin family signed an agreement allowing access across their lands. Access for recreational purposes has increased in recent years. The proposed development is just the first stage of a greater development plan for a loop trail around Lough Leane.
- The application includes lands in the ownership of the Cremin family without their consent.
- It is claimed that the Material Contravention procedure was unlawful due to conflicts of interest.
- Overspill from the proposed car-park would result in parking along the access cul de sac, which would cause its own problems.
- The car-park at Fossa, granted for use of tourists, is mostly used by employees of a nearby factory.
- The L11203 is too narrow to cope with additional traffic.
- Flooding is an issue; where roads are constructed of impervious material.
- The NPWS has not maintained fencing in the area. This allows for trespass onto private lands.
- Rhododendron infestation has recently been dealt with in this area. The ecosystem is too sensitive to support a development of this nature – interfering with mosses and low-lying plants.
- The new entrance is at a higher level than the current one and will result in erosion.
- Alterations to the course of the stream will result in flooding of Cremin lands.
- The petrol interceptor is only a few feet from the water which feeds a domestic well.
- Alternative means of access to Tomies Wood have not been examined – boat or minibus. The footpath along the western shore of the lake can be used for pedestrian access.
- Siltation could cause pollution of the River Laune – famous for its salmon.
- The development will result in devaluation of Cremin property.
- This proposal is part of the Lough Leane Loop Trail and constitutes project splitting. Since the Loop Trail was announced in February 2014, there has been no progression in relation to constraints and route options.

- This site is more than just a National Park, it has many other nature designations – SAC, SPA, pNHA and core Area of a UNESCO Biosphere Reserve. It is an objective of the latter to promote sustainable development based on local community efforts and sound science. This project is contrary to the objectives of the Biosphere Reserve, in that there appears to be no consideration given to alternative public proposals/community efforts. Community effort has been undermined by use of Material Contravention procedures by Kerry County Council.
- The Killarney Nature Conservation Group's submission shows that their modified Loop route does not in fact utilise the proposed car-park and the access to it.

6.3 The appeals are accompanied by the following documents of note-

- Newspaper extract of 22nd January 2014, from Kerry County Council inviting submissions on Lough Leane Loop Trail Project.
- Brochure for Bourn Vincent Memorial Park.
- Drawing extracts showing land ownership of Cremin family.
- Copy of letter sent by Cremin family to County Councillors – dated 26th January 2015.
- 2 no. annotated colour photographs of fencing.
- Highlighted extracts from the planning application form for the development relating to flooding and land ownership.
- Letters from Cremin family to Kerry County Council with regard to the planning application the subject of this appeal.
- Colour photograph of The Cascade at Tomies Wood.
- Highlighted, Kerry County Council notification of proposed Lough Leane Loop Trail Project (February 2014).
- Comparative maps of Tomies Wood Loop Trail and Lough Leane Loop Trail Project.
- Copy of submission of Friends of the Irish Environment to Kerry County Council in relation to material contravention to facilitate the proposed development.
- Copy of Killarney Nature Conservation Group Report for development of route options for the Proposed Lough Leane Loop Trail (dated 23 February 2014) – including letters from academics as appendices.

7.0 Observations

There is one observation from Nora Bartlett (Killarney Nature Conservation Group), received by the Board on 19th March 2015, which can be summarised in bullet point format as follows-

- Applicants are in breach of International Union for the Conservation of Nature (IUCN) Guidelines for National Parks, which states that

conservation of nature is the primary concern in attaining National Park status.

- There has been continued pressure from commercial and statutory bodies to increase the number of visitors to the area – particularly through facilitating a loop walk around Lough Leane.
- The observer has already submitted plans to the NPWS which could see this project realised at much reduced cost to the taxpayer. The NPWS has argued in the past that such a loop walk was not required and that human intrusion into more remote areas of the National Park should be resisted.

8.0 Response Submissions

8.1 1st Party Response to 3rd Party Appeals

8.1.1 The response of Frank Coffey Consulting Engineer, agent for the applicant, NPWS, received by the Board on 24th March 2015, can be summarised in bullet point format as follows-

- The Killarney National Park encompasses 10,289ha. It was designated a UNESCO Biosphere Reserve in 1981. The NPWS is responsible for its management. Whilst nature conservation is the main objective within the Park, recreation and tourism amenities must also be considered on land and water. The Park is the key tourist resource in Killarney.
- The Killarney National Park Management Plan 2005-2009 is the guiding document in management and enhancement of the Park.
- Tomies Wood was initially managed by Coillte, and large tracts were planted with coniferous woodland. Commercial operations ceased in the late 1970's.
- The only access to Tomies Wood is a right-of-way over a private farm. This is a less than ideal form of access. There are private gateways to be opened/closed, and bicycles and dogs are not permitted by the landowners. Fields are not fenced on either side of the access – which could lead to difficulties with livestock and farm machinery. The owners have complained about the intrusion of visitors through the farmyard and passing the house. Since 1982 the Department of Arts, Heritage and The Gaeltacht (and predecessors in name) have liaised with the Cremin family to try to relocate the access away from the family home. All attempts at reaching agreement ended in failure. The access road remains restricted with health and safety concerns, and a poorly maintained surface. The initial stage of the Tomies Wood access is somewhat intimidating for many and access is denied to sections of society – the disabled, blind or partially sighted (no dogs allowed). This difficulty of access is acknowledged in the Killarney National Park

Plan (Section 8.1 – “Access to Tomies Wood is difficult, as privately owned land has to be crossed to get to the main entry point”).

- The Department opened negotiations with neighbouring landowners in 2011, and progressed to planning stage in 2014. The adjacent owners are prepared to sell the land needed, but are unwilling to provide land for a car-park at the public road (northern end of the scheme). The road will be fully fenced, to prevent trespass by farm animals.
- The applicant has some moral responsibility to deal with the unsatisfactory parking situation on the public road. Parking will be provided at an expanded hard standing area.
- Natura Impact Statements were prepared for European sites, and an Ecological Report prepared for the Killarney National Park Biodiversity UNESCO Biosphere Reserve and pNHA.
- The NIS and Ecological Reports concluded that the development would not have significant impacts on either European sites, protected species or the Biosphere.
- The development site does not encroach on Cremin land, except at the southern end at the point where the road is jointly owned by the Cremin family and the State. The planning boundary confers no right to develop on 3rd party lands.
- The Cremin family observation in relation to conflict of interest contains inaccuracies. Whatever the appellants’ perception of conflict of interest, it has little impact on this planning process.
- Condition 8 of the notification of decision to grant planning permission requires the closure of the car-park in the evening by means of automatic telescopic bollards. This will help deal with complaints of possible anti-social behaviour.
- The car-park at Fossa is entirely unconnected with the proposed development.
- Poaching, litter and holly gathering are threats at present in the National Park and require monitoring as it is, even without the car-park and new access.
- The stream is being re-channelled for a short distance close to the public road. Inland Fisheries Ireland will be involved in consultations over this construction work.
- Parking at Muckross House on busy weekends is unrelated to the current application.
- The new access will improve the amenity of the Cremin family, by removing vehicular and pedestrian movements past their house and farm. It is paradoxical that, having been unhappy with the increased usage (by walkers), for years, the Cremin family now object to their farm being circumvented.
- It is accepted by all that a car-park on or near the public road would be the ideal solution, but none of the adjacent landowners are prepared to sell land.

- The northern portion of the access road is through rough agricultural land. The southern portion runs along the fence-line so as to minimise intrusion.
- The applicant is happy to implement the conditions of the planning permission in full.
- It is noted that An Taisce concedes that the present access arrangements are not ideal.
- The designation of sites does not imply a total restriction on all development.
- The road will be well-screened using natural topography and will be screened by existing hedgerows and trees. The access road will be seen from a very narrow area of Tomies Mountain, but not at all from Shehy Mountain.
- The potential for many of the anti-social or problematical situations listed by An Taisce, exists at present. The existence of such problems is not a valid reason for refusal of permission.
- Should the Lough Leane Loop Trail proceed, then the Tomies Trail may form part of it. However, the project before the Board is a 'stand-alone' one which will fulfil a longstanding set of requirements of the NPWS. The access arrangements for Tomies Wood have been in gestation since 1982 – long pre-dating the Lough Leane Loop Trail proposals. Any plans for such a trail will have to undergo the required environmental screening and may or may not come to fruition, either along lines originally proposed or along a very different route.
- The Tomies Loop will continue as a walking amenity, as it does currently.
- Any new access route could be confined to pedestrians, but a narrow route would not fulfil the management requirements of the NPWS. Maintenance vehicles will require the 4m roadway. Constructing a narrower path would be a false economy.
- It could be argued that Material Contravention of the development plan was not necessary, as an access road and car-park could be considered to fall into Class 36(a) & (b) – development for amenity purposes – of Schedule 2 of the Planning and Development Regulations 2000.

8.1.2 The response is accompanied by copies of the following-

1. Management Plan for Killarney National Park 2005-2009 (produced by NPWS).
2. Some details from Land Registry Folio 24640.
3. Separate document detailing responses to ecological issues raised by 3rd parties as follows-
 - The primary objective of Category II National Parks is- "To protect natural biodiversity along with its underlying ecological structure and supporting environmental

processes, and to promote education and recreation”. There are other objectives to manage visitor use and to contribute to local economies through tourism. The assessment approach used by the applicant is considered appropriate to ensure that recreational benefits are consistent with biodiversity and ecological objectives within the National Park.

- The car-park is on an area of mineral and drained soil, and cannot be classified as a bog. The access road does include areas of wetter peat, and mitigation measures have been provided for peat habitats affected.
- Dogs have not caused significant damage to plants elsewhere within the National Park. Occasional pursuit of deer has no recorded impact on the populations of the two deer species.
- There are already a number of car-parks within forested areas of the National Park which have not resulted in greater fire risk.
- The buffer along the stream has been increased from 1m to 2m width.
- The stream at this site is not a preferred habitat for juvenile or mature eels. All species of fish (including eels) will be removed by electrofishing prior to commencement of construction work.
- Poachers will be less likely to use a car-park at the head of a cul de sac where egress could be easily blocked.
- Illegal dumping is not a reason for refusing planning permission. Bollards at the entrance to the car-park should help to control such anti-social behaviour.
- There are already some invasive species in Tomies Wood – Cotoneaster is spread mainly by birds. Japanese knotweed and Himalayan balsam can be spread by construction vehicles. Mitigation measures to prevent such spread have been included in the NIS.
- Torc Waterfall has a much higher visitor rate than O’Sullivan’s Cascade, and damage has not been caused there to bryophytes (moss and liverwort) habitats. Historical collectors are likely to be the cause of loss from Torc Waterfall.
- There is no proposal for play facilities at the car-park.
- The observation in relation to the Golden eagle relates to recreational disturbance to these introduced birds. It is recommended that the route from Tomies to Gléna (for hikers) be closed to prevent disturbance in this remote area of the National Park. This walk is not clear and is not signposted from Tomies Wood. It is proposed to block the

route from Tomies to Glena as part of this application – to prevent disturbance to White-fronted geese. With regard to nest failure for sea eagles, it is noted that a pair bred in trees on Garnish Island in Glengarriff Harbour in 2014, close to a point where passengers disembarked to visit the gardens on the island. The eagles can breed close to areas of human activity. It is not clear if the same would obtain in Tomies.

- Success of a barrier at the southeastern end of Tomies Wood (to prevent walkers continuing on to Glena and Dinis Cottage) will be a deciding factor for success in eagle breeding in Glena. The existing Tomies Loop Walk will not impact on breeding.
- It is not proposed to facilitate cyclists on the Tomies Loop walk as the gradients are too steep in places.
- The proposed development is to serve the existing Tomies Loop Walk and does not form part of a wider Lough Leane Loop Walk. The route of the Lough Leane Loop Walk, as advertised on 22nd January 2014, was indicative only. The obligation for in-combination and cumulative assessment of the Tomies Wood Loop Walk and any proposed Lough Leane Loop Walk would rest with the NIS and EIS of any later project.
- There is no baseline information on the usage of roadside parking at the access to Tomies Wood. The estimated six-fold increase in usage was based on easier access for families (which would not spend the entire day in the area as hikers mostly do at present). Increased usage was also based on increased parking spaces being provided.
- A barrier on the walking route from Tomies Wood to Glena will be made of brash – likely cut rhododendron. This should deter all but the most vigorous of hikers from possible disturbing of winter feeding Greenland white-fronted goose. Hiking will be a more popular activity in the summer when geese have left.
- Section 3.4 of the Bryophyte Report was deliberately left blank because of the sensitive nature of the information/photographs contained therein (to deter collectors of rare species). This section of the report could be made available to the Board on condition that it remains confidential.
- Both Merlin and Peregrine falcon have wide foraging territories, and no breeding sites are known in the vicinity of the proposed car-park or access road. The same applies to the Tomies Wood Loop Walk.

8.2 2nd Party Response to 3rd Party Appeals

There is no response from Kerry County Council to the grounds of appeal submitted.

8.3 First 3rd Party Response to Other Appeals

None received.

8.4 Second 3rd Party Response to Other Appeals

None received.

8.5 Third 3rd Party Response to Other Appeals

None received.

8.6 Fourth 3rd Party Response to Other Appeals

None received.

8.7 Board Refers Appeal for Comment

The Board was concerned that The Heritage Council had not been circulated by Kerry County Council during consideration of the application. The Board invited comment from The Heritage Council on or before 5th May 2015. There was no response received within the appropriate period.

9.0 Board Seeks Additional Information

9.1 Under Section 132 of the Planning and Development Act 2000 (as amended), the Board sought additional information from the applicant on matters relating to the Natura Impact Statements submitted and also some other ancillary matters not related to European sites, on 19th May 2015.

9.2. The response of Frank Coffey Consulting Engineer, agent for the applicant, NPWS, received by the Board on 18th November 2015, can be summarised in bullet point format as follows-

- The area of the site, outlined in red is 2.63ha.
- The area of the construction wayleave is 1.09ha. Accordingly, the net area of the site is 1.54ha.
- The area of the site located within the SAC is 0.79ha.
- The area of the site located within the SPA is 0.48ha (which also happens to be within the SAC element).
- Therefore, the maximum area of European sites affected by the proposed development is 0.79ha.

- Two signs are proposed – one at the public road. This may be a matter of licensing rather than a planning application.
- Visitor access is to be controlled using automatic bollards. Exit and entry loops will count cars in and out of the car-park. When the car-park is full, the bollards will rise and close off access. Emergency phone contact will be available for motorists trapped inside after official closing time. The bollards will not restrict pedestrian or cyclist movements. Cyclists will be required to leave bicycles at the car-park.

9.2.1 The response submission is accompanied by the following-

- Drg. No. FC1291L19 – to scale 1:1,250 showing habitats within and immediately adjoining the red line boundary of the site.
- Drawing showing location of sign at county road.
- Drawing showing location of 4 no. retractable bollards.
- Typical specification for retractable bollards.
- Revised Schedule of Commitments – Mitigation and Monitoring measures.

9.2.2 The response submission is accompanied by a Report from Jervis Good, Ecologists, which can be summarised in bullet point format as follows-

- Explanatory note to habitat map.
- Molinia meadows [6410] habitat does not occur within the site or immediately abutting it. Molinia-Potentilla erecta mire occurs within the site boundary and the SAC. Molinia meadows habitat is recorded elsewhere within the SAC.
- In relation to the 26 no. habitats/species which appear in the conservation objectives of the SAC, a number do not feature within the site. Of those that do, the following is of note-
 - Northern Atlantic wet heath with Erica tetralix [4010] is not found within the SAC boundary – but there is a small area of 'Wet heath mosaic' which is transitioning to 4010 habitat. This area will be fenced-off from road construction works. A low impermeable berm will be created above the road drain to avoid excessive surface drainage from the wet heath habitat. The area to be fenced is illustrated in Figure 4 – and will be reflected in the revised Schedule of Commitments.
 - An area of Hypericum-Potamogeton pool habitat will be recreated within the SAC to ensure that there is no net loss of wetland habitat – where small areas of this habitat in the commonage area will be lost where the wider commonage area drains into the Tomies East Stream.
 - Freshwater pearl mussel was not found in the surveys of the stream which flanks the proposed access road. There are mussels in the Gearhameen River some 8km to the south of the site.

- In relation to Marsh fritillary, it has not been recorded within the 10km square wherein the site is located. A survey for this species was carried out during the flight season on 4th, 16th & 23rd June 2015. No butterflies were recorded. No larval webs were recorded during further examination of the site on 8th September 2015. Some 18 plants of Devil's bit scabious were located during a search of the site – indicating a low density, probably due to lack of significant grazing.
- A survey of the Tomies East Stream was carried out on 25th September 2015, at 3 no. locations (Survey sites 2 & 3 being within the site boundary). The stream is 1.8km in length. It debouches into the River Laune to the north of the site. The survey included electro-fishing, macroinvertebrate sampling and water quality parameters. The stream is used by spawning trout, but because of absence of pools, is unlikely to be used by adult fish. Although salmon numbers were low, it is possible that the lower reaches are used for spawning – although juvenile salmon observed were likely to have originated in the River Laune. No lamprey or eel were recorded during the survey. Biological water quality (unpolluted) was found to deteriorate in the lower reaches – from Q4-5 to Q3-4. Run-off from farm animals is the most likely cause of the deterioration in water quality. Most of the stream bed has been historically deepened, with the deposited materials forming a linear bank on which gorse now grows.

9.3 The response of the applicant was referred to the other parties to the appeal – for comment on or before 21st December 2015.

9.3.1 The response of Katherine Cremin & Others, received by the Board on 17th December 2015, can be summarised in bullet point format as follows-

- The applicant did not adhere to the 18th November deadline for submission in response to the Board's request for additional information.
- The format of the response from the applicant was not available to all parties to the appeal, as broadband is not available in all parts of Kerry.
- The applicant has not adequately responded to the Board's request – particularly in relation to points 1(a), 1(b), 1(c) and 1(d).
- Automated gates and bollards fail on a regular basis, and the applicant is aware of this.
- The Board has refused permission for houses in this area. This application must be refused on the same grounds.
- This development is part of the larger Lough Leane Loop Trail.
- Flooding in this area is a threat, and the recently permitted Fossa boat house within the Killarney National Park.

- Public funds have been used to make this planning application – which does not meet all planning criteria.

9.3.2 The response of An Taisce was received by the Board on 21st December 2015. The response is in the nature of a new appeal – referring within the document to matters outside of the 1st party response to the Board’s request for additional information. The appellant has engaged consultants, Conservation Services, to report on the original Natura Impact Statements submitted and Ecological Reports, as well as the additional information submission of 18th November 2015. The response (where relevant) can be summarised in bullet point format as follows-

- It must be assumed that salmon is present in the Tomies Rock stream which flows from the car-park area into Lough Leane. The stream was not assessed for the presence of salmon. Therefore, the impacts of the development on this stream have not been assessed.
- The River Laune is a major migratory route for salmon. The Tomies East Stream is salmonid. The suitability of the entire stream was not assessed (only three sites). No mitigation measures are presented in the NIS or the further information response for the impact of the road construction on this stream. Suspended solids could impact on this stream and the River Laune. Movement of fish would be obstructed. The road should be set back from the stream, and all construction run-off should be directed to settlement ponds before discharge to watercourses. Construction will be within 6-7m of the stream bank. Use of silt curtains within a salmonid stream would usually only be regarded as appropriate in an emergency situation. Good practice dictates that silt should be kept out of streams. Construction of a new mound along the stream would itself be a potential source of silt flow into the stream.
- The response in relation to Killarney shad indicates that the species will not be impacted because it is not present. There is no clear evidence where spawning or nursery beds are located. Silt and hydrocarbons are the major threats to this species. The construction of the car-park could result in run-off into the Tomies Rock Stream and from thence into Lough Leane, where Killarney shad might spawn.
- The proposed development might negatively impact on Slender naiad through discharge of silt into the Tomies Rock Stream and from thence into Lough Leane – where the plant has been identified as being within 750m of the outfall point.
- Lough Leane is a mesotrophic lake. Pollutants entering the Tomies Rock Stream from the car-park area (900m upstream from Lough Leane) could have an impact on this habitat.

- Greenland white-fronted goose at Glena will likely be impacted by more hikers in the area. The same applies to White-tailed sea eagle.
- Atlantic sessile oak habitat will be impacted by more visitors to the area. The NIS does not deal with impacts on this woodland habitat with its community of bryophyte and lichen flora above O'Sullivan's Cascade up to Lamb's Fall. Extra visitors to the area could have an impact on this habitat. The 1.2km wooded ravine is one of the most scenic and spectacular places in the National Park. A submitted extract from website of Canoeing Ireland illustrates this.
- Walkers and kayakers will be drawn to this area through ease of access from the car-park.
- The in-combination impact of the proposed Lough Leane Loop Walk has not properly been assessed.
- To successfully mitigate the potential serious impacts of the proposed development on the oakwood, white-tailed sea eagle and Greenland white-fronted goose, it will be necessary to successfully prevent many of the new visitors to Tomies from seeing what they specifically want to see and from going where they specifically want to go. The proposed 1.3m high wire fence on the north side of O'Sullivan's Cascade will only protect the lower 0.2km of the 1.3km gorge/ravine at this location. The main adventure short cut through the ravine from the lower bridge to the upper bridge is neither addressed not mitigated.
- Brush barriers on the path between Tomies Wood and Glena could easily be circumvented by hikers.

9.3.3 The response of Nora Bartlett (Killarney Nature Conservation Group), received by the Board on 21st December 2015, can be summarised as follows. Surveys done are additional to what was done when the application was submitted. The new car-park will considerably increase the number of visitors to O'Sullivan's Cascade. It is not clear if fencing at the cascade will be sufficient if visitor numbers increase.

10.0 Assessment

The principal issues of this appeal relate to Development Plan considerations, nature conservation/appropriate assessment, access/parking, visual amenity and flooding. Appellants have sought to connect this development with wider issues of management within the Killarney National Park. There have been suggestions that the planning application is in some way connected with other permissions which have been granted permission within the National Park. I would be satisfied that the application should be judged on its merits, and can be assessed as a stand-alone development, not linked with other plans or projects.

10.1 Development Plan Considerations

Kerry County Council invoked Material Contravention procedures of the Kerry County Development Plan 2009-2015, in order to grant planning permission for a development, the principal portion of which was located within lands designated “Rural Prime Special Amenity”. Reference is made in appeal documentation to this process being unlawful, due to conflict of interest. This is not a relevant consideration for the Board. A new Development Plan has come into effect since the Notification of decision of the planning authority to grant planning permission. The Board must have regard to this new Development Plan. The proposed development would appear to materially contravene the new Plan, in that no provision seems to have been made for this development – the only exemption within “Rural Prime Special Amenity” areas would appear to be for housing for farm family members engaged in agriculture or horticulture. Section 12.2.1 does refer to development which could be considered exempted. Notwithstanding the above, the intention of the elected representatives of Kerry County Council must be persuasive – having been indicated as late as 28th January 2015 in the vote to materially contravene the old Development Plan to facilitate this development. Section 37(2)(a) of the Planning and Development Act 2000 (as amended) states- “Subject to paragraph (b), the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates”. This provision would appear to be directed at decisions where the planning authority has refused planning permission. Sub-section (2)(b) refers to decisions of the local authority to refuse permission (not the case in relation to this appeal). I would be satisfied that it is open to the Board to grant planning permission for a development which materially contravenes the Development Plan, particularly in the circumstances of this application, where material contravention procedures were already undertaken by the elected representatives of Kerry County Council.

10.2 Nature Conservation

10.2.1 General Description

The principal portion of this site is located within lands used for grazing – some of it private land, and a portion of it commonage. The ground is wet under foot in places and heavily overgrown with rushes and gorse in some areas. In general, land quality improves from south to north. The site traverses a number of small fields and a commonage area divided by embankments and post & wire fences. The southern end of the site is characterised by scrub vegetation (recolonising felled Sitka spruce plantation). The area around the proposed car-park is characterised by scrub and some mature trees. There is a derelict old stone house within

Tomies Wood located to the northeast of the car-park (not part of the application site). The application was accompanied by an Ecological Report – to which revised drawings were added by way of additional information received by Kerry County Council on 18th September 2014. This report did not address habitats or species listed within European sites. The southern portion of the site is located within a number of European sites – the northern portion lying outside such designations. This deficiency was remedied by way of additional information submission to the Board of 18th November 2015.

10.2.2 Proposed Natural Heritage Area

The southern half of the site comes within the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment proposed Natural Heritage Area (pNHA) (Site code 000365)– hereafter referred to as the pNHA. This pNHA covers an extensive area of mountains and lakes – not quite as extensive as the Special Area of Conservation (SAC) of the same name. The pNHA is noted for Killarney oak woodlands – supporting the best-preserved Atlantic bryophyte community in Europe. Dominant habitat types are blanket bog, heath and upland grassland. Over-grazing by sheep and deer are a threat to the pNHA, as is invasion of species such as *Rhododendron ponticum*. Apart from habitats and species included within the SAC of the same name, there are some additional ones associated with the pNHA. The precise area of the site located within the pNHA is nowhere indicated – I estimate it to be approximately 0.9ha – some of which will be acquired only temporarily (to allow for construction) and will be returned to rough grazing upon completion of the new road. Yet more of this 0.9ha is taken up with the existing access track to Tomies Wood. The line of the new road shadows existing hedgerow/dyke/fence features. The Ecological Report describes the different habitats along the route of the road (further elaborated upon in the additional information submission to the Board of 18th November 2015) – that area within the pNHA comprising clear-felled spruce plantation (now re-vegetating); purple moor grass and some mire and flush pools within a commonage area. This latter habitat will be recreated on disturbed ground to the west of the new access road following completion of construction works. There is existing crushed aggregate on the ground at the location of the proposed car-park. The stream to the east of the car-park discharges directly to Lough Leane. It is an eroding mountain stream subject to wide fluctuations between spate and drought. It has a predominantly cobble bed with some sand and pebbles. It was examined for Freshwater Pearl Mussel in December 2012, and habitat was found to be unsuitable (no specimens were found). The proposed road and car-park will not have any significant impact on the pNHA, provided mitigation measures in relation to construction, drainage and post-construction recreation of habitats are put in place. The area of ground which will be lost is miniscule in relation to the overall area of the pNHA.

10.2.3 Killarney National Park

Only the southern portion of the site is located within the Killarney National Park (size of 10,236ha overall). The objectives of the Killarney National Park Management Plan 2005-2009, relate to conservation and enhancement of ecology and to encourage sustainable recreational and educational use. The proposed development will facilitate this latter objective. These, perhaps conflicting, objectives need to be balanced. I would not agree with the views expressed in the An Taisce appeal that the best way of preserving the ecology of the area is through the complete discouragement of human access to the wider area of Tomies Wood. On the grounds that there is public access to Tomies Wood at present, I would not consider that the increase in visitor numbers to Tomies Wood, which a development of this nature would facilitate, would significantly detract from the conservation and enhancement of ecology, and it could be argued, would improve access to and understanding of the ecology of the area if appropriately managed by the NPWS. Such is more properly the concern of the Killarney National Park Management Plan rather than planning control.

10.2.4 UNESCO Biosphere Reserve

The Killarney National Park is a UNESCO Biosphere Reserve – designated in 1982, and covering a stated 10,129ha (almost the same size as the current National Park). There is no legal status attaching to a designation such as this – relying on other national legislation to put the objectives into operation. The car-park and access are located on the edge of park lands – a transitional area (abutting farmland) as opposed to a core/buffer part of the Biosphere Reserve, as argued by the applicant. There are other roads and car-parks within the Biosphere Reserve. A development of this scale will not have a significant impact on the Biosphere Reserve.

10.2.5 Farmland outside of Nature Designations

The northern half of the proposed access road is located outside any nature designation. It traverses mostly marginal farmland – flanked by an eroding upland stream. Proposals are in place to control the channel of this stream through the use of rock-armouring. Approximately 35m of hedgerow will be removed to facilitate the construction of the new access; with a further 6m removed on the opposite side of the road to improve sight lines. This loss is not significant in the context of what exists in the immediate area.

10.2.6 Stream within the Site

Works within and adjoining the Tomies East Stream along the boundary of the road, have the potential to impact on aquatic species. The application was referred to Inland Fisheries Ireland (IFI) for comment. During the

course of consideration of the application it was decided to keep the 2m wide mound (deposited spoil from earlier deepening works in the channel) which runs along much of the boundary of the existing stream and which will separate it from the proposed new road. IFI was satisfied with the arrangements proposed for electro-fishing and required that works take place outside the period October to April inclusive, in order to protect fish. A number of mitigation measures are proposed in relation to siltation of watercourses during construction – outlined in the Section 8 ‘Schedule of Commitments’. The additional information submission to the Board of 18th November 2015, provides the results of survey works carried out within this stream – indicating that the stream is salmonid.

10.2.7 Stream outside the Site

The Tomies Rock Stream is located outside of the site boundary, but it is clear that the car-park will drain to this stream – via a petrol interceptor. The appeal from An Taisce expresses concern that siltation and hydrocarbon spills in the area of the car-park could impact on both the stream and mesotrophic Lough Leane which is 900m downstream, and also on species of Atlantic salmon, Killarney shad and Slender naiad. There is an existing hard-stand area already in this location. The proposed car-park will be macadam. The petrol interceptor, if properly maintained will not allow any accidental spillages of hydrocarbons into the stream. Precautionary measures to be observed during construction (as outlined in the Revised Schedule of Commitments received by the Board on 18th November 2015) should ensure that there will be no significant impact on the aquatic species and habitats within and abutting the stream and Lough Leane.

10.2.8 Mitigation & Monitoring

Section 8 of the Ecological Report includes a “Schedule of Commitments” (Mitigation & Monitoring measures) to be put in place during construction and immediately after, to ensure that the impact of the development will be limited, both within the site as outlined in red, and beyond in the wider National Park area. This will include mitigation measures for the spread of invasive species. This document was modified in small ways by the submission of additional information to the Board on 18th November 2015 – a revised Schedule of Commitments. Any grant of planning permission should include a condition requiring compliance with this revised Schedule.

10.3 Appropriate Assessment

10.3.1 The proposed development impacts directly on two European sites, in terms of footprint, as follows-

- Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment candidate Special Area of Conservation (Site code 000365).
- Killarney National Park Special Protection Area (Site code 004038).

The SAC was designated in August 1997, and covers an area of 76,479ha. The SPA was designated in February 1995, and covers an area of 10,332ha. The applicant provided no details of just what areas of the relevant European sites were affected by the proposed development – subsequently righted by way of additional information submission to the Board on 18th November 2015. The portion of the proposed development located within the SAC boundary, extends to approximately 0.79ha. Part of this 0.79ha is already occupied by the existing track to Tomies Wood and the hardstand area at the gate/barrier to the National Park. The SPA is not as extensive as the SAC in relation to the red line boundary of the site – 0.48ha of the site being located within the SPA boundary. The relevant affected areas of the European sites are approximately 0.001% for the SAC and 0.005% for the SPA. As earlier referred to, some of this area is already used for the current access track and hard-stand area at the entrance gate/barrier. About half of the SAC area and all of the SPA area, affected by the proposed development, comprise clear-felled Sitka spruce plantation – now re-vegetating with scrub. The applicant has provided a survey map of habitats within and abutting the red line boundary by way of additional information submission to the Board on 18th November 2015.

10.3.2 The Tomies East Stream, along which the new road runs, discharges approximately 800m to the north of the proposed new entrance into the Laune River, which is part of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC at this location. Approximately 300m downstream (at Laune Bridge) the Laune River becomes part of the Castlemaine Harbour SAC (Site code 000343). Given that the stream discharges into the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC, which downstream becomes the Castlemaine Harbour SAC, I would be satisfied that design and mitigation measures intended to lessen the impact on the first-mentioned SAC will function to lessen any impact on the second-mentioned SAC, given that it is located some 0.3km further down-river.

10.3.3 The application was accompanied by two separate Natura Impact Statements (NIS) – one for the SACs and one for the SPA. Minor alterations were made to these NIS's by way of the additional information submission of 18th September 2014. The application was subject to screening for Appropriate Assessment by Kerry County Council (and two reports submitted from the Biodiversity Officer of the Council), prior to issuing of the Notification of decision to grant planning permission. The response to the Board's request for additional information on 18th

November 2015, provided supplementary information in relation to the Tomies East Stream and the habitats/species within the site and immediately abutting it.

10.3.4 The qualifying interests of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC are as follows-

- Oligotrophic waters containing very few minerals of sandy plains (*Littorelletalia uniflorae*).
- Oligotrophic to mesotrophic standing waters with vegetation of the *Littorelletea uniflorae* and/or *Isoeto-Nanojuncetea*.
- Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitricho-Batrachion* vegetation.
- Northern Atlantic wet heaths with *Erica tetralix*.
- European dry heaths.
- Alpine and Boreal heaths.
- *Juniperus communis* formations on heaths or calcareous grasslands.
- Calaminarian grasslands of the *Violetalia calaminariae*.
- *Molinia* meadows on calcareous, peaty or clayey-silt-laden soils (*Molinion caeruleae*).
- Blanket bogs (* if active bog).
- Depressions on peat substrates of the *Rhynchosporion*.
- Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles.
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*).
- *Taxus baccata* woods of the British Isles.
- *Geomalacus maculosus* (Kerry Slug).
- *Margaritifera margaritifera* (Freshwater Pearl Mussel).
- *Euphydrias aurinia* (Marsh Fritillary).
- *Petromyzon marinus* (Sea Lamprey).
- *Lampetra planeri* (Brook Lamprey).
- *Lampetra fluviatilis* (River Lamprey).
- *Salmo salar* (Salmon).
- *Rhinolophus hipposideros* (Lesser Horseshoe Bat).
- *Lutra lutra* (Otter).
- *Trichomanes speciosum* (Killarney Fern).
- *Najas flexilis* (Slender Naiad).
- *Alosa fallax killarneyensis* (Killarney Shad).

10.3.5 Table 1A of the NIS is a list of habitats/species within the SAC and indicates whether they are present or not. The table indicates that none of the habitats of conservation interest are present along the route of the proposed road or at the car-park. This Table 1A refers to only 19 habitats/species, whereas the SAC actually contains 26 such habitats/species of conservation interest – the lacuna being remedied by

the additional information submission to the Board of 18th November 2015. There was some doubt as to whether the habitat ‘Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae)’ is present within the red line boundary of the site – the relevant area being the commonage lands to the west and northwest of the felled Sitka spruce area. These commonage lands are within the SAC boundary (although not within the SPA boundary). The additional information submission of 18th November 2015 provided a rationale for the decision not to consider this area Molinia meadows habitat [6410] – rather to define it as Molinia – Potentilla erecta mire. The relevant areas are clearly mapped on the Habitat Survey Map submitted on 18th November 2015. It is stated that the Killarney Fern and the Slender Naiad were not encountered in surveys of the route. No mention was made of the Marsh fritillary (a rare butterfly) – and a qualifying interest of the SAC. This was rectified in the additional information submission of 18th November 2015, wherein it was indicated that surveys carried out in June and September 2015 did not reveal the presence of this butterfly on the site. Further, it was indicated that Devil’s bit scabious (a plant on which the life cycle of this species depends) was present in only scattered places within the site – a low food plant density.

10.3.6 The NIS relating to the SAC notes that the site does not impact on any habitat of conservation value – particularly ‘Priority’ habitats. Indirect impacts were considered to be, the increase in the number of visitors to O’Sullivan’s cascade (and possible impact on bryophytes and lichens (surveyed in December 2013), sedimentation of watercourses, impact on otters in Lough Leane and on bats within Tomies Wood. The proposed development will have the effect of shortening the walk to O’Sullivan’s Cascade by approximately 2km (return journey). It does not follow that all visitors to Tomies Wood will penetrate as far as O’Sullivan’s Cascade – the access to it involving descent of a long, and none-too-even, rough set of steps. It is proposed to erect a 1.3m high wire fence on the north side of the cascade to discourage walkers. The 6km loop walk within the wood will not be appropriate for all visitors (the detour to the Cascade involving an additional 0.5km trek). The case put forward by An Taisce that the proposed development has not considered access to the upper 1.1km reaches of the ravine/gully on which the cascade is located (as far as Lamb’s Fall) is, I would consider, a matter for management of the National Park. There is no reason why the construction of an access road and car-park, where access already exists, should result in damage to oak woodland habitat within the ravine.

10.3.7 Access to the shore of Lough Leane is limited – the loop walk stays away from the lake shore. The slight increase in the number of visitors which this development will generate will not have a significant impact on either otter or bats (species of conservation interest) within Tomies Wood/Lough Leane. The derelict cottage close to the proposed car-park was examined

for bats on 10th January and 14th November 2013, and no signs of usage of the building were found. One Lesser Horseshoe Bat was recorded in the building in mid-October 2013. The derelict house will not be used as part of the proposed development and will not be used for storage during construction. It will be surveyed annually for bat activity when the development is completed. The roof is in a poor condition. The Tomies East Stream, along which the proposed access road will run, and the Tomies Rock Stream to the east of the proposed car-park, were examined for otter activity on 8th November 2012, with no signs of activity recorded – otter activity being recorded along the shores of Lough Leane during survey work carried out in December 2012 and July 2013. The Kerry Slug is a Habitats Directive Annex II and IV species. The proposed car-park area was examined for this species on 2nd October 2011, and none found. The remainder of the road route does not contain appropriate habitat type for this species. Salmon and lamprey species of conservation interest are stated not to occur in Tomies East Stream which runs along the proposed new road. This position was revised following electro-fishing of the stream and surveys for macroinvertebrates (results outlined in the additional information submission of 18th November 2015). The surveys revealed that the stream was salmonid, but not suitable for adults due to the absence of pools. No lamprey species or Freshwater pearl mussels were encountered in the surveys. Potential impact arises from sedimentation during construction. However, having regard to the separation distance between the proposed works and the River Laune downstream (800m) and the mitigation measures proposed to prevent siltation and hydrocarbon spillages, it is considered that the proposed development would not significantly impact on fish or plant species of conservation interest within the SAC.

10.3.8 The NIS contains a ‘Schedule of Commitments’ (subsequently revised) relating to mitigation and monitoring measures designed to ensure that there will be no adverse effects on the SAC or the Castlemaine Harbour SAC. Measures relate to control of silt run-off; silt curtains; drainage for the access road; construction materials; disposal of topsoil, peat and subsoil; control of invasive species; measures in relation to the derelict house to the northeast of the car-park; restriction on access to the car-park; fencing and management; fencing to restrict access at O’Sullivan’s Cascade; signage; and post-construction bryophyte monitoring. Some of these measures relate to wider management issues within and adjoining Tomies Wood. I would be satisfied that the proposed access road has been designed so as to minimise the impact of the development on sediment in Tomies East Stream, whilst at the same time acknowledging that works will have to be carried out in the stream bed in relation to new culverts, pipes and rock armouring. Any grant of planning permission should include a condition requiring that the measures outlined in the revised ‘Schedule of Commitments’ be undertaken by the developer.

10.3.9 The southern portion of the appeal site is located within the Killarney National Park SPA. The site is of ornithological importance because it supports a good diversity of birds typical of upland and woodland habitats. Three of the species which occur, are listed in Annex I of the EU Birds Directive – Peregrine, Merlin and Greenland white-fronted goose. In addition, the SPA is noted for Common redstart, Garden warbler, Wood warbler, Ring ouzel, Coot, Cormorant, Goldeneye, Mallard, Pochard, Teal, Tufted duck and Black-headed gull. The construction of the road and car-park will result in the loss of 0.48ha of supporting habitat on the edge of the SPA. The area traversed by the road is stated to comprise felled Sitka spruce plantation which is re-vegetating with scrub. The applicant refers to a publication from 1993, which states that the bird species of conservation significance have not been recorded using this area. It is not clear when surveys, on which this publication was based, were carried out. What is certain is that the information is more than twenty years old. It is stated that the loss of habitat would not be significant for Peregrine because there is no removal of nesting or feeding sites of its main prey species. The same applies in relation to Merlin, as the type of habitat to be lost is not significant, except for gorse, which is expanding in the area immediately outside the SPA. Breeding passerines have not been recorded in this area, but are, in any event not susceptible to disturbance from humans/dogs. The area is not suitable for water birds. Ring ouzel has not been recorded on site – being an upland bird which frequents the other side of Tomies Mountain.

10.3.10 The Greenland white-fronted goose population is of significance as, although small, it is the most southerly in the country and feeds on acid grassland in Glena. This population is already monitored on an annual basis. A population of White-tailed sea eagle has recently been introduced to the National Park, and which is again, monitored, and whilst an Annex I species, it is not listed as a conservation interest of the SPA. There is concern that the proposed development will encourage walkers and hikers to penetrate from Tomies Wood to Glena, thereby disturbing Greenland white-fronted goose and White-tailed sea eagle. There is already a track through the rhododendron woods linking the Tomies Loop Trail with Glena and Dinis to the southeast. This track is not signposted or marked, and it is not easy terrain to cross on foot. It is only suitable for experienced hillwalkers. The track is difficult to follow and considerably overgrown in places. There is no track proper in the vicinity of Glena. The applicant proposes blocking off the track through the rhododendron woods on the shoulder of Shehy Mountain using brushwood, in order to discourage hillwalkers. The proposed development (through shortening the walking access to Tomies Wood by approximately 1km), would not encourage additional hillwalkers to any significant extent. Hillwalkers approach this area via a number of different routes and directions- viz. the

existing Tomies Wood access; from Kate Kearney's Cottage; the Gap of Dunloe to the west; and Dinis Cottage on the Muckross Lake loop trail to the southeast. The easiest access to Glena is from the Muckross Lake loop trail at Dinis Cottage. The Greenland white-fronted goose site at Glena is remote from the proposed development.

- 10.3.11 The principal threats to the SPA are stated to be from overgrazing by sheep and deer, the spread of *Rhododendron ponticum*, and eutrophication in Lough Leane in the past (mainly from sewage). *Rhododendron ponticum* has recently been cleared from the northern parts of Tomies Wood. There are commitments given in relation to the spread of invasive species in the Schedule of Commitments.
- 10.3.12 It has been argued by appellants that the proposed development is part of a larger Lough Leane Loop Trail which is proposed to circle the lake. The applicant has stated that the project is a stand-alone one. I would accept the contention of the applicant. The Lough Leane Loop Trail project appears to be at an early stage of development. For the purposes of appropriate assessment, I would not see that there is any in-combination impact likely with the proposed Lough Leane Loop Trail, particularly as no route has been chosen, and there is no indication if the Tomies Loop Trail will form part of it. In any event, I would be satisfied that the Tomes Loop Trail is an independent walking trail which is currently served by inadequate roadside parking and access arrangements. The proposed development will not alter access arrangements to any significant degree as far as ecology and nature conservation are concerned – simply providing upgraded facilities for visitors.
- 10.3.13 I consider it reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of European site no. 000365, European site no. 004038, or any other European site, in view of the conservation objectives for those sites.

10.4 Access/Parking

- 10.4.1 The L11203 cul de sac currently serves as access to Tomies Wood for visitors – there is no other, apart from hiking over Tomies Mountain or from Glena/Dinis (accessed from the Muckross Lake loop walk). The cul de sac serves approximately 25 houses as well as farmland. It terminates at Lough Leane at a shingle beach. Tomies Wood is not signposted from Cullane Bridge (the junction with the county road network). It has been claimed by appellants that visitors are mostly local, although this was not the case on the date of site inspection by this Inspector. The road is narrow in places and it is not possible to pass two vehicles – except at

gateways or where frontage has been set back at one-off houses. There is grass growing in the centre of the road in places. There are a number of sharp bends on the road. The length of road involved is approximately 600m. Appellants claim that the road is unsuitable for additional traffic which would be generated by a development of this nature. Because of the alignment of the road, traffic should not be travelling at the maximum speed limit – 80kph. Visitors to Tomies Wood are already using this access road – there being no other for visitors by car. The proposed development will not result in a significant increase in the amount of traffic on the road – visits being spread over the entire day. I would be satisfied that the proposed development would not result in significant amounts of additional traffic, over and above the level of traffic currently using the road as access to Tomies Wood. The development would not result in traffic hazard or obstruction of road users.

10.4.2 The proposed new entrance off the L11203 is located beside the existing farm track access to Tomies Wood. The additional information submission of 18th September 2014, indicated proposals to improve sight visibility at this location – with cars emerging perpendicular to the public road. The existing farm access track will remain in place. Traffic is, of necessity, travelling at very low speeds to navigate the bridge and right-angled bend in the road at this location. The proposals are acceptable in terms of traffic safety. The new access road will serve visitors and NPWS staff.

10.4.3 At present, visitors park cars on the side of the road in a narrow lay-by beside where the private farm track leads to Tomies Wood. There is parking for approximately 10 cars at this location. It is proposed to provide a new car-parking area on the edge of Tomies Wood (within the National Park boundary). There are a number of other such car-parks within the National Park. Parking for 28 cars will be created. This increased number will facilitate visitors to Tomies Wood. The new car-park location will facilitate those with mobility issues. The new access arrangement will obviate the need to open and close gates on private land – as is the case with the present access to Tomies Wood. Access is to be controlled by retractable bollards. The additional information submission to the Board of 18th November 2015, clarified the location of the bollards beside the green lane leading to Tomies Cottage. There will be room for cars to turn at this location in the event of the car-park being full. The bollards will be controlled remotely, with hours of operation of the car-park clearly displayed. In the event that motorists get locked into the car-park there will be an emergency telephone number to call. A loop counter will count traffic in and out. The bollards will not restrict entrance by pedestrians and cyclists. Claims that the area will be opened up for kayakers is a matter for management within the National Park, and is not strictly relevant to this planning application and appeal. The applicant has indicated that there are no plans to provide additional facilities at the car-parking area; such as

play area for children, picnic tables etc. The proposal for a small car-park at the head of a new access road is acceptable.

10.5 Visual Amenity

There are no Views & Prospects listed for preservation within this area. The proposed new road is located beside the bed of an existing stream – a natural low-point in the landscape – in the foothills of Tomies Mountain. The access road will be 4-5m in width, and will be no wider than the existing farm track serving as access to Tomies Wood or the L11203 cul de sac which serves as access to the site. The car-park element of the scheme will be screened by mature trees and scrub. The proposed development will not be a significant feature on the landscape when viewed from open ground on Tomies Mountain (as viewed from the vicinity of the 200m contour on the shoulder of this mountain by this Inspector). The new entrance off the L11203 will not be significantly different to other entrance points along the road. The site will not be visible from Shehy Mountain. The proposed development will not be detrimental to the visual amenities of this area. The most prominent feature on the landscape (when viewed from Tomies Mountain) is the ‘Liebherr’ factory at Fossa, and to a lesser extent the Europe Hotel also at Fossa, on the north side of Lough Leane.

10.6 Drainage & Flooding

10.6.1 Additional information in relation to drainage was provided to Kerry County Council on 18th September 2014. Approximately three quarters of the route of the new road runs along the bed of a stream – the northern portion. This stream is fed by a number of smaller streams flowing from the southwest – draining from Tomies Mountain. The stream is overgrown in places along its upper reaches. The stream has been channelled closer to the public road (the northern end), and two pairs of 1.0m diameter pipes installed – one for bridging the existing access track to Tomies Wood, and the other on the green lane which serves as an access to Tomies Cottage (off the Tomies Wood access track). It is proposed to remove this latter pair of pipes and replace them with a box culvert – 2.0m wide and 1.2m high – shown on drgs. FC1291L17-B and FC1291L11. This new arrangement will increase the flow capacity at the crossing. Rock armouring is to be provided along both banks – upstream and downstream of the proposed box culvert – for an overall length of approximately 100m. This rock armouring will protect the box culvert and prevent scour downstream where the existing Tomies Wood access track runs along the east bank of the stream. The pair of 1.0m diameter concrete pipes beneath the existing access track to Tomies Wood (close to the public road) are partly located within private land. It is proposed to augment these two pipes with a further 1.0m diameter relief culvert beneath the

proposed new entrance – to cross under the public road and discharge back into the stream. These works can be carried out within the red line boundary of the planning application and beneath the public road, and do not require the consent of third parties. This relief culvert will increase the capacity of the existing culverts by 50%. In addition, two new culverts will be required on the new access road to carry small streams draining from Tomies Mountain beneath the road – design not specified in drawings submitted.

10.6.2 It is argued in the appeal that the proposed development will result in flooding and that the arrangement at the proposed entrance should be replaced by a similar box culvert to the one to be installed on the green lane to Tomies Cottage. However, I would be satisfied that the proposed arrangement will be an improvement on the current situation. As referred to above, the new relief pipe will be laid within the red line boundary of the site: the replacement of the twin pipes which exist at present would require the consent of a third party and would be partially outside the site as outlined in red. The sod and stone embankment at the proposed entrance will ensure that any overflow of the stream will be redirected back across the public road into the stream on the east side of the public road. The proposed entrance will tie into the public road and will not be at a significantly higher level than the existing access track arrangement. Whilst the hard surface area of the proposed new access road will result in faster run-off to nearby watercourses, the road is to be constructed at a cross-fall away from the existing stream – flowing to a new drain on the opposite side, which will provide for some attenuation on the west side of the new road. The new road is located beside a stream – the lowest-lying feature in the area. There is no reason why construction of the proposed new road will result in flooding of farmland on the eastern side of the road. The stream is a naturally low-lying feature in the landscape. It is proposed to retain the existing embankment and fence along the side of this stream. I would be satisfied that the proposed development will not result in flooding of adjoining lands or lands downstream of the development.

10.6.3 A series of open drains are to be excavated along the western side of the access road – to drain to five no. temporary siltation ponds. At the upper (southern) end of the road, the roadside drain and a further temporary siltation pond are located on the eastern side. The overflow from these temporary ponds is by way of culvert pipes beneath the proposed road (via an existing dyke in the case of the sixth siltation pond) and into the existing stream. The additional information submission of 18th September 2014, included an ‘Outline Construction Method Statement’ which included proposals to minimise siltation of watercourses. Mitigation measures over and above installation of siltation ponds include:- silt mattress installed downstream of the box culvert location, silt mattresses placed on the outfall from temporary siltation ponds, ‘terram’ placed behind rock-

armouring boulders to prevent fine material being washed out, cross fall of the new road away from the existing stream, and retention of the existing embankment along the stream. These arrangements will ensure that siltation of the existing watercourse is minimised during construction works. The ponds will be decommissioned following construction, although the drainage channels will remain in place.

10.6.4 The natural fall of drainage within the car-park will be to a collector channel at the northern end; which will flow to a petrol interceptor. This will discharge to the Tomies Rock Stream to the east of the car-park which ultimately discharges to Lough Leane (not the Tomies East Stream flowing beside the proposed access road – which discharges to the Laune River). An appellant has claimed that this stream feeds a well serving a house, and that the petrol interceptor will potentially result in contamination of a source of drinking water. The appellant has not indicated the location of the well or how it is hydraulically connected to the stream. This stream drains a large area of Tomies Mountain – grazed by deer and sheep. The petrol interceptor, if properly maintained, will not result in contamination of the stream. Condition 5 of the Notification of decision to grant planning permission deals with the issue of installation and maintenance of a petrol interceptor, and a similarly worded condition should be included in any grant of planning permission to issue from the Board.

10.7 Other Issues

10.7.1 Exempted Development

Notwithstanding that a planning application has been lodged for the proposed development, the applicant argues that most of the development could be considered ‘exempted’ by reference to Class 36(a)&(b) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended). Whilst there is no referral before the Board in relation to this issue, I would note that Article 9 of the Regulations places restrictions on exemptions, and in particular sub-article (viiB) states- “comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site”. In this regard I would note that the applicant has submitted Natura Impact Statements for the proposed development, which would appear to remove the potential exemption from the requirement for planning permission.

10.7.2 Alternatives

Appeals submitted refer to alternative means of access to Tomies Wood, transportation and car-parking. The applicant is not obliged to consider alternatives, and submitted a proposal to the planning authority. The applicant has given some indication as to why some of the suggested

alternatives are not workable – in particular the unwillingness of landowners to sell land for a car-park closer to the L11203. There is one scheme before the Board for consideration, and reference to potential alternatives, however desirable or otherwise, are not at issue.

10.7.3 Security/Anti-social Activities

The applicant cannot be held responsible for anti-social activities which may occur within this or other parts of the Killarney National Park. This is a matter for Park Rangers and/or the Garda. The maintenance of security provisions/barriers in other parts of the National Park is not strictly relevant to the proposed development. The proposed car-park will be remote from houses – although there is one house 250m to the north. The applicant has put forward reasonable proposals to control vehicular access to the car-park – clarified in the additional information submission to the Board of 18th November 2015. Condition 8 of the Notification of decision to grant planning permission contains proposals in relation to telescopic bollards at the entrance. Potential anti-social uses of a facility intended for visitors to the area is not a valid reason for refusing planning permission.

10.7.4 Lough Leane Loop Trail

Reference is made in appeals to the proposed development forming part of a larger Lough Leane Loop Trail which is under consideration/promotion by interested bodies/groups in the area. There is no definite plan for such a Loop Trail, and the applicant argues that the proposed development is a 'stand-alone' development to serve as access to an existing loop walk within Tomies Wood. I have included a copy of a single page from the website of Kerry County Council (within the photograph pouch accompanying this Inspector's Report) indicating that Kerry County Council, NPWS and Fáilte Ireland are considering the creation of a Lough Leane Loop Trail, and inviting comments on or before 28th February 2015. The notice indicates that a steering group would welcome input from interested parties in relation to a walking & cycling trail which would contribute towards a Constraints Study under preparation. This Study would inform a number of Route Options which will be put on display later in the year [2015]. I would accept the contention of the applicant that the proposed development is an independent one which does not rely on any other scheme progressing. Even should the proposed Lough Leane Loop Trail be promoted in the future, there is no certainty that the proposed development will form part of it – regard being had to alternative accesses to the western shore of Lough Leane and to Tomies Mountain, some of which have been outlined by appellants. The project would not appear to have advanced since that date – as revealed by searches on the Internet.

10.7.5 Development Contribution

The Council did not attach a condition requiring payment of a Development Contribution for this proposal. If the Board is minded to

confirm the grant of planning permission, no condition requiring payment of a development contribution should be attached.

10.7.6 Devaluation of Property

The landowners whose lands are traversed by the current right-of-way access to Tomies Wood have claimed that their property will be devalued if the proposed development goes ahead. No supporting documentation for this assertion has been provided. It is difficult to see how the proposed development would devalue property – designed as it is to remove visitors to Tomies Wood from the current residential/agricultural access track which runs through the appellants' property. The landowners through whose property the existing right-of-way runs claim that the proposed development encroaches on their property – although no maps have been submitted to indicate just where this might occur. The applicant has stated that the scheme will be entirely located within the property of three adjoining landowners and within the National Park itself (letters of consent from the private landowners concerned accompany the application), but for one area at the entrance to the car-park which is stated to be jointly owned by the National Park and the appellant. This is a matter for resolution in the Courts, if necessary. The applicant notes that section 34(13) of the Planning and Development Act 2000 (as amended) does not entitle a person to carry out works solely by reason of a planning permission. The proposed development will not result in devaluation of property.

10.7.7 Conditions of Permission Ignored

The appeal refers to conditions of permission not being adhered to. This is a matter for Kerry County Council. The applicant has indicated a willingness to comply with the conditions attached to the Notification of decision to grant planning permission.

10.7.8 Cyclists & Dogs

At present, access to Tomies Wood through private land is restricted for cyclists. The applicant has indicated that the Tomies Wood Loop Walk is not suitable for cyclists due to steep gradients. Future access for cyclists must be matter for management of the National Park, and is not a relevant planning consideration. The additional information submission of 18th November 2015, indicated that cyclists would be required to leave bicycles at the car-park. The same could be said in relation to access by kayakers – this issue was raised by one of the appellants in response to the applicant's response to the Board's request for additional information. Who uses the National Park and how they access it, is a matter for the management of the National Park. At present access to Tomies Wood through private land is restricted for persons accompanied by dogs. The proposed new access will facilitate access for dog walkers – a considerable benefit of the proposed new access. Dog-walkers, as a

group, will contribute to the vitality and security of the area through frequent and regular use. This must be regarded as a positive benefit of the scheme. Dogs are permitted elsewhere within the National Park. The manner in which dogs may be brought into parts/areas of the National Park is a matter for current/future management, and is not a relevant planning consideration.

10.7.9 Fencing

Appellants have argued that fencing on the boundary of the National Park has not been properly maintained – allowing for trespass onto private lands. This is a matter for agreement between the National Parks & Wildlife Service and private landowners. The additional information submission of 18th September 2014, indicates 1.8m high deer fencing on the west side of the access road, with the existing mound/stream/fence being retained on the east side, where it abuts the lands of the third 3rd party appellants. New entrance gates and pillars are to be provided at the existing farm-gate access to the green lane leading to Tomies Cottage. A 1.8m high deer fence is to be erected around the car-park area. These proposals would seem to be reasonable to protect the amenities of adjoining landowners.

10.7.10 Other Car-Parks within the National Park

The usage and management of car-parks at Fossa and Muckross House are not of any relevance in relation to the current appeal. This is a matter for management of the National Park.

10.7.11 Signage & Lighting

The additional information submission of 18th November 2015, indicated the location of a proposed information sign at the entrance from the public road and indicated further that warning signs would be required in the vicinity of the retractable bollards. Public lighting is not proposed as part of the application.

10.7.12 Sub-threshold Environmental Impact Assessment

The proposed development is not of a class which would require the submission of an Environmental Impact Statement under section 109 of the Planning and Development Regulations 2001 (as amended). The proposed access road and car-park would not be likely to have a significant effect on the environment – notwithstanding that Natura Impact Statements have been submitted with the application.

10.7.13 Archaeology

There are no known archaeological sites in the area. Having regard to the extensive nature of the site and the amount of ground disturbance, it would be prudent to attach an archaeological monitoring condition to any grant of planning permission.

11.0 Recommendation

I recommend that permission be granted for the Reasons and Considerations set out below, and subject to the attached Conditions.

REASONS AND CONSIDERATIONS

Having regard to the replacement nature of the access proposed, the limited size of the car-park and the information submitted in relation to the application and the appeal, it is considered that, subject to compliance with the attached conditions, the proposed development would be acceptable in terms of traffic safety and convenience, would not be detrimental to visual and residential amenities, would not result in any significant impact on the ecology of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 submitted on the 18th day of September 2014, and by the further plans and particulars received by An Bord Pleanála on the 18th day of November 2015, 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. All of the environmental, construction and ecological mitigation measures set out in the Natura Impact Statements, the Schedule of Commitments – Mitigation and Monitoring Measures, the Outline Construction Method Statement, the Ecological Reports, associated documentation, and contained within the further information submitted to the planning authority and to the Board, shall be implemented in conjunction with the timelines set out, except where conditions hereunder specify otherwise.

Reason: in the interest of orderly development and environmental protection.

3. All surface water run-off from the car-park area shall be routed through an hydrocarbon interceptor. The device shall be fitted with an alarm to ensure that the unit is emptied when necessary.

Reason: In the interest of public health and nature conservation.

4. The developer shall install the system of access control to the car-park as outlined in the additional information submission to the Board of 18th November 2015.

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

5. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

Michael Dillon,
Inspectorate.

8th January 2016.