



An
Bord
Pleanála

Inspector's Report PL08.248355

Development

As part of the Kilcummin Sewerage Scheme, permission to construct a waste water pumping station and gravity sewer crossing of the River Deenagh within Killarney National Park

Location

Clashnagarrane, Kilcummin, Killarney and Derreen, Killarney, Co. Kerry.

Planning Authority

Kerry County Council

Planning Authority Reg. Ref.

17/97

Applicant(s)

Irish Water

Type of Application

Permission

Planning Authority Decision

Grant subject to conditions

Type of Appeal

Third Party

Appellant(s)

Inland Fisheries Ireland

Observer(s)

An Taisce

Date of Site Inspection

22nd June, 2017

Inspector

A. Considine

1.0 Site Location and Description

- 1.1. There are two elements to this proposed development, both located at different locations. The site the subject of the proposed pumping station is located in the settlement of Kilcummin in Co. Kerry. The second element of the proposed development involves the construction of a gravity trunk sewer crossing of the River Deenagh adjacent to the Doirinn Alainn housing estate in the town of Killarney.
- 1.2. Kilcummin is located approximately 6 kilometres to the north east of the town of Killarney and has a number of local amenities including a post office, national school, community centre, nursing home and GAA club, with an attractive public space in the village. There are two housing estates located outside the village itself, Radharc na Sleibhte to the north and Pairc Chuimin to the south west and there are a number of one off detached houses on the roads in the vicinity. Radharc na Sleibhte is connected to the village by a footpath and Pairc Chuimin is not. The current subject site is located to the south east of Pairc Chuimin and access to the subject site is through the housing estate.
- 1.3. The appeal site lies to the rear of the Pairc Chuimin housing estate, off the Kilcummin to Killarney Road and was gated and locked on the date of my inspection so I could not gain access. The River Deenagh is located in close proximity to the subject site, to the east and this river is a feeder to Lough Leane. The Killarney National Park, McGillicuddy's Reeks and Caragh River Catchment SAC (Site Code 000365) lies approximately to the east of the site. It is advised that there is an existing waste water treatment plant located on the subject site which serves the adjacent housing estate. This WWTP appears to discharge to the adjacent stream, which ultimately feeds into the Deenagh River.
- 1.4. The second element of the proposed development involves the construction of a gravity trunk sewer crossing of the River Deenagh adjacent to the Doirinn Alainn housing estate in the town of Killarney. The location of this element of the proposed development is located to the north of Killarney town, to the north of the Killarney Bypass, and to the west of the railway line, in a residential area. To the south east of

the site, there are sports playing fields. In the vicinity of the proposed works, the land to the north of the river is improved agricultural grassland while to the south of the river, the land is a grassed amenity area associated with the Doirinn Alainn housing estate.

2.0 Proposed Development

2.1. As per the public notices, permission is sought as follows:

Development as part of the Kilcummin Sewerage Scheme. The development will consist of:

- (A) construction of a waste water pumping station in the townland of Clashnagarrane, Kilcummin, Killarney which will include:
- A Below-ground peak flow holding tank, a below ground pump sump with duty and standby pumps as well as screening, odour control, electrical and telemetry systems, all to be housed within an above ground building.
 - An access road to the pumping station from the rear of the Pairc Chuimin Estate, Clashnagarrane TD.
 - An emergency overflow from the pumping station to the adjacent watercourse which discharges to the River Dennagh within the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (Site Code 000365)
 - All ancillary works including fencing, lighting, ventilation and landscaping.
- (B) construction of a gravity sewer crossing of the River Deenagh within the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (Site Code 000365) and all ancillary site works.

A Natura Impact Statement (NIS) to facilitate an Appropriate Assessment of potential impacts of the developments on the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (Site Code 000365) will be included, All at Clashnagarrane, Kilcummin, Killarney and Derreen, Killarney.

2.2. In support of the proposed development the following documents were submitted with the application:

- A completed planning application form, relevant fee, public notices and all relevant plans, drawings and particulars.
- A Planning Application Report
- Natura Impact Statement and associated appendices
- Site Specific Flood Risk Assessment Report – Kilcummin Pumping Station
- Archaeological Impact Assessment Report

3.0 Natura Impact Statement

- 3.1. The obligation to undertake appropriate assessment derives from Article 6(3) and 6(4) of the Habitats Directive. Essentially it involves a case by case examination for Natura 2000 site and its conservation objectives. Appropriate Assessment involves consideration of whether the plan or project alone or in combination with other projects or plans will adversely affect the integrity of a European site in view of the site's conservation objectives and includes consideration of any mitigation measures to avoid reduce or offset negative effects. This determination must be carried out before a decision is made or consent given for the proposed plan or project. Consent can only be given after having determined that the proposed development would not adversely affect the integrity of a European Site in view of its conservation objectives.
- 3.2. Arising from the requirements of Articles 6(3) and 6(4) of the Habitats Directive, the Board as the competent authority is required to carry out an appropriate assessment using a 4 stage process where the outcome of each stage determines whether the next further stage is required. The site must be subject to AA regarding its implications for the Natura 2000 site in view of the site's conservation objectives *“if it cannot be excluded, on the basis of objective information, that it will have a significant effect on that site, either individually or in combination with other plans or projects”* (EC, 2006). In other words, where doubt exists about the risk of a significant effect, an Appropriate Assessment must be carried out.
- 3.3. In support of this proposed development, the applicant has submitted a NIS, a stage 2 Appropriate Assessment. The report seeks to provide information on and assess the potential for the proposed work of the scheme to impact on Natura 2000 sites.

The NIS notes that Kilcummin is not currently served by a sewage collection network or treatment facilities, relying instead on private waste water treatment plants and septic tanks. The proposed development seeks to provide appropriate infrastructure to ensure the effective management, collection and treatment of waste water in the interests of protecting the environment and public health.

- 3.4. The report presents a description of the project, including details of the proposed pipe works and the crossing of the River Deenagh. The report presents three potential methods of crossing the river, with descriptions of each method, and concludes that the precise method of no-dig construction to be used for the crossing will be decided upon by the contractor and following consideration of the ground conditions at the site. The report acknowledges the potential for water quality to be impacted upon as part of the proposed development and the NIS considers the impact of the proposed works. The development has the potential to impact upon the Killarney National Park, McGillycuddy's Reeks and Caragh River Catchment SAC and the Killarney National Park SPA.
- 3.5. The potential impacts resulting from the proposed works are discussed as part of the NIS in relation to the conservation objectives of the designated site and mitigation measures are presented. The report identifies that there are potential pathways for impacts due to disturbance during construction or loss of habitat within or adjoining the river. There is also potential for water quality impacts during the operational stage as a result of the emergency overflow at the proposed pumping station. The report concludes that when the avoidance and mitigation measures outlined in Section 9 of the NIS report are implemented in full, it is envisaged that there will be no significant adverse effects on the integrity of the Killarney National Park, McGillycuddy's Reeks and Caragh River Catchment SAC or the Killarney National Park SPA, in view of the sites objectives

4.0 Planning Authority Decision

4.1. Decision

The Planning Authority decided to grant planning permission for the proposed development subject to 7 conditions.

4.2. Planning Authority Reports

4.2.1. Planning Reports

- The Planning Officers report considered the proposed development in terms of the requirements of the Kerry County Council Development Plan, 2015-2021, the planning history afforded to the site together with internal and third party submissions and reports. The report also considered the proposed development in terms of EIA Screening and notes the report from the Biodiversity Officer in terms of the NIS and AA. The report notes that plans for the proposed development were being processed prior to the issuing of the Waste Water Discharge Authorisation for Killarney Sewerage Scheme and for this reason, the Kilcummin Sewerage Scheme has already been included within the overall catchment for the Killarney Sewerage Scheme. The report notes no objections from internal departments within Kerry County Council and recommends that permission be granted.

4.2.2. Other Technical Reports

- SEE Environment Section, KCC: No objection to the proposed development
- Biodiversity Officer, KCC: No objection to the proposed development. The report notes the locations of the proposed development works and also details the proposed river crossing methodologies associated with the proposed development. The report concludes that no adverse effects on the integrity of the cSAC is considered likely. Based on the information provided, the report concurs with the findings of the NIS and recommends that mitigation measures listed in the NIS should be conditioned if a grant of permission is likely. As part of the overall report, an AA Report is included.
- SEE Kerry NRDO: Advises that the site of the proposed development is not affected by any national roads projects and therefore no observations to make.

4.3. Prescribed Bodies

- TII: notes that the proposed development is located in proximity to a future national road scheme. It is advised that the national road scheme should be protected and kept free from any developments or accesses in accordance with national policy.
- Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs: notes that the development is located within the SAC and requests that the applicant ensure that there is no deterioration of the quality of the receiving waters as a result of the project.
- Inland Fisheries Ireland: Note concern in relation to the proposed development at potential implications for the protection of water quality and ultimately fisheries of the Deenagh River and Lough Leane. The report requests clarification on a number of issues and comments on measures required to protect water quality of the Deenagh River. It is further considered that the NIS has not addressed all potential impacts on the aquatic environment and requests further assessment in relation to 6 areas.

While the IFI accepts the requirement for waste water treatment in principle, it does not accept the current proposal if it is to transfer effluent to a combined Killarney Sewer system because of potential for discharge of increased organics and nutrient loadings via storm overflow to Lough Leane waters.

Finally, the report advises that the proposal should include a pipeline connection to a dedicated effluent sewer accessing the Killarney WWTP. If this is not available, a separate treatment and disposal option should be considered until an effective sewer network becomes available.

- An Taisce: While recognising the need for a proper sewerage treatment system, a number of concerns are raised regarding the proposed development in relation to 4 areas.
- HSE: The report notes the submission of an NIS. In relation to Environmental Health, the department has no objections to the proposed development.
- Irish Water: No objections to the proposed development.

4.4. **Third Party Observations**

There are no third party observations.

5.0 **Planning History**

5.1. The relevant planning history associated with the subject site at Kilcummin is as follows:

PA ref 04/1528: Planning permission granted by Kerry County Council for the construction of 85 no. dwelling houses including crèche facilities, service roads and development services with proprietary waste water treatment plant and ancillary works. This permission has been implemented and is the Pairc Chuimin housing estate.

ABP ref PL08.246784 (PA ref. 16/191): Permission granted to convert an existing building constructed as a crèche to two semi-detached dwellings at Pairc Chuimin, Kilcummin, Co Kerry.

ABP ref PL08.246790 (PA ref 16/234): Permission granted to retain foundations and complete six semi-detached dwellings and construct a detached dwelling at Pairc Chuimin, Kilcummin, Co Kerry.

ABP ref PL08.247637 (PA ref 16/744): Permission refused by Kerry County Council for the construction of 6 houses. ABP granted permission on appeal.

5.2. Adjacent site

PA ref 08/277: Permission granted for the construction of 68 houses including 13 no. detached houses, 44 semi-detached houses, 2 terraces of 3 no. houses each and 1 terrace of 5 no. houses including all access roads, services etc. This housing estate was to connect to the proposed public sewerage system and condition 24 of the grant of permission stated that 'No dwelling units shall be occupied until such time as the proposed Kilcummin Sewerage Scheme is completed, and without prior agreement of the Planning Authority.' Reason: In the interest of orderly development.

PA ref 08/9277: Permission granted on the 31st of May, 2013 to extend the validity of permission 08/277 for 5 years to 8th July, 2018.

ABP ref PL08.247813 (PA ref. 16/1005): Permission refused by Kerry County Council for the installation of a community mechanical aeration 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. 08/227 at Ballynamaunagh, Kilcummin, Killarney, Co. Kerry. The Board upheld the decision to refuse.

6.0 Policy Context

6.1. Kerry County Development Plan 2015-2021

6.1.1. The appeal site is located outside the Settlement Boundary outlined for Kilcummin Village on Map 12.1k of the County Development Plan Maps. Kilcummin is identified as a District Town in the Settlement Strategy for County Kerry and has priority status for sewerage infrastructure. Kilcummin Sewerage Scheme is identified in Table 7.2 Priority Water & Waste Infrastructure Projects.

6.1.2. Chapter 7 of the CDP deals with Transport and Infrastructure. The following policy objectives are considered relevant:

RD-1: Seek to protect and safeguard the significant investment made in strategic economic infrastructure, in particular the network of roads, the existing rail line to Tralee and major water and wastewater projects, through the promotion of appropriate development and settlement patterns and the integration of land use and transportation activities.

RD-2: Facilitate the improvement of the quality of life of all citizens of the County by providing good quality environment, energy, communication and transportation infrastructure.

RD-4: Provide or facilitate the sustainable provision of all infrastructure projects set out in Tables 7.1 a/b and 7.2, with priority given to infrastructure serving the Linked-Hub towns and Key Towns.

6.1.3. The site is located in an area of Co. Kerry which is zoned Rural General in the County Development Plan which states 'these areas constitute the least sensitive landscapes throughout the County and from a visual impact point of view have the

ability to absorb a moderate amount of development without significantly altering their character.

6.2. Tralee Killarney Hub Functional Areas Local Area Plan 2013-2019

- 6.2.1. The overall vision for Kilcummin is to ensure that it develops sustainably as an attractive location for residents and that future development preserves the village's character and reinforces it where necessary. The LAP identifies that the existing foul and surface water sewer system is at capacity and that it is proposed to upgrade the sewerage network in the village, proposing to connect the new system to the Killarney Main Drainage network.

6.3. Natural Heritage Designations

The settlement of Kilcummin is located upstream of the Castlemaine Harbour Natura 2000 site. The site itself is located approximately 100m to the west of the Killarney National Park, McGillycuddy's Reeks and Caragh River Catchment SAC (Site Code 000365) and the Killarney National Park SPA (Site Code 004038). The location of the proposed river crossing for the gravity sewer line is within the Killarney National Park, McGillycuddy's Reeks and Caragh River Catchment SAC (Site Code 000365).

7.0 The Appeal

7.1. Grounds of Appeal

This is a third party appeal, submitted by Inland Fisheries Ireland, against the decision of Kerry County Council to grant planning permission for the proposed development. The grounds of appeal are summarised as follows:

- Inadequacy of information provided
- Potential impacts on water quality of the Deenagh River and Lough Leane
- Inadequacies of the foul effluent combined surface water drainage system for reception of foul effluent
- Deficit of assessment in the Natura Impact Statement.

The report submits the following:

- The Deenagh River is located within the SAC and is an import salmonid fishery, specifically included because of its value as a spring salmon fishery with spawning and nursery habitats throughout its length.
- Lough Leane encompasses a wide variety of habitats and has been selected for a number of Annex II fish species. The water quality in the lake declined due to increased levels of nutrients being transferred via the rivers to the lake. The quality has improved recently but continues to be highly vulnerable to nutrient input.
- It is considered that the information supplied in the application and NIS has not demonstrated that risk to water quality will not occur. Further information is required.
- In terms of the proposed pumping station / overflow, it is considered that with the planned provision of effective storage, backup pumps, alarm systems etc, the introduction of any emergency overflow to the adjoining watercourse should not be necessary. IFI objects to any overflow provision at this location.
- In terms of the Deenagh River crossing, IFI requests that 'no-dig' crossing methods be employed with safeguard measures to prevent contamination of the Deenagh River.
- The report considers that the NIS is deficient in that it has not:
 - addressed the potential impacts of construction of the pumping station,
 - identified assessed or addressed the potential for increased polluting flows to Lough Leane either through overflows
 - the NIS comments that 'Ultimately the proposed Kilcummin Sewage Scheme has the potential to reduce the nutrient loading to Lough Leane with resulting environmental benefit'. The veracity of this comment is questioned without supporting information.
- While the principle of the proposed development is accepted, the current proposal is not accepted if it involves the transfer of untreated effluent to a combined Killarney sewer system because of the potential for discharge of

increased organic and nutrient loadings via storm overflow to Lough Leane as well as the potential impacts of overflow on the Deenagh River.

7.2. Applicant Response

The applicant has responded to the third party appeal, rejecting all grounds of appeal raised. The submission advises as follows:

- As the village of Kilcummin is not served by a centralised sewage collection network or municipal treatment facilities, it relies on private WWTPs and septic tanks. There is anecdotal and physical evidence of poor quality discharges to both ground and surface waters.
- A number of options for collection and treatment of wastewater were considered with the proposed transfer of sewage to Killarney for treatment representing the most effective technical and environmental option. This option will also facilitate the connections of houses currently on private WWTPs and septic tanks.

In response to the appeal, the response is summarised as follows:

Surface / storm water ingress:

- The scheme is being provided on the basis of a separate, foul-only waste water collection system without road gully connections.
- Of approximately 131 properties in the service catchment, 104 are already connected to a separate foul and surface-water networks. The extent of surface / storm water entering the proposed sewer network before pumping will be limited.
- Irish Water Connections Division will be responsible for enforcing the connection of foul drainage only. This exclusion of surface water will also apply to approximately 66 properties that may connect to the gravity transfer sewer along the Killarney Road.
- In terms of hydraulics, the dry weather flow for the proposed Kilcummin scheme has been estimated to be 5.8m³/hour or 1.6l/s. The estimated DWF in the Killarney system was 67.6l/s. The proposed scheme will represent just 2.8% of the current DWF.

Killarney Sewer Network

- Connection is proposed to a 300mm dia foul sewer located adjacent to the Doirin Ailinn Estate on the outskirts of Killarney. The Killarney network is primarily a combined sewer system.

Storm Overflows

- In respect of the Killarney network, there is an overflow manhole on the combined sewer approximately 300m upstream of the Killarney Wastewater Treatment Plant. This manhole is designed to allow a forward flow to the treatment plant of 2,363m³/hr. Flows in excess of this volume are screened and discharged to the Folly Stream. It is estimated that when an overflow occurs, less than 0.88% of the volume overflowing will consist of effluent from the proposed Kilcummin Scheme.
- The impact of persistent discharges from poorly performing WWTPs and septic tanks is thought to be far greater than the infrequent partial overflows of effluent from Kilcummin which would occur from the overflow manhole upstream of the Killarney WWTP.
- It is considered that the provision of the scheme will allow the proper environmental management of effluent arising from Kilcummin and will result in an overall reduction in nutrients entering the Lough Leane system.

Killarney WWTP Capacity

- The system currently has treatment capacity for a 54,000 PE.
- The Kilcummin scheme is designed for a maximum of 924PE, representing 1.7% of the current organic treatment capacity at Killarney. There has been full compliance with all effluent ELVs between 2012-2016.
- The 2016 Annual Environmental Report to the EPA for the Killarney WWTP states that the annual mean hydraulic loading to the plant was 10,864m³/d, which approximates to 3DWF for a population of 20,120 PE.
- There will be no significant impact on capacity.

Pump Station Emergency Overflow

- It is submitted that the pump station emergency overflow will only operate in the event of a catastrophic failure of the pumping station.
- In such circumstances, it will be possible to tanker wastewater to prevent an overflow.
- There is always a residual risk that an exceptional set of circumstances may arise and the precaution of providing a screened overflow is provided.
- The NIS notes that the emergency overflow will only activate when there is pump failure for a prolonged period.
- A suite of design measures has been included to significantly minimise the risk of the activation of the emergency overflow and subsequent discharge of screened effluent into the watercourse, which may potentially have significant impacts on Annex II Species including Salmon and Lamprey.

Deenagh River Crossing

- No-dig crossing methods are the preferred method to be employed.
- Other methods were addressed in the NIS in the event that the ground conditions did not favour a no-dig crossing. Mitigation measures are identified.

NIS & Pumping Station Construction Impacts

- The NIS details a number of construction impact mitigation measures, and will apply to all construction works.
- IW rejects the assertion that the NIS is deficient.
- In the interests of clarity, a Draft Method Statement for the construction of the pump station is provided.

NIS & Overflows to River Deenagh or Storm Overflows to Lough Leane

- The proposed scheme provides for one emergency overflow at the pumping station.
- The proposed scheme is considered to be a significant improvement over the current situation that currently exists.

Reduction in Nutrient Loading to Lough Leane

- It is submitted that one of the reasons for the proposed scheme is to reduce pollution risk to Lough Leane via ground water and /or the River Deenagh.
- The development will see the reduction of phosphorus input to the lake as a consequence of a move away from the use of on-site WWTPs and septic tanks.
- There is capacity in the Killarney WWTP to accommodate the wastewater from Kilcummin and remain within the emission limit values for the plant.
- AA was undertaken for the discharge licence for the Killarney WWTP, which included Kilcummin.

Killarney Combined Sewer System

- As outlined in the NIS, Irish Water commits to the preparation of a Drainage Area Plan for the Killarney town sewer network. This plan will assess the hydraulic capacity of the existing network and the performance of combined storm water overflows during periods of heavy rainfall.
- The Wastewater Discharge Authorisation for the Killarney Sewerage Scheme requires that storm water overflows be in compliance with the requirements specified in the EPA licence by 31st December 2020.
- The proposed Kilcummin network is being provided exclusively for the collection of wastewater.

The report provides a conclusion and requests that the Board uphold the grant of planning permission for the proposed scheme.

7.3. Planning Authority Response

The PA has not responded to this third party appeal.

7.4. Observations

There is one observation noted in relation to the proposed development from An Taisce. The observation, while acknowledging the need for a proper sewerage

treatment system for Kilcummin, raises a number of concerns which are summarised as follows:

- Plans for the proposed collection system for the village are not yet finalised.
- While Killarney WWTP has capacity at present, it is a combined network.
- Questions how leaks, should they arise in the 5km pipe, be detected and repaired.
- Raises concerns regarding the protection of the Deenagh River, and the impacts a leak could have due to low levels.
- Questions whether it would be more beneficial to pipe the undiluted sewerage directly to the Killarney treatment works rather than the proposal to join the system at the edge of the town.
- Questions how long the Killarney WWTP will have spare capacity as the town is likely to continue to grow.

7.5. Further Responses

7.5.1. A further response from Inland Fisheries Ireland was submitted on the 28th June, 2017. The response notes the submission of the first party in response to the third party appeal and is summarised as follows:

- Reference to the preparation of Drainage Area Plan (DAP) for Killarney town sewer network has been mentioned and while welcome, it must be accepted that assessment to implementation of works required will take many years and there is no guarantee that the sewer network will be upgraded within the foreseeable future.
- IFI considers that the any untreated effluent discharge to the lake unacceptable and unsustainable and without the introduction of a separated storm/foul sewer will be exacerbated over the coming years.
- There is concern that if permission is granted, housing and other developments will proceed quickly.
- The allocation of finances may be compromised by conditions of the Killarney WWTP EPA Licence Register Number D0037-01 which requires a reduction

in emissions limit concentrations for BOD, Ammonia and orthophosphate by 2021.

- The IFI does not accept the current proposal if it involves the transfer of untreated effluent to a combined Killarney sewer system because of the potential discharge of increased organic and nutrient loadings via storm overflow to Lough Leane and also for potential impacts of overflow on the Deenagh River and its tributary adjoining the proposed pumping station.

7.5.2. The Board will note that the Heritage Council was requested to make submissions or observations in relation to the appeal. No response was received.

8.0 **Assessment**

Having considered all of the information submitted with the planning application and technical reports, together with the appeal documentation and responses, and having undertaken a site visit, I consider it appropriate to assess the proposed development application under the following headings:

1. The principle of the development
2. Proposed works
3. Appropriate Assessment

8.1. **Principle of development**

8.1.1. The proposed development comprises two elements, located approximately 5km apart. The subject site where it is proposed to construct the pumping station is located within the established built up area of Kilcummin, Killarney, Co. Kerry, within the defined boundaries and to the south of the village. The site is located to the south east of the existing residential estate known as Pairc Chuimin. This development has its primary access off the Killarney Road and comprises a development of 80+ houses. The proposed development seeks to construct a waste water pumping station in this area together with the second element of the proposed development, being the construction of a gravity sewer crossing of the River Deenagh, in the vicinity of the housing estate known as Doirin Ailinn, located on the to the north of the town of Killarney. The development includes works within the

Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (Site Code 000365) and all ancillary site works.

8.1.2. In terms of the principle of the proposed development, the proposed construction of a waste water pumping station in the townland of Clashnagarrane, Kilcummin, Killarney will include:

- A Below-ground peak flow holding tank, a below ground pump sump with duty and standby pumps as well as screening, odour control, electrical and telemetry systems, all to be housed within an above ground building.
- An access road to the pumping station from the rear of the Pairc Chuimin Estate, Clashnagarrane TD.
- An emergency overflow from the pumping station to the adjacent watercourse which discharges to the River Dennagh within the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (Site Code 000365)
- All ancillary works including fencing, lighting, ventilation and landscaping.

8.1.3. The appeal site is located within the Settlement Boundary outlined for Kilcummin Village on Map 12.1k of the County Development Plan Maps. Kilcummin is identified as a District Town in the Settlement Strategy for County Kerry and has priority status for sewerage infrastructure. Kilcummin Sewerage Scheme is identified in Table 7.2 Priority Water & Waste Infrastructure Projects. In this regard, I am satisfied that, in principle, the proposed development can be considered as acceptable and in compliance with the requirements of the County Development Plan.

8.1.4. The second element of the proposed development provides for the construction of a gravity sewer crossing of the River Deenagh within the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (Site Code 000365) and all ancillary site works. Having considered the planning history of the area, I note that this proposal was included in the plans to service Kilcummin. In this regard, I am satisfied that the proposed development as a whole, is acceptable in principle.

8.2. Proposed works:

- 8.2.1. In terms of the proposed waste water pumping station, the Board will note that the majority of the development will occur under ground. The proposed housing for the pumping station will rise to an overall height of 6m, with the parapet at 5.41m. The building will be finished in a nap plaster finish with a natural stone cladding to be used on the northern elevation. The building will also provide a WC. The development proposes a separate surface water drainage discharge with a proposed emergency overflow to be directed to the unnamed stream to the south of the site. The information submitted in support of the proposed development suggests that the emergency overflow will not be used unless in an exceptional event.
- 8.2.2. The overall design of the scheme locates the pumping station in an area which maximises the catchment area which can discharge by gravity to the pumping station. The proposal then seeks to pump this sewage via a short rising main from the pumping station to a proposed manhole located on the Killarney Road. A gravity sewer will then transfer the untreated sewage to the Killarney Waste Water Treatment Plant where it will be treated.
- 8.2.3. In accessing the WWTP, the proposed development will involve a pipe crossing the Deenagh River which lies within the SAC. It is indicated that directional drilling will be employed for the crossing of the river to minimise any potential impacts on the SAC. The Natura Impact Statement submitted in support of the proposed development presents specific mitigation measures to ensure no contamination of the river will occur during the works. The information submitted in support of the proposed development indicates that there is adequate capacity in the Killarney WWTP to deal with the loading from Kilcummin and that the discharge licence for the WWTP has included the expected loading and was subject to AA.
- 8.2.4. The Board will note that while the third party appellant acknowledges the need for, and the principle of, the proposed development, the current proposal is not considered acceptable if it involves the transfer of untreated effluent to a combined Killarney sewer system because of the potential for discharge of increased organic and nutrient loadings via storm overflow to Lough Leane as well as the potential impacts of overflow on the Deenagh River. I proposed to deal with environmental issues below as part of my appropriate assessment.

8.3. **Appropriate Assessment:**

- 8.3.1. it is the policy of the planning authority, as set out in Chapter 10 of the Kerry County Development Plan, 2015, to conserve, manage and, where possible, enhance the County's natural heritage including all habitats, species, landscapes and geological heritage of conservation interest and to promote increased understanding and awareness of the natural heritage of the County. Objective NE 12 of the Plan states that no projects which will be reasonably likely to give rise to significant adverse direct, indirect or secondary impacts on the integrity of any Natura 2000 sites, having regard to their conservation objectives, will be permitted (either individually or in combination with other plans or projects) unless imperative reasons of overriding public interest can be established and there are no feasible alternative solutions. In effect, 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. Accordingly, it is necessary to screen the subject proposal for the purposes of 'appropriate assessment'.
- 8.3.2. As part of the documentation submitted in support of the proposed development, the first party submitted a Natura Impact Statement. Section 5 of the NIS deals with Stage 1 Screening and in applying the precautionary principle, it was determined that due to a range of potentially significant impacts upon the European Site, it was not possible to rule out significant impacts. The assessment therefore, proceeded to Stage 2 – Appropriate Assessment. The NIS identified two European sites with the potential to be impacted upon by the proposed development. These are Killarney National Park, McGillicuddy's Reeks and Caragh River Catchment SAC (Site Code 000365) and Killarney National Park SPA (Site Code 004038).
- 8.3.3. The proposed development has the potential to impact a stream to the north which feeds the Deenagh River, a salmon spawning and nursery tributary within the Lough Leane Catchment, and which are qualifying interests of the Killarney National Park, Magillicuddy's Reeks and Caragh River Catchment SAC (site code 000365). In this regard, the Board will note that Killarney National Park, Magillicuddy's Reeks and Caragh River Catchment SAC (site code 000365), has been designated as being of

special conservation interest on the basis that it supports the following habitats and / or species:

Habitats:

- [3110] Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae)
- [3130] Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea
- [3260] Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation
- [4010] Northern Atlantic wet heaths with *Erica tetralix*
- [4030] European dry heaths
- [4060] Alpine and Boreal heaths
- [5130] *Juniperus communis* formations on heaths or calcareous grasslands
- [6130] Calaminarian grasslands of the Violetalia calaminariae
- [6410] *Molinia* meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae)
- [7130] Blanket bogs (* if active bog)
- [7150] Depressions on peat substrates of the Rhynchosporion
- [91A0] Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles
- [91E0] Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (Alno-Padion, Alnion incanae, Salicion albae)*
- [91J0] *Taxus baccata* woods of the British Isles*

* denotes a priority habitat

Species:

Code	Common Name	Scientific Name
1024	Kerry Slug	<i>Geomalacus maculosus</i>
1029	Freshwater Pearl Mussel	<i>Margaritifera margaritifera</i>

1065	Marsh Fritillary	<i>Euphydryas aurinia</i>
1095	Sea Lamprey	<i>Petromyzon marinus</i>
1096	Brook Lamprey	<i>Lampetra planeri</i>
1099	River Lamprey	<i>Lampetra fluviatilis</i>
1106	Salmon	<i>Salmo salar</i>
1303	Lesser Horseshoe Bat	<i>Rhinolophus hipposideros</i>
1355	Otter	<i>Lutra lutra</i>
1421	Killarney Fern	<i>Trichomanes speciosum</i>
1833	Slender Naiad	<i>Najas flexilis</i>
5046	Killarney Shad	<i>Alosa fallax killarnensis</i>

8.3.4. The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. The Conservation Objective for the site is to maintain or restore the favourable conservation condition of the Annex I habitat(s) and / or the Annex II species for which the SAC has been selected.

8.3.5. The Appropriate Assessment Stage 1 Screening, submitted as part of the NIS, considered the potential for impacts on the European sites and concluded that under the precautionary principle, it would not be possible to rule out potential significant impacts from the following sources:

- During the construction stage as a result of the proposed crossing of the River Deenagh
- During the operational phase as a result of the proposed emergency overflow.

In light of the above, Stage 2 Appropriate Assessment was undertaken. Section 9 of the submitted NIS deals with the potential impacts on Natura 2000 sites and deals with issues relating to impacts on water quality, Annex I Habitats, Annex II Species and Annex I Bird Species.

8.3.6. Construction Phase:

- In terms of the proposed construction phase of the development, it is to be noted that the area of the proposed pumping station is located on lands which have

been previously disturbed during the construction of the residential estate adjacent. In addition, the waste water treatment plant system which services this residential estate is located in the area of the proposed pumping station. The NIS notes that no annexed habitats are present on the site and that the primary concern relates to the unnamed stream adjacent to the site and the Deenagh River. In terms of construction impacts, and having regard to the information presented in support of the proposed development, together with the reports and third party comments on the file, I am satisfied that the construction phase of the proposed pumping station is unlikely to have significant effects on the SAC.

- The proposed crossing of the River Deenagh gives rise to potential concerns in terms of impacts. The lands to the north of the river can be described as improved agricultural grassland while the lands to the south of the river is an area of amenity grassland associated with the adjacent residential estate. There is no evidence of any annexed habitats being present in these areas. The environment of the River itself is the primary area of concern in terms of potential impacts. The Deenagh River is a salmon spawning and nursery tributary within the Lough Leane Catchment, and these are qualifying interests of the Killarney National Park, Magillicuddy's Reeks and Caragh River Catchment SAC (site code 000365). At the area of the proposed crossing, the river is narrow with a narrow riparian area along the river edge. As part of the NIS, the proposed construction methodology will involve directional drilling, which will significantly minimise any potential significant effects on the SAC.

8.3.7. Operational Phase:

- The main area of concern in terms of potential impacts arising from the operational phase of the proposed development relates to the potential using of the emergency overflow at the pumping station. The information submitted identifies that this emergency overflow will be directed into the unnamed stream to the south of the site of the pumping station. Section 10.7 of the NIS provides information in terms of the design of the pumping station and measures to be implemented to ensure that the emergency overflow will only ever be used in exceptional circumstances. In addition, the NIS details a number of additional mitigation measures, including the screening of the discharge as well as the intention to use a mobile generator on the site in the event of a power outage.

- The Board will note that the third party appellant has objected to the provision of an overflow at the pumping station. In response the applicant, through the NIS, has considered that the suite of design measures to minimise the risk of activation of the emergency overflow, and subsequent discharge of screened effluent into the watercourse, has been presented in the NIS to address concerns. In considering all of the information available, and having regard to the current situation of the multiple waste water treatment plants in private ownership operating within the catchment, I consider that the proposed development is an acceptable and appropriate alternative. I am satisfied that the development as proposed, subject to the mitigation measures being implemented in full, that the operation of the pump station is unlikely to give rise to significant effects on the SAC.
- Further to the above, the indicative line of the proposed pipe work, which does not form part of this application, has been indicated on the submitted plans. The gravity sewer will run for a distance of +5km from the rising main from the pumping station site and is indicated as primarily following the public roads, outside the SAC. The pumped effluent will be transferred to the Killarney Waste Water Treatment Plan for treatment prior to discharge under the plants Discharge Licence. The information available suggests that there is adequate capacity within the Killarney WWTP to accommodate the loading from Kilcummin. I am satisfied that the operation of the pump station is acceptable in this regard.
- There are no operational issues arising in relation to the area of the river crossing.

8.3.8. The NIS considers that in the absence of mitigation measures, there is potential for impacts on the Killarney National Park, Magillicuddy's Reeks and Caragh River Catchment SAC (site code 000365) during both construction and operational phases. In the interests of protecting the conservation objectives of the European Sites, mitigation measures are proposed, which will include the preparation of a detailed Construction Phase Method Statement and Management Plan. On implementation, it is submitted that there are no likely residual negative impacts. It is concluded that the proposed development will not have a significant negative effect on the integrity of the European sites.

8.3.9. Having considered the nature of the subject development site, the lack of any habitats of value present on the sites, the nature of the proposed development, together with the proposed construction methodology and the details presented in the Natura Impact Statement with regard to mitigation measures proposed to minimise the potential for any adverse effects on water quality in the designated site, I am satisfied that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European Site, Killarney National Park, McGillycuddy's Reeks and Caragh River Catchment SAC (Site Code 000365) or the Killarney National Park SPA (Site Code 004038). in view of the sites Conservation Objectives.

9.0 Recommendation

9.1. It is recommended that planning permission be granted for the proposed development for the following stated reasons and considerations and subject to compliance with the following conditions.

10.0 Reasons and Considerations

Having regard to the provisions of the current Kerry County Development Plan, 2015-2021, the Tralee Killarney Hub Functional Areas Local Area Plan 2013 – 2019, together with the location of the site of the pumping station in the area of the existing private waste water treatment system for the Pairc Chuimin residential estate, together with the information presented in the planning application, including the Natura Impact Statement, 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 the residential amenities of property in the vicinity, would not be likely to have significant effects on the environment, or the ecology of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. All mitigation measures outlined in the Natura Impact Statement received by the Planning Authority on the 9th of February, 2017, shall be fully undertaken, maintained and monitored.

Reason: In the interests of public health and safety and environmental protection.

A. Considine
Planning Inspector

17th July, 2017