



An  
Bord  
Pleanála

## Inspector's Report ABP 302483-18

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### Development

Extend existing bus parking area, upgrade/extend existing overflow car park, provide additional car park lighting, removal/translocation of landscaping trees, drainage, ancillary site works and landscaping.

### Location

Muckcross House (Protected Structure), Muckcross, The National Park, Killarney, Co. Kerry.

### Planning Authority

Kerry County Council

### Planning Authority Reg. Ref.

18/377

### Applicant

Department of Culture, Heritage and The Gaeltacht

### Type of Application

Permission

### Planning Authority Decision

Grant subject to conditions

### Type of Appeal

3<sup>rd</sup> Party v. Grant

### Appellants

1. Michael Horgan
2. Peter Sweetman & John G. Casey

### Observer(s)

None

**Date of Site Inspection**

23/01/19

**Inspector**

Pauline Fitzpatrick

## 1.0 Site Location and Description

Muckross House is located to the west of the N71 (Killarney – Kenmare) National Secondary Route c.5 kilometres south of Killarney. It overlooks Muckross Lake to the west. The house is owned by the State and is regarded as the architectural centrepiece to Killarney National Park, which covers over 10,000 hectares.

Muckross House is a Victorian gabled mansion finished in sandstone with projecting bays, mullioned windows, finials and chimneys. It is open to the public with over 550,000 visitors in 2017 (source: Failte Ireland). Near the house there is a visitor centre incorporating restaurant/shop with associated parking areas.

The site subject of the application has a stated area of 2.57 hectares. It is located to the north-west of the house and associated visitor facilities.

The existing coach park is accessed via a barrier entrance to the north of visitor toilet facilities. It currently provides for the in region of 12 coach/bus spaces. The main carpark is to the east of same with an overflow car park to the north of this. The vicinity of the site is characterised by a demesne landscape crossed by a network of internal roads and footpaths.

## 2.0 Proposed Development

The application was lodged with the planning authority on the 24/04/18 with further details submitted 17/07/18 following a further information request dated 14/06/18 requiring a Natura Impact Statement.

The proposal entails

- The provision of 8 no. additional spaces in the bus carpark giving a total of 20 spaces.
- Upgrading of the existing overflow car park and provide for an additional 26 no spaces.
- Upgrading of the existing surface water drainage system for the entire car park to collect, attenuate and discharge surface water to Lough Leane c.460 metres to the north.

- The works will require the removal and replacement of trees in the vicinity of the works.

The application is accompanied by

- Tree Survey and Arboricultural Impact Assessment
- Landscape Plan and Landscape Design Statement
- AA- Screening Report
- Natura Impact Statement

**Note:** The Board informed the applicant on 11/10/18 that the public notices did not comply with the statutory requirements (the fact that Muckross House is a protected structure not referenced). Revised public notices submitted.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Grant permission for the above described development subject to 4 conditions including:

Condition 3: recommendations of Tree Survey and Arboricultural Impact Assessment to be adhered to in full.

Condition 4: good site management practices to be employed during construction to prevent discharge of contaminated water. Silt traps and/or inceptors to be maintained at regular intervals during construction.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

The 1<sup>st</sup> Planner's report (undated) has an AA Screening Report from the Biodiversity Officer attached. It notes that the works proposed are minimal in terms of their overall impact given the scale of the existing car parks on the site and the fact that the overflow grassed carpark has been in operation for some time. The area is not used for grazing to any great extent as the area is used for parking for most of the year. The landscaping proposals recognise the heritage landscape and provide for

additional planting as well as the relocation of some existing trees. A request for further information recommended.

The 2<sup>nd</sup> report dated 09/08/18 (countersigned) following further information states that the proposal will result in the creation of much needed additional bus and car parking spaces as well as rearranging the existing car parking which is badly laid out. The development is sympathetic within the existing sylvan surrounds of Muckross House without any detriment to the protected structure and its surroundings. A grant of permission subject to conditions recommended.

### 3.2.2. Other Technical Reports

Biodiversity Officer in AA-Screening concludes that significant effects on a European Site cannot be ruled out. European Sites in proximity to the development are designated for freshwater habitats and species that require high standards of water quality. As the development could cause impacts on water quality specifically within Lough Leane, measures to protect the waterbody are outlined in the proposed development. The measures cannot be considered at screening stage. AA is required.

Following the submission of a Natura Impact Statement by way of further information the Biodiversity Officer in an Appropriate Assessment and memo dated 25/0718 notes a series of measures outlined in the NIS which propose to mitigate the identified possible impacts on water quality on Lough Leane from both the construction and operational phases. No other direct impacts on the cSAC were identified further to the annexed habitat and species for which the site is designated. The mitigation measures outlined will ensure that water quality of the lake is protected. If the measures are undertaken, maintained and monitored as detailed in the NIS adverse impacts on the site's integrity will be avoided. It is concluded that the proposed development shall not adversely affect the integrity of a European Site. In relation to other possible ecological impacts it is noted that the individual trees to be removed are not related to annexed habitat and/or species. Any recommendations in the Tree Survey and Arboricultural Impact Assessment should be conditioned.

County Archaeologist in a memo dated 08/05/17 notes there are no recorded monuments within or in the vicinity of the site. No mitigation required.

Executive Planner (Conservation) in a memo dated 21/05/18 has no objection.

Roads Section in an email dated 13/06/18 has no objection.

### **3.3. Prescribed Bodies**

Transport Infrastructure Ireland in a letter dated 14/05/18 has no observations.

### **3.4. Third Party Observations**

Objections to the proposal received by the planning authority are on file for the Board's information. The issues raised relate to requirement for NIS and AA, impact on wildlife, landscaping, lighting and planning history.

## **4.0 Planning History**

PL08.225667 (07/2959) – permission granted in 2008 for extension of bus carpark subject to 3 conditions. The works were not carried out.

## **5.0 Policy and Context**

### **5.1. Development Plan**

Kerry County Development Plan 2015

The site is within an area considered to be of Secondary Special Amenity which is a sensitive landscape which can accommodate a limited level of development.

### **5.2. Natural Heritage Designations**

The site is within Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (site code 00365) and the Killarney National Park SPA (site code 004038).

### 5.3. **Environmental Impact Assessment**

The proposed development does not fall within a class of development as set out in Part 1 or 2, Schedule 5 of the Planning and Development Regulations, 2001, as amended.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

#### 6.2. Michael Horgan

The submission can be summarised as follows:

- This is the 2<sup>nd</sup> application for a similar development. Ref. 07/2959 refers.
- The bus parking extension and overflow car park would only be required in the peak season which is c. 3 months of the year. It would be unused for the remainder.
- Concerns about the impact on wildlife.
- The site is zoned prime special amenity
- Muckross House is a protected structure.
- The proposal does not comply with the current County Development Plan. The Board has no option but to refuse permission.

#### 6.3. Peter Sweetman & John G. Casey

The documents submitted are not capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned. Case 258/11 Sweetman v. An Bord Pleanala & Others cited.

### 6.4. **Applicant Response**

The submission by Malachy Walsh and Partners on behalf of the applicant can be summarised as follows:

- The Department is satisfied that the information available removes all scientific doubt as to the effects of the proposed works on the protected site

concerned. It is satisfied that the works will not adversely affect the integrity of the designated site nor have a significant adverse effect on the biodiversity of the site or on the National Park.

- The development granted under ref. 07/2959 for an extension to the bus parking was not carried out.
- Deer are not a qualifying interest of the SAC. Deer populations in the Killarney National Park are increasing in lowland areas to the level that ongoing culling is required. The area of land subject of the application is not of any special importance for deer and the works will not affect the deer population.
- No otter holts or couches were identified within 50 metres of the proposed outfall of the drain to Lough Leane.
- The shoreline of Lough Leane, in shallow water offshore of the proposed outfall drain, was found to be unsuitable as a spawning habitat for Killarney shad due to the level of siltation.
- No Killarney fern was identified in the crevices in limestone cliffs at the proposed outfall. The site is unlikely to be suitable due to fluctuating water levels.
- The proposed outfall location of the drain is considered unsuitable habitat for the slender naiad as the lakeshore substrate was too coarse.
- The route of the drainage pipeline is planned to avoid the root zone of any Irish oaks between the carparks and the outfall.
- The existing and proposed extended carpark is situated within the 'Intensive Use (Management) Zone in Map No.6 of the Killarney National Park Management Plan (NPWS, 2005). The development will not result in a change of land use.
- The development will not impact on Muckross House and garden.

#### **6.5. Planning Authority Response**

None.



## 6.6. Observations

None.

## 6.7. Section 131 Notice

Certain prescribed bodies were invited to make a submission on the appeal.

6.7.1. Failte Ireland in its submission considers that the proposal will contribute and help to support the improving visitor experience at Killarney National Park. It is supportive of the development.

6.7.2. Inland Fisheries Ireland

The submission can be summarised as follows:

- subject to the implementation of effective silt control measures during pipeline and outfall construction with monitoring of same, the fishery of the lake should not be affected.
- Effective sustainable drainage measures should be introduced close to the source of generation of surface water to minimise volume of direct water discharge to the lake, to control rate of discharge and to act as a form of tertiary treatment and safeguard in the event of potential hydrocarbon spillage/leakage to surface waters. Grasscrete product proposed to replace existing grass surfaced car parking area or similar product should be introduced at locations where upgrades are proposed.
- Whilst not specifically documented the outfall to the lake may be in a location where Killarney shad and Arctic char utilise lakebed perimeter materials for spawning. To avoid any potential impact on spawning activity caused by effusive emissions design of the outfall should include measures to quiesce flow prior to entry to lake waters.

## 7.0 Assessment

I consider that the issues arising in the case can be assessed under the following headings

1. Nature and Extent of Development
2. Appropriate Assessment
3. Other Issues

### 7.1. Nature and Extent of Development

The proposal entails an extension to the existing coach parking area, increasing the number of bays by 8 to 20. The works also entail the upgrading of the existing overflow car park which would provide for an additional 26 spaces. It is proposed to replace the existing grassed area with grass crete with the existing hardcore areas resurfaced with tarmacadam. The works will require the removal/relocation of a number of trees, notably to the east of the coach park and those planted within and around the overflow car park. The existing surface water drainage system for the entire car park is to be upgraded to collect, attenuate and discharge surface water to Lough Leane c.460 metres to the north. The route of the surface water pipe from the car park is to be positioned so as to avoid all existing trees and tree root protection zones.

In view of the modest extension to the carparking area proposed, in the context of that already existing and in the context of providing for an orderly parking and traffic management system to serve Muckross House and Gardens and associated tourist facilities, I consider that the proposal is acceptable. The existing car park is well laid out in a landscaped setting and this is proposed to be retained, albeit with a number of trees to be removed/transplanted and loss of a small area of parkland, to facilitate the work. It is not a dominant feature and in my opinion will continue as such. I would also submit that the proposed works will not adversely impact on the current setting or visual amenities of the Main House which is a protected structure.

### 7.2. Appropriate Assessment

Article 6(3) of Directive 92/43/EEC (Habitats Directive) requires that any plan or project not directly connected with or necessary to the management of a European

site(s), but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site(s) in view of the site(s) conservation objectives. The Habitats Directive has been transposed into Irish law by the Planning and Development Act 2000, as amended, and the European Union (Birds and Natural Habitats) Regulations 2011-2015.

In accordance with these requirements and noting the Board's role as the competent authority who must be satisfied that the proposal would not adversely affect the integrity of the Natura 2000 site(s), this section of my report assesses if the project is directly connected with or necessary to the management of European Site(s) or in view of best scientific knowledge, if the project, individually or in combination with other plans or projects, is likely to have a significant effect on any European Site, in view of the site(s) conservation objectives.

Guidance on appropriate assessment is provided by the EU and the NPWS in the following documents:

- Assessment of plans and projects significantly affecting Natura 2000 sites – methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (EC, 2001).
- Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (DoEHLG)

Both documents provide guidance on screening for appropriate assessment and the process of appropriate assessment itself.

An Appropriate Assessment Screening Report accompanies the application with a Natura Impact Statement submitted by way of further information.

### **Stage 1 – Screening**

#### ***Project Characteristics***

The proposed bus parking area is to be increased by 1200 sq.m. with an additional 8 parking spaces to be provided. A number of trees are to be removed to facilitate the extension and are to be translocated to the immediate north-east. The entire bus parking area will be resurfaced with tarmac. The proposal also entails the upgrading and resurfacing of the spaces in the overflow car parking area with grass

crete with the existing hardcore areas resurfaced with tarmacadam. The said overflow car park has an approx. area of 6800 sq.m. The area will not be increased but the reorganisation will allow for in the region of an additional 26 spaces. A number of young trees are to be removed to facilitate the works. Those suitable for translocation will be replanted elsewhere.

The proposed works also entail the installation of a new surface water drainage system for the entire car parking area which will require approx. 1000 metres of drains with a pipe to be laid through the demesne grassland to a discharge point into Lough Leane c. 460 metres to the north. The drainage system is to have a number of silt traps and petrol interceptor. The pipe to the lake is to be laid so as to avoid existing trees and tree roots. Excavations through demesne grassland to accommodate pipe laying will be to a depth of 1.5 metres and top soil will be back filled once a section is complete.

Works at the lakeshore to facilitate the 400mm twin wall outfall pipe are to be at a depth of 1.5 metres. The excavation is to occur through the rock overburden. The rock close to the surface is shattered rock that can be excavated with a mechanical rock breaker. Rock blasting will not be required. A silt fence is to be installed at shore level.

The works are expected to take 4-5 months and are proposed to be undertaken outside of the tourist season between October and March.

### ***Designated Sites***

Having regard to the information and submissions available, nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the source pathway receptor principle and sensitivities of the ecological receptors, the following European Sites are considered relevant to include for the purposes of initial screening for the requirement for Stage 2 appropriate assessment on the basis of likely significant effects.

| Designated Site   | Qualifying Interests   | Distance   |
|---|--|------------|
| <p><b><i>Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC – Site Code 000365</i></b></p> | <ul style="list-style-type: none"> <li>• Oligotrophic waters containing very few minerals of sandy plains</li> <li>• Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea</li> <li>• Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation</li> <li>• Northern Atlantic wet heaths with Erica tetralix</li> <li>• European dry heaths</li> <li>• Alpine and Boreal heaths</li> <li>• Juniperus communis formations on heaths or calcareous grasslands</li> <li>• Calaminarian grasslands of the Violetalia calaminariae</li> <li>• Molinia meadows on calcareous, peaty or clayey-silt-laden soils</li> <li>• Blanket bogs (* if active bog)</li> <li>• Depressions on peat substrates of the</li> </ul> | <p>0km</p> |

|  |   |  |
|--|---|--|
|  | <p>Rhynchosporion</p> <ul style="list-style-type: none"> <li>• Old sessile oak woods with Ilex and Blechnum in the British Isles</li> <li>• Alluvial forests with Alnus glutinosa and Fraxinus excelsior</li> <li>• Taxus baccata woods of the British Isles</li> <li>• Kerry Slug</li> <li>• Freshwater Pearl Mussel</li> <li>• Marsh Fritillary</li> <li>• Sea Lamprey</li> <li>• Brook Lamprey</li> <li>• River Lamprey</li> <li>• Salmon</li> <li>• Lesser Horseshoe Bat</li> <li>• Otter</li> <li>• Killarney Fern</li> <li>• Slender Naiad</li> <li>• Killarney Shad</li> </ul> |  |
| <p>Detailed conservation objectives have been prepared for the site, the overall aim being to maintain or restore the favourable conservation status of the designated habitats and species.</p> <p>The site and proposed works are within the SAC boundary. Outfall is proposed to Lough Leane. Direct and indirect effects arising from habitat loss, impact on water quality during construction and operation phases and disturbance to species during the construction works could arise. Thus, the potential for significant effects</p> |   |  |

on the European Site cannot be excluded at this stage.

| Designated Site  | Qualifying Interests  | Distance |
|--|---|----------|
| <b><i>Killarney National Park<br/>SPA - Site Code 004038</i></b> | <ul style="list-style-type: none"> <li>• Merlin</li> <li>• Greenland White-fronted Goose</li> </ul> | 0km      |

To date site generic conservation objectives apply, the overall aim being to maintain or restore the favourable conservation status of the designated habitats and species.

The site and proposed works are within the SPA boundary.

The preferred habitat of Merlin is upland heath and bog habitats with the woodland surrounding the proposed development unsuitable for breeding habitat. The known breeding habitat is over 10km to the southwest of the proposed site.

The preferred habitat of the Greenland White-fronted Goose is restricted to boglands over 5km to the southwest of the site.

Given the distance from the known preferred sites and the low probability of species to forage in the vicinity of the site due to the low suitability of the habitats, the proximity of the proposal to the existing parking facilities and level of human presence arising with a networks of internal roads and pathways in the immediate vicinity, effects on the European Site resulting from the proposed development can be excluded.

| Designated Site  | Qualifying Interests   | Distance                       |
|--|--|--------------------------------|
| <b><i>Sheheree (Ardagh) Bog SAC - Site Code 000382</i></b>   | <ul style="list-style-type: none"> <li>• Active raised bogs</li> <li>• Degraded raised bogs still capable of natural regeneration</li> </ul> | <b><i>c.2.5km to north</i></b> |
| <p>Detailed conservation objectives have been prepared for the site the overall aim being to maintain or restore the favourable conservation status of the designated habitats and species.</p> <p>In view of the absence of a hydrological connection and distance between the sites, effects on the European Site resulting from the proposed development can be excluded.</p> |  |                                |

| Designated Site   | Qualifying Interests  | Distance                 |
|---|---|--------------------------|
| <b><i>Castlemaine Harbour SAC - Site Code 00034</i></b> | <ul style="list-style-type: none"> <li>• Estuaries</li> <li>• Mudflats and sandflats not covered by seawater at low tide</li> <li>• Annual vegetation of drift lines</li> <li>• Perennial vegetation of stony banks</li> <li>• Vegetated sea cliffs of the Atlantic and Baltic coasts</li> <li>• Salicornia and other annuals colonising mud and sand</li> <li>• Atlantic salt meadows</li> <li>• Mediterranean salt meadows</li> <li>• Embryonic shifting dunes</li> </ul> | c. 9km to the north-west |



|  |   |  |
|--|---|--|
|  | <ul style="list-style-type: none"> <li>• Shifting dunes along the shoreline with <i>Ammophila arenaria</i></li> <li>• Fixed coastal dunes with herbaceous vegetation</li> <li>• Dunes with <i>Salix repens</i> ssp. <i>argentea</i></li> <li>• Humid dune slacks</li> <li>• Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i></li> <li>• Sea Lamprey</li> <li>• River Lamprey</li> <li>• Salmon</li> <li>• Otter</li> <li>• Petalwort</li> </ul> |  |
| <p>Detailed conservation objectives have been prepared for the site, the overall aim being to maintain or restore the favourable conservation status of the designated habitats and species.</p> <p>In view of intervening distance between the sites, effects on the European Site resulting from the proposed development can be excluded.</p> |   |  |

| Designated Site   | Qualifying Interests   | Distance                  |
|---|--|---------------------------|
| <b><i>Old Domestic Building, Curraglas Wood - Site Code 002041</i></b>  | <ul style="list-style-type: none"> <li>• Lesser Horseshoe Bat</li> </ul> | c. 10km to the south-east |
| <p>Detailed conservation objectives for the site have been prepared, the overall aim being to restore the favourable conservation condition of the qualifying interest.</p> <p>In view of the separation distance between the sites and the fact that Lesser Horseshoe Bats normally forage in woodlands/scrub within 2.5km of their roosts, effects on the European Site resulting from the proposed development can be excluded</p> |  |                           |

| Designated Site  | Qualifying Interests   | Distance             |
|--|--|----------------------|
| <b><i>Kilgarvan Ice House SAC - Site Code 000364</i></b>   | <ul style="list-style-type: none"> <li>• Lesser Horseshoe Bat</li> </ul> | c. 13km to the south |
| <p>Detailed conservation objectives for the site have been prepared, the overall aim being to restore the favourable conservation condition of the qualifying interest.</p> <p>In view of the separation distance between the sites and the fact that Lesser Horseshoe Bats normally forage in woodlands/scrub within 2.5km of their roosts, effects on the European Site resulting from the proposed development can be excluded,</p> |  |                      |

| Designated Site  | Qualifying Interests  | Distance                  |
|--|---|---------------------------|
| <b><i>Erik Bog SPA Site Code 004108</i></b>  | <ul style="list-style-type: none"> <li>• Greenland White-Fronted Goose</li> </ul> | c. 13km to the south-west |
| <p>To date generic conservation objectives apply, the overall aim being to maintain or restore the favourable conservation condition of the qualifying interest.</p> <p>In view of the distance between the sites, effects on the European Site resulting from</p> |   |                           |

the proposed development can be excluded.

### ***Potential in-combination effects***

A description of the in-combination effects with a number of small projects within and adjacent to Muckross House and Estate are given. Due consideration is also given to the waste water treatment plants that drain to Lough Leane including the Killarney WWTP and Muckross WWTP in addition to the prevalence of one off effluent treatment systems. Having regard to the size, scale and nature of the project it is considered that there are no current or outstanding grants of planning permission which could interact with the project to create significant cumulative impacts.

### **Stage 1 – Screening Conclusion**

Based on my examination of the AA Screening Report, NIS report, supporting information, the NPWS website, the scale of the proposed development and likely effects, separation distance and functional relationship between the proposed works and the European sites, their conservation objectives and taken in conjunction with my assessment of the subject site and the surrounding area, I would conclude that a Stage 2 Appropriate Assessment is required for 1 of the 7 European sites referred to above, namely the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC.

It is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the following European sites

- Killarney National Park SPA (site code 004038).
- Sheheree (Ardagh) Bog SAC - Site Code 000382
- Castlemaine Harbour SAC - Site Code 00034
- Old Domestic Building, Curraglas Wood - Site Code 002041
- Kilgarvan Ice House SAC - Site Code 000364
- Erik Bog SPA - Site Code 004108

Potential for significant direct and indirect effects on the features of interest of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (site code 000365) as detailed above cannot be screened out. Accordingly a Stage 2 Appropriate Assessment is required to determine the potential of the proposed development to adversely affect the integrity of the said designated site.

### **Appropriate Assessment**

The Appropriate Assessment concerns the said Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (site code 00365). The qualifying interests are as detailed above.

### ***Description of the Designated Site***

It is a very large site encompassing the mountains, rivers and lakes of the Iveragh Peninsula, and the Paps Mountains which stretch eastward from Killarney towards Millstreet. The majority of the site is in Co. Kerry, with a small portion in Co. Cork. The Oak woodlands, occurring mostly around the Killarney lakes, are the habitat for which the area is perhaps best known. Wet woodland, or carr, occurring on the low-lying limestone areas within the floodplain of Lough Leane, forms one of the most extensive areas of this woodland type in Ireland. The most common habitat types within the overall site are blanket bog, heath and upland grassland. The site contains many lakes, broadly divided into two types: small upland corrie lakes and larger lowland lakes. The lowland lakes are mostly oligotrophic, although Lough Leane, the largest freshwater body in the region, has become somewhat mesotrophic as a result of pollution from Killarney town. A large number of plant and animal species of interest occur within the site. Two plant species listed on Annex II of the E.U. Habitats Directive occur namely Slender Naiad which is found in some of the lakes at the site and The Killarney Fern. The site is valuable for its rare fish species, five of which are listed on Annex II of the E.U. Habitats Directive: Brook Lamprey, River Lamprey, Sea Lamprey, Atlantic Salmon and Killarney Shad. The Killarney Shad is a unique land-locked subspecies confined to the Killarney lakes.

Overall, the site is of high ecological value because of the diversity, quality and extensiveness of many of the habitats, and impressive list of rare species of flora and fauna. In recognition of its importance the Killarney National Park has been designated a World Biosphere Reserve.

The site of the proposed development immediately adjoining an existing parking area is within the demesne landscape associated with Muckross House and Gardens. The demesne in the vicinity is traversed by internal roads and signposted footpaths. It is approx. 460 metres to the south of Lough Leane. The nearest stream is located approx. 1km to the north-east of the site. The stream drains to Lough Leane at a point c. 1.2km to the north-east of the east.

### **Conservation Objectives**

Detailed conservation objectives have been prepared for the site, the overall aim being to maintain or restore the favourable conservation status of the qualifying interests (copy attached).

### **Potential Direct and Indirect Effects**

The coach and overflow parking areas are located within a managed demesne landscape associated with Muckross House and Gardens with the proposed route of the proposed drainage pipe to cross the demesne to an outfall point at Lough Leane c. 460 metres to the north. No qualifying interests occur within the said areas.

The potential effects relate to impacts on water quality arising from the construction and operational phases of the development and the possible impacts on water dependent habitat and species. There is potential for indirect effects to Otter during the construction phase from disturbance during construction and decrease of habitat quality. There is also potential for disturbance to fisheries.

The NIS sets out that certain qualifying interests that will not be indirectly impacted by the proposal. They are as follows:

- Water courses of plain to montane levels with the *Ranunculus fluitans* and *Callitriche-Batrachion* vegetation.
- Northern Atlantic wet heaths with *Erica tetralix*
- European dry heaths
- Alpine and Boreal heaths
- *Juniperus communis* formations on heaths or calcareous grasslands
- Calaminarian grasslands of the *Violetalia calaminariae*
- *Molinia* meadows on calcareous, peaty or clayey-silt-laden soils

- Blanket bogs (\* if active bog)
- Depressions on peat substrates of the Rhynchosporion
- Old sessile oak woods with Ilex and Blechnum in the British Isles
- Kerry Slug
- Freshwater Pearl Mussel
- Marsh Fritillary

I concur with the conclusions that the potential for significant indirect effects can be excluded on the basis that the designated habitats are not within the development area and are outside the zone of potential impact influence and that suitable habitats for the identified species do not occur within the development area of the zone of the potential impact influence. I have had regard to the detailed conservation objectives drawn up for each and the mapped features where relevant. On this basis, they are screened out for further assessment.

***Mitigation measures during the construction and operational phases are to entail:***

***Construction Phase:***

- Construction waste will be removed from site and disposed of at a licensed waste facility
- Cement to be mixed off site and trucks to return to supplier's yard for wash out.
- Excavated topsoil to be reused within the development area
- Debris from the construction of the proposed outfall location to be collected on a silt fence installed on the lake shore and disposed of at an appropriate location.
- Fuels and oils to be stored in bunded areas. Refuelling to occur within a designated bunded area. Vehicles to be parked in a designated area overnight.
- Spill Kits to be provided.
- A silt fence will be installed at the shoreline to collect debris from excavation.

- Excavations at the outfall location area expected to be completed within a day.
- The pipe to discharge at a level above the lakeshore allowing the water to trickle down the face of the rock similar to natural runoff from greenfield.
- Works at the shoreline will be timed to coincide with low water levels.
- 6 metre exclusion zone to be maintained between the development area and the area of Rhododendron located to the north of the bus parking area.

### ***Operational Phase***

- The surface water drainage system will use filter drains and existing soakaways to attenuate flow and restrict outfall volumes to Lough Leane
- Silt traps and petrol interceptor are to be used to remove potential polluting matter prior to discharge.

### ***Assessment***

The project is not directly connected with or necessary to the management of a European site.

As noted above there will be no loss of habitat arising from the proposed works at the car parks or at the proposed outfall including during rock excavation at the lakeshore. Rock close to the surface is shattered rock that can be excavated with a mechanical rock breaker. Blasting will not be required.

A number of the qualifying interests are reliant on water quality including the habitats *Oligotrophic waters containing very few minerals of sandy plains, Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoetes-Nanojuncetea*. The conservation objectives seek to restore the favourable conservation condition of the two habitats. Lough Leane is considered to represent features of both oligotrophic and oligotrophic to mesotrophic waters.

Species *Sea Lamprey, Brook Lamprey, River Lamprey and Salmon* are also reliant on water quality. The stated conservation objectives for the species seek to maintain their favourable conservation condition.

In view of the nature and location of the car parks to be extended/upgraded and absence of any watercourse connecting same to Lough Leane I would submit that

potential for impact of construction works on the water quality of the lake are very low. I consider that the mitigation measures as detailed above reflect best practice construction methods.

There is limited potential for water quality impacts to arise during the construction of the surface water drainage system particularly during the construction of the outfall pipe at Lough Leane. Excavation in proximity has the potential to release silt and sediment into the lake either directly at the mouth of the breakthrough to the lake or indirectly through run-off from exposed areas close to the lake. Works at the lakeshore will comprise the installation of a 40mm diameter twin wall pvc pipe. Excavations at the outfall location are expected to be completed within 1 day. A silt fence is to be installed at shore level which is accessible when the lake water level is low. Works will be scheduled to coincide with low water levels.

In terms of the operational phase the surface water drainage system is to incorporate silt traps and petrol interceptor to remove potentially polluting matter prior to discharge to Lough Leane. Flow will be attenuated by means of filter drains and use of the existing soakaways. The proposed grasscrete surface in the car park will also act as a filter strip and assist in the entrapment of silts and oils. A Class 1 bypass separator with alarm is proposed to indicate to operators the requirement for maintenance/de-sludging. The outfall pipe will be positioned in line with the face of the rock outcrop allowing water to trickle down the face of the rock similar to natural run-off from greenfield.

*Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* and *Taxus baccata* woods of the British Isles* - These qualifying interests occur to the west and east of the proposed outfall. Map No.6 of the Conservation Objectives shows the distribution of the habitats. The conservation objectives seek to restore the favourable conservation condition of both habitats.

The proposed discharge pipe will be installed beneath the amenity grassland habitat which separates the two stands of Annex 1 woodland habitats. A separation distance of approx. 34 metres is to be maintained to the yew woodland to the east and 25 metres to be maintained to the Alluvial forest to the west. No loss or alteration of the habitat will occur.



Rhododendron, which is an invasive species, was recorded to the north of the bus parking area and is identified in the respective conservation objectives as a negative indicative species. A buffer is to be maintained and no work undertaken within this area of woodland to prevent spread of the species. I note that control of Rhododendron as per the current NPWS management programme is on-going throughout the National Park.

*Lesser Horseshoe Bat* - As per Map 10 the development site is within the foraging grounds of site codes 623 and 296. The conservation objectives seek to maintain the favourable condition of the species. The proposed works do not involve the removal of suitable roosting or foraging habitat which are identified as woodland/scrub within 2.5 km of their roosts. The reduction in non-native lime and Norway maple trees will be minimal as most trees to be removed are to be translocated. Works are to be undertaken during the winter hibernation period thereby further reducing the potential for impact to foraging Lesser Horseshoe Bat. The proposed development will not result in a break in connectivity in the landscape and therefore significant impacts to linear commuting corridors used by the qualifying interest would not arise. The species is noted to be sensitive to light pollution. Additional lighting to the overflow car park, taken in the context of that both in the existing car parks and in the curtilage of Muckross House and its visitor facilities, all of which close to the public at night (thereby limiting the duration of light emissions), is not considered significant.

Noise during construction will not be significant with rock breaking required at the lakeshore to be undertaken in a day. Operation hours of the car parks will not be altered.

*Otter* - Map No.11 of the Conservation Objectives for the site shows that the car park and bus parking areas are outside the 250 metre commuting buffer for Otter. The proposed outfall is within same. The conservation objectives seek to maintain the favourable conservation condition of the species.

Otter are likely to be active along the shores of Muckross Lake and Lough Leane. No Otter holts were recorded along the shoreline in the vicinity of the proposed outfall. It is considered unsuitable for otter holts due to the fluctuating nature of the water levels and the rocky un-vegetated nature of the lower banks. Otter potentially

present in the area during construction will avoid the area temporarily. Construction at the lakeshore is expected to be completed within a day. The potential temporary avoidance of the shoreline in proximity to the proposed outfall is not expected to significantly impact commuting or foraging otters. Best practice methods in both the construction and operational phases in terms of protection of water quality as detailed above would ensure against the reduction of prey available through water quality impacts.

*Killarney Shad* - This species is unique to Lough Leane. The conservation objectives seek to restore the favourable conservation condition of the species. I note comments by Inland Fisheries Ireland with respect to this species. As per the said objectives anecdotal evidence indicate that spawning occurs on the gravelled shores at and west of Ross Bay as well as along the eastern shoreline of Castle Bay. In view of the nature of the proposed outfall location there is very limited potential for significant impacts as the construction is to be confined to the upper rock outcrops of the shoreline. Issues addressing water quality as detailed above would pertain.

*Killarney Fern* – The conservation objectives seek to maintain the favourable conservation condition of the species. It grows in deeply shaded humid situations such as dripping caves, overhangs and crevices on cliffs, rocky slopes, by waterfalls, in stream ravines and gullies and on rock or soil banks in woodlands. The species is not mapped on the account of threat posed by illegal collecting.

The species was not identified in the crevices in limestone cliffs at the proposed outfall. The site is unlikely to be suitable due to fluctuating water levels.

*Slender Naiad* - As per Map 12 Lough Leane and Muckross Lake are mapped for Slender Naiad. The conservation objectives seek to maintain the favourable conservation condition of the species. The rocky shallow and sometimes exposed nature of the shoreline adjacent to the proposed outfall point is considered unsuitable for the species.

In conclusion I would consider it appropriate for the applicant to retain a suitably qualified person to oversee the implementation of the mitigation measures. This would be in line with the recommendation of Inland Fisheries Ireland.

### ***Potential in-combination effects***

A description of the in-combination effects with a number of small projects within and adjacent to Muckross Estate are given. Due consideration is also given to the waste water treatment plants that drain to Lough Leane including Killarney WWTP and Muckross WWTP in addition to the prevalence of one off effluent treatment systems. Having regard to the size, scale and nature of the project it is considered that there are no current or outstanding grants of planning permission which could interact with the project to create significant cumulative impacts.

### **AA - Conclusion**

I consider it reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC – Site Code 000365 or any other European site, in view of the site's Conservation Objectives.

### **7.3. Other Issues**

Red Deer are not a qualifying interest of the SAC. An assessment of the potential for impacts on the qualifying interests of the designated site are set out above. In the context of the proposed development within a managed landscape associated with the house, associated attractions and existing parking facilities, I do not consider that the proposal would have a material impact on prevailing conditions.

In relation to other possible ecological impacts it is noted that the individual trees to be removed are not related to annexed habitat and/or species. It is proposed to facilitate translocation as far as is feasible.

I note that permission was previously granted for an extension to the coach parking area under ref. PL08.225567. The development as approved was not carried out and the permission has expired.

## 8.0 Recommendation

Having regard to the foregoing I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

## 9.0 Reasons and Considerations

Having regard to the limited nature and extent of the proposed development in proximity to Muckross House and visitor centre which are served by the coach and overflow car parks, and to the provisions of the current Kerry County Development Plan, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable at this part of the Killarney National Park, would be acceptable in terms of traffic safety and convenience, would not seriously injure the amenities of the area or the setting of protected structures in the vicinity and would not result in any significant effects on the ecology of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 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 to the planning authority on the 17<sup>th</sup> day of July, 2018, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. All of the construction and operational mitigation measures set out in the Natura Impact Statement submitted to the planning authority on the 17<sup>th</sup> day of July, 2018 shall be implemented in full. The applicant shall appoint a

person with appropriate ecological and construction expertise to ensure that the mitigation measures identified in the Natura Impact Statement are implemented in full.

**Reason:** in the interest of orderly development and to protect the environment during the construction and operational phases of the development.

3. All construction and development works shall be monitored by a suitably qualified
4. The recommendations of the Tree Survey and Arboricultural Impact Assessment lodged with the application shall be implemented in full.

**Reason:** In the interest of orderly development.

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**Pauline Fitzpatrick**  
**Senior Planning Inspector**

**February, 2019**