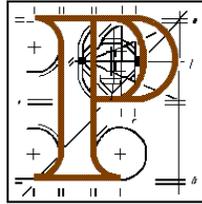

An Bord Pleanála



Inspector's Report

Ref.: PL08.247637

Development: To construct 6 No. semi-detached dwelling houses together with all associated site development works and services on site nos. 10-13 & 18a-18b, Páirc Chuimín, Clashnagarrane, Kilcummin, Co. Kerry. The development is an amendment to 6 semi-detached houses previously granted permission under planning application ref nos. 04/1528 & 09/842.

Páirc Chuimín, Clashnagarrane, Kilcummin, Co. Kerry.

PLANNING APPLICATION

Planning Authority: Kerry County Council

Planning Authority Ref.: 16/744

Applicant: Barth O'Neill

Type of Application: Permission

Planning Authority Decision: Refusal

APPEAL

Type of Appeal: First Party v. Decision

Observers: None.

INSPECTOR: Robert Speer

Date of Site Inspection: 23rd January, 2017

1.0 SITE LOCATION AND DESCRIPTION

1.1 The proposed development site is located in the rural townland of Clashnagarrane, Co. Kerry, and forms part of the extended village of Kilcummin, approximately 4.5km northeast of Killarney town centre, where it is situated within an existing housing estate known locally as 'Páirc Chuimín' which is characterised by a conventional suburban layout predominantly composed of two-storey semi-detached dwelling houses. The site itself has a stated site area of 0.2744 hectares, is irregularly shaped and comprises Site Nos. 10-13, which are located at the end of an existing cul-de-sac within the westernmost corner of the wider housing development, in addition to Site Nos. 18a-18b within a further enclave of housing to the south.

2.0 DESCRIPTION OF PROPOSED DEVELOPMENT

2.1 The proposed development consists of the construction of 6 No. two-storey semi-detached dwelling houses (each with a stated floor area of 117.1m² and an overall ridge height of 8.06m) in a 'back-to-back' format and also includes for the extension of an existing access roadway through the adjacent Páirc Chuimín housing estate that will ultimately terminate in a cul-de-sac. The overall site layout is conventional and in keeping with the surrounding pattern of development with off-street car parking provided for each dwelling house in addition to front and rear garden areas. The adopted house design (House Type 'B') is based on a principle rectangular plan with an asymmetrical front elevation incorporating a double-height front gable feature whilst the external finishes will include blue black roof slates, uPVC windows, a selected plaster render and the feature use of plaster mouldings on the front elevation. The proposal also includes for connection to the existing water supply and wastewater infrastructure serving the wider Páirc Chuimín housing scheme.

3.0 RELEVANT PLANNING HISTORY

3.1 On Site:

PA Ref. No. 04/1528. Was granted on 23rd March, 2005 permitting Dunboy Construction and Property Developers permission to construct 84 No. dwelling houses including crèche facilities, service roads and development services with proprietary wastewater treatment plant and ancillary works.

- PA Ref. No. 0491528. On 2nd February, 2010 a decision was made by the Planning Authority to grant Dunboy Construction and Property Developers

Ltd. an 'Extension of Duration' of PA Ref. No. 04/1528 until 22nd September, 2011.

PA Ref. No. 062062 / ABP Ref. No. PL08.219918. Was granted on appeal on 31st May, 2007 permitting Dunboy Construction and Property Developers Limited permission for amendments to housing scheme previously granted permission under planning register reference number 1528/04, to include 7 No. additional houses. The amendments include: 1. The substitution of 8 No. semi-detached houses and 1 No. detached house in lieu of 4 No. houses on sites 2-5 inclusive. 2. The substitution of 8 No. semi-detached houses and 1 No. detached house in lieu of 7 No. houses on sites 18-24 inclusive. 3. The substitution of 6 No. semi-detached houses in lieu of 6 No. houses on sites 72-88 inclusive. 4. Alterations to site layout and ancillary works at Clashnagarrane, Kilcummin, Killarney, Co. Kerry.

PA Ref. No. 09/842. Was granted on 21st September, 2009 permitting Barth O'Neill and Patrick O'Sullivan permission to construct 1 No. 3 bedroom detached house adjacent to Site No. 77 and 2 No. 4 bedroom semi-detached houses to replace detached houses on Site No. 18 together with ancillary site works at Clashnagarrane, Kilcummin, Killarney, Co. Kerry.

3.2 On Adjacent Sites:

PA Ref. No. 08277. Was granted on 9th July, 2008 permitting Tom and Anne McDonnell permission to construct 68 No. dwellings including 13 No. detached houses, 44 No. semi-detached houses, 2 No. terraces of 3 No. houses each and 1 No. terrace of 5 No. houses, including all access roads, services etc. at Ballynamaunagh, Kilcummin, Killarney, Co. Kerry.

- PA Ref. No. 089277. On 31st May, 2013 a decision was made by the Planning Authority to grant Tom McDonnell an 'Extension of Duration' of PA Ref. No. 08277 until 8th July, 2018.

PA Ref. No. 16/1005 / ABP Ref. No. PL08.247813. Application by Tom and Anne McDonnell for permission for the installation of a community mechanical aeration system and modular polishing filter units for a contained on-site effluent treatment system which includes the increase of ground level by 2.0m above existing ground level, and a perimeter security fence around the aforementioned system to provide for and service 67 No. proposed dwelling houses and services as previously granted under planning permission Ref. No. 08/27 at Ballynamaunagh, Kilcummin, Killarney, Co. Kerry. Whilst a notification of a

decision to refuse permission was issued by the Planning Authority on 6th December, 2016, this decision has since been appealed and a determination by the Board is pending.

3.3 On Sites in the Immediate Vicinity:

PA Ref. No. 0844 / ABP Ref. No. PL08.229829. Was granted on appeal on 18th December, 2008 permitting Dunboy Construction and Property Developers Limited permission for a development comprising (a) the construction of 32 No. residential units. The residential units will comprise 6 No. detached houses, 22 No. semi-detached houses and 4 No. terraced units. The residential units range in size from 87.5m² to 173.5m² (gross floor area) and comprise 2 No. two bedroom units, 22 No. three-bedroom units and 8 No. four-bedroom units; (b) the decommissioning of the existing wastewater treatment plant and sand polishing filter serving the development permitted under planning register reference numbers 1528/04 and 2062/06 and the construction of a foul sump and pumps (with connection to the proposed Kilcummin sewerage scheme) to serve the proposed development and development permitted under planning register reference numbers 1528/04 and 2062/06; (c) the provision of all associated ancillary site development works. All on a site of 1.135 hectares (2.8 acres) at Clashnagarrane, Kilcummin, Killarney, Co. Kerry.

PA Ref. No. 09297. Was granted on 29th May, 2009 permitting Dunboy Construction and Property Developers Ltd. permission to construct 6 No. semi-detached dwellings and 1 No. detached dwelling in replacement to houses granted permission on Site Nos. 87, 88, 89 and 90 under Kerry County Council Ref. 08/44 / ABP Ref. No. PL08.229829 at Clashnagarrane, Kilcummin, Killarney, Co. Kerry.

PA Ref. No. 09511. Was granted on 13th July, 2009 permitting Dunboy Construction permission to construct 14 No. revised Type B semi-detached dwellings in replacement to houses granted on Site Nos. 91, 92, 93, 94, 96, 97, 100, 101, 102, 103, 104, 105, 112 & 113 under Kerry County Council Ref. No. 08/44 and ABP Ref. No. PL08.229829 at Clashnagarrane, Kilcummin, Killarney, Co. Kerry.

PA Ref. No. 16/191 / ABP Ref. No. PL08.246784. Was granted on appeal on 28th November, 2016 permitting Barth O'Neill permission to convert an existing building constructed as a crèche under planning register reference number 04/1528 to two number semi-detached dwellings at Pairc Chuimin, Clashnagarrane, Kilcummin, Killarney, Co. Kerry.

PA Ref. No. 16/234 / ABP Ref. No. PL08.246790. Was granted on appeal on 28th November, 2016 permitting Barth O'Neill permission for the retention of foundations and completion / construction of six number semi-detached dwellings (previously granted permission under planning register reference number 06/2062), and permission for the construction of one number detached dwelling (previously granted permission under planning register reference number 09/842), together with all associated site development works and services at Pairc Chuimin, Clashnagarrane, Kilcummin, Killarney, Co. Kerry.

PA Ref. No. 16/247 / ABP Ref. No. PL08.247054. Was refused on appeal on 28th November, 2016 refusing Barth O'Neill permission for the construction of 33 number residential units on site numbers 86-118, consisting of one number detached dwelling house, 28 number semi-detached dwelling houses and four number terraced houses, together with all associated site development works and services (This planning application is an amendment of the previous planning application granted by An Bord Pleanála under reference number PL 08.229829 and subsequently amended by planning application reference numbers 09/297 and 09/511) at Pairc Chuimin, Clashnagarrane, Kilcummin, Killarney, Co. Kerry, for the following reason:

- The Kilcummin Sewerage Scheme is identified in the Kerry County Development Plan 2015-2021, Table 7.2 as a Priority Water and Waste Infrastructure Project. There is no timeline for the delivery of the sewerage scheme for Kilcummin and there are deficiencies in the existing wastewater treatment system. It is considered that the proposed development would be premature by reference to the existing deficiency in the provision of sewerage facilities servicing the area of the proposed development and the period within which the constraints involved may reasonably be expected to cease. The proposed development would, therefore, be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

4.0 PLANNING AUTHORITY CONSIDERATIONS AND DECISION

4.1 Decision:

Following the receipt of a response to a request for further information, on 26th October, 2016 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following reason:

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- The Planning Authority is not satisfied on the basis of the particulars received with the application that the effluent arising from the proposed development could be adequately disposed of on site. The proposed development would, therefore, be prejudicial to public health. Accordingly, the proposed development would be contrary to the proper planning and development of the area.

4.2 Objections / Observations:

A single submission was received from an interested party and the principle grounds of objection contained therein can be summarised as follows:

- The lack of a suitable footpath between the proposed development and Kilcummin village centre.
- The inadequacy / failing of the existing wastewater treatment plant on site and the consequential need for a public sewerage system.
- The inadequacy of the existing road network between Páirc Chuimín and Killarney.
- The Planning Authority has already refused permission for PA Ref. No. 16/247 and the subject proposal should be refused for similar reasons i.e. that the proposed development would be premature pending the provision of a public sewerage system to serve the village of Kilcummin.
- The area proposed to be developed under PA Ref. No. 16/247 should be set aside for environmental protection purposes due to the on-going pollution issues associated with the existing wastewater treatment system serving the Páirc Chuimín estate.
- Concerns with regard to the health and safety of existing residents during construction of the proposed development.

4.3 Internal Reports:

Housing Estates Unit: Refers to a variety of issues pertaining to site development works that should be considered in the assessment of the subject application, including boundary treatment, roadways, footpaths, public lighting, and the need to provide for wayleaves given that there are foul sewer lines running to the rear of the properties on Site Nos. 10 & 18a. This report also queries whether or not the existing wastewater treatment plant is capable of accommodating the additional housing proposed.

4.4 Prescribed Bodies / Other Consultees:

Irish Water: Whilst an initial report recommended a refusal of permission on the basis that there was no public sewer available in the area, a subsequent report

states that there is no objection to the proposed development subject to conditions. This latter report also states that a public wastewater system is due to be in place at this location prior to the planning expiry date and that connection to same could be facilitated once said system is in place.

5.0 GROUNDS OF APPEAL

The grounds of appeal are summarised as follows:

- It would appear that the decision of the Planning Authority to refuse permission for the proposed development is derived from a report prepared by the Senior Executive Engineer of the Environment Section which stated the following:

'The Applicant has indicated that wastewater would discharge to an existing on-site wastewater treatment plant that was previously granted planning under planning ref. 041528. However, no information has been provided to confirm that the plant in question would be capable of treating and disposing of this additional effluent without causing environmental pollution'.

In this respect it is submitted that had the Environment Section reviewed the planning application in question it would have been satisfied that the existing wastewater treatment plant is more than *'capable of treating and disposing of this additional effluent without causing environmental pollution'*.

- The request for further information issued by the Planning Authority sought the submission of a completed response to Section 20 of the planning application form in order to confirm how wastewater / sewage from the proposed dwelling houses was to be treated (in addition to amended drawings detailing same) and did not raise any concerns as regards the capacity of the wastewater treatment plant or any other technical matter such as was raised in the Environmental Report that led to the refusal of permission. The applicant duly submitted a completed copy of Section 20 of the planning application form (which was previously omitted in error) and stated that wastewater arising from the proposed development would be disposed of by the existing effluent treatment system previously approved under PA Ref. No. 041528 with the capacity

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- of same and other associated technical information having previously been outlined in that application.
- The Planning Authority neither requested nor received any particulars with respect to the effluent arising from the proposed development and only sought clarification as to how the wastewater was to be treated. Accordingly, the decision to refuse permission was based on information that the Planning Authority neither asked for nor received.
 - The applicant erroneously assumed that the Planning Authority and the Environment Section would have reviewed PA Ref. No. 04/1528 in order to confirm the nature and capacity of the permitted wastewater treatment system and that any additional details would have been sought by way of a request for clarification of further information.
 - Whilst it is acknowledged that the applicant did not submit any additional drawings in response to the request for further information, it had been assumed that it would be sufficient to refer the Planning Authority to PA Ref. No. 04/1528 as regards the proposed wastewater treatment arrangements, particularly in light of the notification of the decision to grant permission issued in respect of PA Ref. No. 16/234.
 - It is frustrating that no concerns were raised by the Planning Authority with regard to the means of effluent treatment in the assessment of PA Ref. No. 16/234.
 - Having regard to the inclusion of a condition in the notification of the decision to grant permission for PA Ref. No. 16/234 which required confirmation of the satisfactory installation, operation and maintenance of the existing wastewater treatment system on site, it is submitted that a similar condition could be imposed in respect of the subject proposal.
 - The rationale behind the decision to refuse permission is unsubstantiated in that it has not been demonstrated by the Planning Authority that the existing wastewater treatment system is incapable of accommodating the additional loadings consequent on the proposed development. The request for further information issued by the Planning Authority gave no indication of the level of detail required and at no point did the Council enquire about the specific design and capacity of the existing treatment system.
 - The Planning Authority should have sought additional details as regards wastewater treatment by way of a request for clarification of further information or should otherwise have consulted PA Ref. No. 04/1528.
 - The submission by Irish Water indicated no objection to the proposed development and thus the request for further information as regards wastewater treatment is questionable.

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- The existing wastewater treatment system is capable of accommodating the additional loadings consequent on the proposed development.
 - The existing wastewater treatment system as permitted under PA Ref. No. 04/1528 has a capacity of 400 P.E. based on a daily loading of 180 litres / person / day. This was calculated on the basis of 85 No. houses (84 No. units were granted under PA Ref. No. 04/1528) at a rate of 4.5 No. occupants per unit thereby equating to a total population equivalent (p.e.) of 382.5 No. persons (plus a spare capacity of 17.5 P.E.). The installed polishing filter measures 1,721m² in area (as recommended by EPS in its system design) and has a hydraulic load capacity of 68,850 No. litres / day.
 - In the intervening period since the grant of permission for PA Ref. No. 04/1528, the Environmental Protection Agency has confirmed a reduced hydraulic loading of 150 litres / person / day in the design of wastewater treatment systems (reduced from the previously assumed daily hydraulic loading of 180 litres / person / day). Accordingly, on the basis of the foregoing, the 68,850 No. litres / day design capacity of the approved wastewater treatment system would be capable of accommodating a population equivalent of 459 No. persons.

To date, only 81 No. houses have been built on site, whilst the subject proposal and the 7 No. units permitted under PA Ref. No. 16/234 / ABP Ref. No. PL08.246790 would increase the overall development to 94 No. units. Therefore, on the basis of an occupancy rate of 4.5 No. persons per unit, the design load can be calculated as 423 P.E., although the available census data suggests that the actual occupancy rate per unit within Páirc Chuimín is much lower at 2.66 No. persons per unit with the effect that the existing treatment system is only operating at approximately 50% of its total design capacity (i.e. 94 No. units x 2.66 No. persons / unit = 250 P.E.).

- The accompanying report prepared by Southern Scientific, which includes the results of testing of the treated effluent, illustrates that the results are below that which would give rise to any risk to the Deenagh River catchment and also confirms that there are no issues with the capacity of the wastewater treatment plant and that it can deal with the current number of houses in addition to those proposed in both the subject application and PA Ref. No. 16/234 / ABP Ref. No. PL08.246790.
- It should be noted that the South Western Regional Fisheries Board did not object to the proposed development.

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- The Board is requested to grant permission on the basis that it has been established that the existing treatment plant and polishing filter has the capacity to accommodate the loadings arising from the existing 81 No. dwelling houses, in addition to the housing proposed in both the subject application and PA Ref. No. 16/234 / ABP Ref. No. PL08.246790, and thus there is no threat to environment. Alternatively, if the Board is minded to grant permission, a condition could be imposed which would require the applicant to demonstrate that the treatment plant is fit for purpose and can accommodate the additional houses proposed.

6.0 RESPONSE TO GROUNDS OF APPEAL

6.1 Response of the Planning Authority:

None.

7.0 NATIONAL AND REGIONAL POLICY

7.1 The ‘Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities’ acknowledge the importance of smaller towns and villages and their contribution towards Ireland’s identity and the distinctiveness and economy of its regions. It is accepted that many of these smaller towns and villages have experienced significant levels of development in recent years, particularly residential development, and that concerns have been expressed regarding the impact of such rapid development and expansion on the character of these towns and villages through poor urban design and particularly the impact of large housing estates with a standardised urban design approach. In order for small towns and villages to thrive and succeed, their development must strike a balance in meeting the needs and demands of modern life but in a way that is sensitive and responsive to the past.

8.0 DEVELOPMENT PLAN

Kerry County Development Plan, 2015-2021:-

Chapter 3: Settlement Strategy:

Section 3.1: Settlement Hierarchy:

- District Towns: *Kilcummin*: Towns that serve rural hinterlands as service centres and market towns.

Section 3.2: Housing:

HS-8: Ensure that all new multiple residential development(s) take place within the development boundary of the settlements / villages.

Section 3.4: *Urban Settlement Strategy:*

US-1: Ensure that future housing in urban areas in the County is located on lands zoned for residential use. In towns and villages residential development shall be located in town/village centres or immediately adjacent to town/village centres (based on the sequential approach); on serviced lands; and in accordance with the Development Guidance document of this Plan.

US-2: Ensure that any new development in villages and development nodes respects the scale and character of the existing settlement

US-3: Ensure that all new development within the County supports the achievement of sustainable residential communities. The Council will have regard to the provisions of the Guidelines on Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual.

Tralee Killarney Hub Functional Areas Local Area Plan, 2013-2019:-

Section 1: Overview & Context:

Section 1.5: Zoning Definitions & Zoning Matrix:

In the settlements, the approach in this Local Area Plan is to define a 'development boundary' on the zoning map for the urban area. It will specifically designate land for proposed residential use and other strategic uses in accordance with the population allocation and zoning criteria as contained in the Core Strategy.

In the villages and development nodes, it is not intended to specifically designate land for proposed residential use as the small amount of zoned land would be meaningless. The development boundary contains suitable land for the development of residential units.

Section 2: Overall Strategy:

Section 2.2: Development Strategy:

OO-4: Strengthen the town and villages throughout the area, improve the infrastructure provided, sustainably develop the critical mass necessary to maintain and expand the service provision within

them, and make them more attractive places in which to live while protecting features of biodiversity and cultural importance.

OO-5: Ensure that all proposed development and changes of use on unzoned lands within settlement boundaries will be assessed in relation to the objectives of the County Development Plan, any general objectives in the local area plan that apply to the particular location, the character of the surrounding area, residential amenity, availability of infrastructure, the sequential approach, flood risk and any other planning and sustainable development considerations considered relevant to the proposal or its surroundings.

Section 2.3: Population Allocation/Growth Strategy:

Section 2.3.3: Growth Strategy:

Barraduff, Castlemaine, Firies & Kilcummin are all strong service centres providing a degree of self-sufficiency in many sectors. They are, however, dependent on either Tralee or Killarney for higher order retail and amenity facilities. It is envisaged that this will continue and the towns will develop in the future to strengthen and consolidate their existing role

RD-1: Ensure that 20% of the land zoned in the plan for residential, or for a mix of residential and other uses, shall be made available for the provision of social and affordable housing.

RD-2: Ensure that all new multiple residential development(s) take place within the development boundary of the settlements/villages while protecting features of biodiversity and cultural importance.

RD-3: Encourage the development of a compact and sustainable village structure by ensuring that new development is contiguous with existing development and makes effective use of backland and infill sites while protecting features of biodiversity and cultural importance.

RD-5: Encourage the completion and occupation of unfinished housing estates.

RD-6: Encourage the provision of a housing mix and variety to cater for all different family sizes and demands.

RD-7: Ensure that all proposals for residential development on unzoned lands within settlement boundaries will be assessed in relation to the objectives of the County Development Plan, any general objectives in the local area plan that apply to the particular location, the character of the surrounding area, residential amenity, availability of infrastructure, the sequential approach, flood risk, compliance with the EPA's "Code of Practice – Wastewater Treatment and Disposal Systems serving Single Houses (p.e. ≤ 10)" or any subsequent standards, and any other planning and sustainable development considerations considered relevant to the proposal or its surroundings.

Section 2.8.10: Sewerage Infrastructure & Waste Water Management:

There is provision in the Water Services Investment Programme for funding to be provided in the medium term (2-5 years) for the upgrading or construction of new plants in Ardfert, Castlemaine, Fenit and Kilcummin. In these villages residential development may be permitted but houses within schemes cannot be occupied until the new infrastructure is fully operational.

TI-4: Ensure that environmentally sustainable development of zoned land within settlements is dependent on the provision of adequate water and wastewater infrastructure as set out in S2.7.7-10 of this plan and on the provision of other critical infrastructure.

Section 4b Villages: East Kerry: Kilcummin

Section 1.4: Infrastructure:

The existing foul and surface water sewer system is at capacity. The existing system is a combined foul and storm drainage system and measures to deal with storm waters are required. It is proposed to upgrade the sewerage network in the village. It is proposed to connect this new system to the Killarney Main Drainage network.

Section 1.5: Urban Form

Section 1.9: Growth and Residential Development

9.0 ASSESSMENT

From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

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- The principle of the proposed development
 - Wastewater treatment and disposal / servicing arrangements
 - Appropriate assessment
 - Other issues

These are assessed as follows:

9.1 The Principle of the Proposed Development:

9.1.1 The proposed development site is located within the defined ‘*settlement boundary*’ for the village of Kilcummin as detailed on Map 12.1(k) of the Kerry County Development Plan, 2015, however, it is of particular relevance in the context of the subject proposal to note that the application site is also situated within the ‘*development boundary*’ of the village as identified in the Tralee Killarney Hub Functional Areas Local Area Plan, 2013-2019 which is stated as containing suitable land for the development of residential units and wherein it is the policy of the Planning Authority to ensure that all new multiple residential development(s) take place within the development boundary of the village while protecting features of biodiversity and cultural importance. It should also be noted that it is an objective of the Local Area Plan to ensure that all development proposals on unzoned lands within the settlement boundary are assessed having regard to the objectives of the County Development Plan, any general objectives in the local area plan that apply to the particular location, the character of the surrounding area, residential amenity, availability of infrastructure, the sequential approach, flood risk and any other planning and sustainable development considerations considered relevant to the proposal or its surroundings.

9.1.2 In addition to the foregoing, it should be noted that the surrounding area is primarily residential in character and that the prevailing pattern of development is dominated by conventional suburban housing. In this respect it is of relevance to note that the proposed development involves an infill site situated within an established residential estate where services are available and that the development of appropriately designed infill housing would typically be encouraged in such areas provided it integrates successfully with the existing pattern of development and adequate consideration is given to the need to protect the amenities of existing properties. Indeed, the ‘*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2008*’ acknowledge the potential for infill development within established residential areas provided that a balance is struck between the reasonable protection of the amenities and the privacy of adjoining dwellings, the protection of established

character and the need to provide residential infill. Further credence is given to the submitted proposal by way of the precedent set by the previous grants of planning permission issued in respect of PA Ref. Nos. 04/1528 & 09/842 which have already established that the development of 6 No. dwelling houses on the subject site is acceptable.

9.1.3 Therefore, having considered the available information, and in light of the site context, I am satisfied that the overall principle of the proposed development is acceptable, subject to the consideration of all other relevant planning issues, including the impact, if any, of the proposal on the amenities of neighbouring properties and the overall character of the wider area.

9.2 Wastewater Treatment and Disposal / Servicing Arrangements:

9.2.1 At present, the wider Páirc Chuimín housing scheme is serviced by an existing private wastewater treatment system which was approved under PA Ref. No. 04/1528 and has a stated capacity of 400 P.E. In this regard I would further advise the Board that a review of the design brief for the existing treatment plant indicates that it was initially designed to cater for 85 No. dwelling houses at an occupancy rate of 4.5 No. persons / unit thereby equating to a capacity requirement of 382.5 P.E.

9.2.2 The proposed development includes for connection to the existing wastewater infrastructure serving the Páirc Chuimín housing scheme and thus is reliant on the availability of adequate capacity within the existing wastewater treatment system and the satisfactory functioning of same. However, in its decision to refuse permission, the Planning Authority has asserted that it is not satisfied that the effluent arising from the proposed development can be adequately disposed of on site and that it would not be prejudicial to public health. In this respect it is apparent that the decision to refuse permission is based on the final report of the Environment Section of the Local Authority which states that whilst the effluent arising from the proposed housing will be discharged to the existing wastewater treatment system previously approved under PA Ref. No. 04/1528, which is within the catchment of the Deenagh River that in turn feeds into Lough Leane, there are concerns in relation to the potential impact on downstream water quality given that the treatment plant in question is several years old and pre-dates the standards set out in the current Environmental Protection Agency Code of Practice. The aforementioned report further states that no information has been provided in the application to confirm that the plant in question would be capable of accommodating the additional

loadings consequent on the proposed development without giving rise to environmental pollution.

9.2.3 At this point I would advise the Board that concerns were also raised by a third party observer during the Planning Authority's assessment of the subject application as regards continuing difficulties in ensuring the satisfactory functioning / operation of the existing wastewater treatment plant on site and the consequential need for connection to a public sewerage system. Indeed, this issue was also referenced by the reporting inspector in their recent assessment of PA Ref. No. 16/234 / ABP Ref. No. PL08.246790. However, it is of relevance to note that no reference has been made in the Planning Authority's assessment of the subject proposal to any apparent failing of the existing treatment system, but rather the focus has been placed on the need to establish that said system can adequately accommodate the additional loadings from the proposed housing.

9.2.4 In the grounds of appeal, the applicant has submitted that the existing wastewater treatment system serving the remainder of the Páirc Chuimín housing scheme has adequate capacity to accommodate the additional loadings consequent on the proposed development. In support of the foregoing, it has been submitted that the existing system has a design capacity of 400 P.E. which was calculated on the basis of 85 No. dwelling houses at an occupancy rate of 4.5 No. persons / unit thereby equating to a capacity of 382.5 P.E. (N.B. Only 84 No. dwelling houses were ultimately permitted under PA Ref. No. 04/1528). The total hydraulic loading for the treatment system was thus calculated as 68,850 litres / day on the basis of a daily loading of 180 litres / person / day (i.e. 382.5 P.E. x 180l/day = 68,850l/day) thereby requiring a sand polishing filter measuring 1,721m² in area (assuming a loading of 40l/m²/d) which has seemingly been constructed on site. With regard to the subject proposal, the applicant has asserted in the first instance that a reduced daily hydraulic loading of 150 litres / person / day is now recommended by the EPA in the design of wastewater treatment systems and on this basis the hydraulic load capacity of the existing polishing filter as installed would be capable of accommodating a population equivalent of 459 No. persons (i.e. 68,850l/d / 150l/p/d = 459 P.E.) whereas the proposed development of 6 No. dwelling houses, when taken in conjunction with the 7 No. units permitted under PA Ref. No. 16/234 / ABP Ref. No. PL08.246790 in addition to the 81 No. dwelling houses already completed, would equate to a population equivalent of only 423 No. persons (94 No. units x 4.5 No. persons / unit = 423 P.E.). The applicant subsequently states that data from the census undertaken in 2011 for the SAPS within which Páirc Chuimín is located indicates

a population of 327 No. persons in a total of 123 No. households which would equate to an actual average occupancy rate of 2.66 No. persons / unit and that this could in turn be interpreted as suggesting that there is considerable spare capacity in the hydraulic load capacity of the existing polishing filter. A similar assertion is made if an average occupancy rate of 3 No. persons / unit were to be applied and it has also been submitted that further credence is lent to the applicant's position in the documentation prepared by 'Wastewater Solutions' that has accompanied the grounds of appeal which states that the existing treatment system is capable of accommodating up to 100 No. dwelling houses from both a biological and hydraulic load capacity perspective.

9.2.5 Having reviewed the available information, I do not propose to revisit the design calculations of the existing wastewater treatment system as permitted under PA Ref. No. 04/1528, but rather to consider the subject proposal in the circumstances presently prevailing. In the first instance the applicant is correct in stating that the EPA presently advocates the use of a typical daily hydraulic loading of 150 l/person in the calculation of wastewater capacities in order to ensure that adequate treatment is provided and thus I am amenable to the consideration of same. With regard to determining whether or not the existing treatment system has sufficient capacity to accommodate the additional loadings consequent on the proposed development, it is first necessary to assume a likely occupancy rate of the housing served by that system. In this respect it is notable that the website of the EPA states that a domestic wastewater treatment system is assumed to have a daily hydraulic loading for each person of 150 litres and a typical household occupancy of 2.8 people. By extrapolating this figure, and applying it to the subject proposal, it can be calculated that the combined population equivalent of the subject proposal, when taken in conjunction with existing and permitted housing, will equate to 263.2 P.E. and thus the existing polishing filter has sufficient hydraulic capacity to accommodate the loadings generated by same (i.e. $263.2 \text{ P.E.} \times 150 \text{ l/p/d} = 39,480 \text{ l/d}$). However, in August, 2013 the EPA issued a clarification as regards the design capacity requirements of the '*Code of Practice: Waste Water Treatment and Disposal Systems serving Single Houses*' which stated that for the purposes of the Code of Practice the minimum house size will be 2 No. bedrooms which will equate to a design capacity of 4 P.E., and that for every additional bedroom, irrespective of size, an additional 1 P.E. should be added e.g. a three-bedroom house will have a population equivalent of 5 No. persons. Accordingly, if it is assumed that the wider Páirc Chuimín housing scheme comprises 3-bedroom units similar to those permitted under ABP Ref. No PL08.246790 and as proposed in the subject application, the cumulative population equivalent of the overall development

(taking account of existing, permitted & proposed housing) will equate to 470 P.E. (94 No. units x 5 No. persons / unit = 470 P.E.). In turn, it can be calculated that this would result in a hydraulic loading of 70,500l/d (i.e. 470 P.E. x 150l/p/d = 70,500l/d) and thus would exceed the design specifications of the existing polishing filter as installed on site.

9.2.6 On balance, given that the EPA advocates the use of a daily hydraulic loading of 150 l/person in the calculation of wastewater capacities, which seemingly could be construed as equating to a 2.8 No. person household, and on the basis that a typical 3-bedroom dwelling house in a suburban setting is perhaps more likely to have a smaller household size than a larger one-off rural dwelling house, in addition to the limited household size prevalent in the surrounding area as evidenced by the submitted census data, in my opinion, it would seem reasonable to apply a household size of 4 No. persons in respect of the wider Páirc Chuimín housing and, therefore, the existing, permitted and proposed developments would result in a population equivalent of 376 No. persons (94 No. units x 4 No. persons / household) and would in turn equate to a daily hydraulic loading of 56,400l/d which is seemingly within the design parameters of both the combined capacity of the 2 No. 200 P.E. treatment units within the existing wastewater treatment system and the existing polishing filter (i.e. 68,850l/day).

9.2.7 At this point it should be reiterated that housing units have previously been permitted on the subject site pursuant to PA Ref. Nos. 04/1528 & 09/842 and that comparisons may be drawn between the subject proposal and the Board's determination of ABP Ref. No. PL08.246790 wherein permission was granted for 7 No. housing units having regard to the planning history and the unfinished nature of development on that site, and as it was considered that in light of the limited scale of the development proposed a pragmatic approach should be taken to allow this portion of the overall housing development in the interest of the amenities of existing occupied dwellings in the immediate vicinity of the site.

9.2.8 Therefore, on the basis of the foregoing, I am inclined to recommend a grant of permission in respect of the submitted proposal.

9.2.9 With regard to the routing of 2 No. separate foul sewer lines, including a rising main, between House Nos. 9 & 10, whilst the alignment of such shared services through private housing plots is undesirable, I note that a similar arrangement would appear to have previously been approved at this location and

thus I do not propose to comment further on same, other than to state that any such matters can be addressed by way of condition.

9.3 Appropriate Assessment:

9.3.1 From a review of the available mapping, including that contained in the Kerry County Development Plan, 2015 and the data maps available from the website of the National Parks and Wildlife Service, it is apparent that although the proposed development site is not located within any Natura 2000 designation, the existing wastewater treatment system which presently serves the wider Páirc Chuimín housing scheme is situated approximately 130m northwest of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment Special Area of Conservation (Site Code: 000365). In this respect it is of relevance to note that it is the policy of the planning authority, as set out in Chapter 9: '*Natural Heritage, Biodiversity & Conservation*' of the Development Plan, to protect all natural heritage sites, both designated or proposed for designation, in accordance with National and European legislation. In effect, it is apparent from the foregoing provisions that any development likely to have a serious adverse effect on a Natura 2000 site will not normally be permitted and that any development proposal in the vicinity of, or affecting in any way, the designated site should be accompanied by such sufficient information as to show how the proposal will impact on same. Therefore, a proposed development may only be authorised after it has been established that the development will not have a negative impact on the fauna, flora or habitat being protected through an Appropriate Assessment pursuant to Article 6 of the Habitats Directive.

9.3.2 Having reviewed the available information, and following consideration of the 'source-pathway-receptor' model, it is my opinion that given the nature and scale of the development proposed, the site location outside of any Natura 2000 designation, the limited ecological value of the lands in question, and the availability of adequate servicing arrangements (including the availability of sufficient capacity within the existing wastewater treatment system serving the wider Páirc Chuimín housing scheme in order to accommodate the additional loadings consequent on the proposed development), the proposal is unlikely to have any significant effect in terms of the disturbance, displacement or loss of habitats or species on the ecology of the aforementioned Natura 2000 sites. Therefore, I am inclined to conclude that the proposed development would not be likely to significantly affect the integrity of the foregoing Natura 2000 sites and would not undermine or conflict with the Conservation Objectives applicable to same.

9.3.3 Accordingly, it is reasonable to conclude on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects, would not be likely to have a significant effect on any European site, in particular, specific Site Code: 000365, in view of the relevant conservation objectives and that a Stage 2 appropriate assessment (and the submission of a NIS) is not therefore required.

9.4 Other Issues:

9.4.1 Overall Design and Layout:

9.4.1.1 The proposed development consists of the construction of 6 No. semi-detached two-storey dwelling houses, and whilst the overall design and layout of same is conventionally suburban with off-street parking and front and rear garden areas, it is in keeping with the surrounding pattern of development.

9.4.2 Impact on Residential Amenity:

9.4.2.1 With regard to the potential impact of the construction of the proposed development on the residential amenities of surrounding property, whilst I would acknowledge that the proposed development site adjoins an established residential area and that any construction traffic routed through same could give rise to the disturbance / inconvenience of local residents, given the limited scale of the development proposed, and as any constructional impacts arising will be of an interim nature, I am inclined to conclude that such matters can be satisfactorily mitigated by way of condition.

9.4.3 Road / Footpath Provision:

9.4.3.1 In relation to the concerns raised as regards the absence of a footpath between Pairc Chuimin and Kilcummin village centre, it is my understanding that a footpath link was shown as part of PA Ref. No. 04/1528 as far as the Roman Catholic church to the northeast and that the developer has paid a special contribution towards the provision of same (as referenced by the reporting inspector in their assessment of PA Ref. No. PL08.246790). Accordingly, in my opinion, this is a matter for resolution with the Planning Authority and does not warrant a refusal of permission.

9.4.3.2 Furthermore, having regard to the limited scale of the development proposed, I am satisfied that the surrounding road network has adequate capacity to accommodate the additional traffic volumes consequent on same.

10.0 RECOMMENDATION

Having regard to the foregoing, I recommend that permission be granted for the proposed development for the reasons and considerations and subject to the conditions set out below:

Reasons and Considerations:

Having regard to the provisions of the Kerry County Development Plan, 2015-2021, to the Tralee Killarney Hub Functional Areas Local Area Plan, 2013-2019, to the planning history of the site, and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would 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 30th day of September, 2016, 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. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

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

practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and residential amenity.

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

Reason: In the interest of visual and residential amenity.

5. The external walls shall be finished in neutral colours such as grey or off-white.

Reason: In the interest of visual amenity.

6. A concrete block wall of two metres in height, capped and plastered on both sides, shall be constructed along all side boundaries of the rear gardens.

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

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

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with

the Development Contribution Scheme made under section 48 of the Act
be applied to the permission.

Signed: _____

Robert Speer
Inspectorate

Date: _____