



An
Bord
Pleanála

Inspector's Report ABP-302944-18

Development

1. Retention permission to retain partially reclaimed lands & permission for a waste management facility.
2. Planning permission to (a) further develop existing visitors centre (b) construction of storage shed (c) reconfigure front boundary and parking area, (d) new signage, (e) new bus parking area, (f) decommission existing waste water treatment system and install a new wastewater treatment system.

Location

Emlagh, Ballineesteenig and Clooncurra Lispole Co Kerry.

Planning Authority

Kerry County Council

Planning Authority Reg. Ref.

17/1289

Applicant(s)

TraBeg Teoranta.

Type of Application

Permission & Retention

Planning Authority Decision

Refuse Permission for New Bus

	Parking Area and Grant Permission and Retention for remainder of proposed development.
Type of Appeal	Third Party
Appellant(s)	Michael J. Horgan
Observer(s)	None.
Date of Site Inspection	1 st March 2019
Inspector	Fiona Fair.

1.0 Site Location and Description

- 1.1. The appeal site (of stated 6.52 ha) is located at Emlagh, Ballineesteenig and Clooncurra, c. 2 Km west of Lispole Village. Lios Póil is a Gaeltacht village in County

Kerry, Ireland. It is on the Dingle Peninsula, 5 miles east of the town of Dingle and 25 miles west of Tralee on the N86 National Secondary Route.

- 1.2. The subject site was previously in use as a visitor centre / tourism project. As is evident from the extensive planning history, set out in section 4.0 of this report, planning permission was granted on the site for a visitor centre, tackle shop and fish ponds back in 1993. Permission was also granted in 1993 for a wet fish processing area, a chill room, a fish smoking room and a smoked fish packing room. Various amendments were granted to this development in-between 1993 and 1999. In 1999 permission was granted for a crannog style visitor attraction. There is a round tower and a disused café building on the site.
- 1.3. The appeal site is currently vacant and in a state of disrepair, fenced off along the road boundary with a high wooden fence. It is a relatively flat site. The lands within the site are disturbed wetlands, there is a lake within the site and recent infill of materials has taken place.
- 1.4. The River Owenalondrig runs to the south of the appeal site, outside of the site boundary. A small tributary / stream runs through the site, along the western side of the lake and to the east of the area proposed for the recovery of inert waste material.

2.0 Proposed Development

- 2.1. The proposal comprises

Retention permission to:

- Retain partially reclaimed lands
- Retain as constructed stone tower
- Retain as constructed boundary fence and embankments

Planning Permission to:

(a) Further develop existing visitors centre to incl.

- Famine village comprising 8 no. stone buildings
- Play area (playground maze track)
- Falconry Area incl. shelter

- Fairy Village
- Craft Village
- Construction of walk and paths around the existing lake

(b) construction of storage shed

(c) reconfigure front boundary and parking area,

(d) new signage,

(e) extend existing parking area to create a new bus parking area,

(f) decommission existing waste water treatment system and install a new wastewater treatment system.

Planning Permission for:

- A waste management facility for the purpose of land reclamation.

3.0 Planning Authority Decision

3.1. Decision

Subject to Further Information being requested with respect to a). RSA to be carried out. B). Clarification of use of the site and when site was last used as a fish hatchery with associated visitor centre. C) submit expected visitor numbers to the site and volume and nature of traffic. D) justification for extensive car and coach parking proposed E) clarification of surfacing of the car and coach parking F) landscaping and screening proposal G) report on the suitability of the existing effluent treatment system on the site H) opening times whether development is to operate on a seasonal basis only I) applicant to clarify the significant earthworks which have been carried out on the site, an accurate map showing the specific land uses on site prior to the in-filling, the areas which have been filled and the areas proposed to be filled. EIA Screening in relation to in-filling works carried out and proposed must be undertaken. J) clarification of signage K) extent of timber roadside boundary L) confirm the use of all 8 structures proposed in the 'Famine Village' M) clarification of proposed 'craft village'. O) clarification of cladding to walls of shed building. P) clarification of external finish to falconry shed. Q) clarification of encroachment or

conflict on CPO lands R) Clarification of access arrangements subsequent to N86 Road improvement works. S) Two areas of the application site have been shown as a Waste Management Facility. Applicant is requested to submit contour maps and section drawings showing the existing and proposed ground levels over the two areas as well as estimated volumes of fill material to be imported to the site for each area. The applicant is to note that the proposed western Waste Management Facility is on lands which fall into the Emlagh East Salt Marshes Natural Heritage Area. The effect of filling these lands would be to destroy the habitat for which the PNHA is designated and the p.a. would not be in a position to grant planning permission for such works.

And Clarification of Further Information was requested with respect to:

1. RSA, necessary to submit revised drawings showing location and extent of septic tank, percolation area and inert waste recovery facility in relation to the CPO boundary.
2. (a) On-site waste water treatment system and design loading. (b) a list of EWC/List of waste codes applicable, along with a break down of the quantities of each waste type which it is proposed to import to the site. Clear identification of areas it is proposed to infill. Specific measures to be put in place to protect the watercourse at the southern side of the application site.
3. Clarification of connection between the applicants existing bus business and the proposed tourism related business on site. Where are applicants existing fleet of buses and taxi's parked. Clarification of use of the bus car parking area.
4. Clarification of boundary fence at the front of the site.
5. Clarification of the proposed embankment at front of the site.
6. Clarification where on site the proposed Atlantis 21 fence panels are proposed for.
7. Section drawings required by item (s) of further information request letter dated 21/02/2018

Permission and Retention Permission was Granted subject to 22 number conditions, to retain partially reclaimed lands & permission for a waste management

facility, (a) further develop existing visitors centre (b) construction of storage shed (c) reconfigure front boundary and parking area, (d) new signage and (e) decommission existing waste water treatment system and install a new wastewater treatment system.

Conditions are summarised as follows:

Schedule 2 (a) 'Retention permission to retain partially reclaimed lands'

C1. Standard condition

C2. Development contribution of €1,468.90 in respect of public infrastructure, in accordance with Section 48

Schedule 2 (b) 'Permission for a Waste Management Facility for the recovery of Inert Waste Material for the purpose of Land Reclamation'

C3. Standard condition

C4. Development contribution of €3,531.60 in respect of public infrastructure, in accordance with Section 48.

C5. (a) Prior to commencement of development, appropriate authorisation shall be arranged under the Waste Management Act & Regulations to operate the proposed facility.

(b) Inert waste accepted at the facility shall be restricted to the following List of Waste Code: 17 05 04

(c) The quantity of waste accepted at the facility shall be as set out in the information provided with the p.a.

C6. Any nearby watercourses / drains shall be protected from waste material and a buffer maintained between same.

C7. All mitigation measures outlined in the p.a. shall be implemented in full.

Schedule 2 (c) Retention Permission to retain as constructed stone tower.

C8. Standard condition

Schedule 2 (d)

Permission to (a) further develop existing Visitor Centre With the construction of the following; Famine Village, Play area, Falconry area, Fairy Village, construction of walks and paths around existing lake (b) construction of storage shed (c) reconfigure front boundary and parking area (d) new signage (e) decommissioning existing waste water treatment system and install a new wastewater treatment system and associated site works.

C9. Standard condition

C10. Development contribution of € 5,839.75 in respect of public infrastructure, in accordance with Section 48.

C11 relates to road safety, design and safety barrier, to be agreed in writing with the p.a.

C12. Any additional works requires as a result of the Transport Assessment and TSA shall be funded by the developer.

C13. C14 and C15 Relates to waste water treatment system

C16 Mitigation measure

C17. Roadside timber boundary fence shall be removed in its entirety and materials shall be disposed off to an authorised landfill site or otherwise re-utilised in an authorised manner.

C18. The proposed three signs shall be hand painted and shall not be internally lit.

C19. Landscaping

C20. Lighting

C21. The existing and proposed buildings on site shall remain as one integral unit under one ownership and no section thereof shall be disposed of as a separate entity.

C22. The existing and proposed buildings on site shall not be used for any habitation uses.

Schedule 2 (e) Refusal of Permission for new bus parking area for the following Reason:

1. 'The proposed development of a bus Park at this location, adjacent to the N86, National Secondary Road on lands zoned Rural General as determined by the

KCDP 2015 – 2021 would be unduly obtrusive by virtue of its visual impact on this rural landscape, would set an undesirable precedent for further such development in a rural location and would interfere with the character of the landscape, which is necessary to preserve, in accordance with Objective ZL-1 of the Kerry County Development Plan 2015 – 2021...’

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planners Report sets out that subject to compliance with conditions set out in the Second Schedule, the proposed development would not be visually obtrusive, would not seriously injure the amenities of the area or be otherwise contrary to the proper planning and sustainable development of the area.

3.2.2. Other Technical Reports:

Bio Diversity Officer: Report requests Further information

County Archaeologist: There are no recorded monuments listed in either the Record of Monuments and Places or Sites and Monuments Record in proximity to the proposed development and the site is previously disturbed. No Mitigation is required.

Environment Department: No Objection. All environmental conditions will be specified in the waste facility permit.

Building Control Officer / Fire Officer: No Objection

Roads Report: Further information requested. Proposed development conflicts with the CPO for N86 Roads Improvements. TII request for RSA noted.

HSE: No objection

Transport Infrastructure Ireland (TII): TII considers that the proposed development is at variance with national policy in relation to control of development on / affecting National Roads. TII is of the opinion that insufficient data submitted to demonstrate that the proposed development will not have a detrimental impact on the capacity,

safety, or operational efficiency of the national road network in the vicinity of the site. TII recommends that a RSA be carried out.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

An observation was submitted and the issues raised are similar to those raised in the third-party appeal summarised in detail below.

4.0 Planning History

4.1.1. There is an extensive planning history on the site, dating back to 1969, a full detailed list is set out in the planners report on file. 18 number planning Reg. Ref numbers are referred to. I intend to refer, only, to the most of relevance to the subject case:

- Reg. Ref. 91/753 Permission granted for a rod fishing pond and temporary hut for office.
- Reg. Ref. 92/1868 Permission granted for fish processing plant.
- Reg. Ref. 93/522 Permission granted for visitor centre, tackle shop, boundary to fish pond.
- Reg. Ref. 99/737 Permission granted to erect a Crannog Style attraction.
- Reg. Ref. 99/819 Permission granted to retain and complete amended design, visitors centre, incl café servery, toilets, first floor offices, Tackle Shop, alterations to boundary to fish ponds, installation of septic tank and development of existing parking at Fish Farm.
- Reg. Ref. 99/1066 Permission granted to construct extension to existing wet fish processing area, the new extension to contain a packaging area, a staff canteen, changing rooms and staff toilets.
- Reg. Ref. 04/4657 Permission Refused to (i) infill existing ponds and remove concrete block shed (2) construct a holiday development consisting of 16 dwelling houses, proprietary treatment unit and percolation area, complete

with all roads and car parking areas, services and ancillary site works associated.

5.0 Policy Context

5.1. Development Plan

5.1.1. The site is governed by the policies and provisions contained in the Kerry County Development Plan 2015-2021.

5.1.2. The site is located in an area zoned 'Rural General' which is detailed in section 3.3.2.1 of the Plan.

5.1.3. The following sections of the Development Plan are of relevance:

Chapter 3, Section 3.3 sets out Rural Development Policies.

Section 5.14 Rural Tourism

T-60 It is an objective of the council to: 'promote and facilitate the sustainable development of rural tourism such as open farms, on-farm craft villages and visitor centres where these are not detrimental to the character, biodiversity, scenic value and rural amenity of the surrounding area and subject to the objectives and development standards of this Plan, particularly as they relate to the protection of the natural environment.'

Section 10.2 Environmental Designations

Section 10.2.3 National Designations

Objective NE-11, Objective NE-12 and Objective NE-13

Chapter 12 Zoning and Landscape Protection

Policy relating to areas zoned Rural General in section 12.3.1 Rural (c) states that: 'It is important that development in these areas be integrated into their surroundings in order to minimise the effect on the landscape and to maximise the potential for development.'

Objective ZL-1 Protect the landscape of the County as a major economic asset and an invaluable amenity which contributes to people's lives.

5.2. Natural Heritage Designations

5.2.1. The appeal site is adjacent to the Emlagh East Salt Marshes pNHA (001961)

5.2.2. The following Natura sites are located within 15 Km of the appeal site;

- Special Area of Conservation: Mount Brandon SAC approx. 2Km distant
- Special Protection Areas: Dingle Peninsula SPA approx. 1.8 Km distant
- Special Protection Areas: Castlemaine Harbour SPA
- Special Area of Conservation: Blasket Islands SAC
- Special Area of Conservation: Slieve Mish Mountains SAC
- Special Area of Conservation: Killarney National Park, Macgillycuddy's Reeks And Caragh River Catchment SAC

5.2.3. The Biodiversity Officers report on file (dated Feb 9th 2018) states that the present application proposes to infill part of the pNHA. This action would in effect destroy the habitat for which the pNHA is designated. It is an objective in the CDP to protect the integrity of pNHAs (NE-13). Therefore this element of the project that requires infill of the pNHA should be refused.

5.2.4. The report goes on to state that the works would not require an AA. The owner was required to provide information on the nature of the site prior to the works, specifically the ponds and whether they held any fish life, and further investigations / review of previous planning applications / consents on the site.

5.3. **Environmental Impact Assessment (EIA)**

5.3.1. Regard is had to Schedule 5 Development for the purposes of Part 10 (2) (12) of the Planning and Development Regulations 2001, 'Tourism and Leisure', of which 12 (e) which states: '*Theme parks occupying an area greater than 5 hectares*'.

5.3.2. The subject development does not constitute a 'theme park' (as it comprises a variety of diversified pursuits).

5.3.3. Regard is had to the infilling of wetlands and in this respect it also does not exceed threshold for mandatory EIA. it is thus assessed as a sub threshold project. The key issue in the context of the possible need for EIA of sub-threshold development is whether or not such development is likely to have significant effects on the environment by virtue of factors such as its nature, size and location.

- 5.3.4. Given the nature and scale of the development and its location I am of the opinion EIA is not required. I consider that information contained on the file is adequate for an informed decision to be made.
- 5.3.5. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The issues raised are summarised as follows:

- Query who owns the lands.
- Where is funding from the project coming from. Is it public money.
- Concern with respect to falconry proposal and impact upon wildlife in the area.
- Planning history of the site is extensive with different projects proposed and proposed to be retained.
- Query who the applicants TraBeg Teoranta are.

Appeal Accompanied with:

- List of related applications at the appeal site, Emlagh Lispole

6.2. Planning Authority Response

None received.

6.3. Further Responses:

A response was received from the first party it is summarised as follows:

1. Land Ownership.

The land is owned by Trabeg Teoranta, Folios provided.

2. Finance

The project is being financed by TraBeg Teoranta and not the public domain.

3. The existing wildlife within the site and particularly around the lakes will be protected. The measures are detailed in the documentation submitted with the planning application as set out in the Southern Scientific's documentation.

4. Walks and Paths Around Lake

There are existing walks around the lakes and these walks will be developed further while protecting the environment. Development to be carried in accordance with EIA screening report and Method Statement submitted.

5. Falconry Area

The falconry area will have minimal impact on the wild animals within the property. The falconry is a trained bird of prey and will be under control of the trainer at all times and will not be allowed free outside the property.

The project involves the promotion of nature and wildlife throughout the property and surrounding areas.

6. River Owenalondrig

The River Owenalondrig flows adjacent to the site and not through it. There are no building works near the river or the stream. The River will be fully protected during the construction phase and the operational phase of the visitors centre. The project will promote nature

7. Planning history

The applicants purchased the property in October 2017. While the site has extensive planning history it is of no concern to the applicant. The current application includes the installation of a new waste water treatment system and also retains the round tower which is the only structure on site which did not have planning permission. The planning application improves the property in visual impact, environmentally, traffic flows to and from the Main N86 road at the front of the site.

Sufficient information has been submitted in relation to the development, incl. environmental information on the protection of the lakes, river stream and the wildlife within and around the development.

Submit that the measures outlined in the documents and reports submitted comply with all current requirements be it planning, environmental, traffic or other.

7.0 **Assessment**

I consider the key issues in determining this appeal are those raised in the appeal and set out as follows:

- **Principle of the Development and Compliance with Policy**
- **Ownership and Funding**
- **Impact upon wildlife**
- **Appropriate Assessment**

7.1. **Principle of the Development and Compliance with Policy**

7.2. The development before the Board relates to a proposal for (i) planning permission to further develop an existing disused visitor centre, (ii) retention permission for partially reclaimed lands and permission for a waste management facility for the recovery of inert waste material for the purpose of land reclamation (iii) retention planning permission for, as constructed, front boundary fence and embankments (iv) retention planning permission for, as constructed stone tower. Section 2.0 of this report sets out precise details of the development proposed for permission and that proposed for retention.

7.2.1. Extensive planning history recorded on site in relation to previous use as a fish hatchery and associated visitor centre. It is noted from the outset that the site has been the subject of various developments for approx. the past 50 years with the planning application documentation for the proposed development identifying a planning history dating back to the early 1970's.

7.2.2. The appeal site is located in an area zoned 'Rural General' which is detailed in section 3.3.2.1 of the Kerry County Development Plan 2015-2021. It is stated: '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.'

- 7.2.3. The Kerry County Development Plan is clearly in favour of integrated rural tourism complexes and I highlight that it is an objective of the council T60 to: ‘promote and facilitate the sustainable development of rural tourism such as open farms, on-farm craft villages and visitor centres where these are not detrimental to the character, biodiversity, scenic value and rural amenity of the surrounding area and subject to the objectives and development standards of this Plan, particularly as they relate to the protection of the natural environment.’
- 7.2.4. The lakes and ponds at the site are artificial features. It appears from the planning history these were mainly developed in the 1990’s and 2000’s. A main subsurface drain has also been installed across the lower section of the site but the date of installation is unknown. Based upon historical maps for the area there is no evidence of any natural ponds or lakes at this location prior to the development of these man-made features. The most recent use of the site was as a seal sanctuary up until 2014. Since then the site has been disused and open spaces have become overgrown and largely converted to scrub.
- 7.2.5. The land-uses on the appeal site prior to Trabeg Teoranta commencing site works are illustrated in the application plans and drawings. Approx. 1.87 ha of the site (overall site measures some 7.46ha) is described as formerly being scrub. Much of this area has been disturbed by site clearance works undertaken by Trabeg Teoranta and it currently comprises spoil and bare ground. An area of 1.37 ha, within the appeal site boundary, is located on the opposite side of the western boundary stream. This area forms part of the Emlagh East Salt Marshes proposed Natural Heritage Area (pNHA). This area is being excluded from any infilling works. A large portion of the site is taken up by the Lake on the western side of the site. The main body of the Lake to the western side of the Lake walkway occupies an area of 1.33 ha and has not been, nor will not be, infilled as part of the proposed development.
- 7.2.6. Site Layout Plan ‘Figure 5’ submitted with the planning application indicated ‘Areas Filled And Areas Proposed For Infilling’. A shallow section of the Lake to the eastern side of the walkway has been filled. This involves an area of 0.26 ha where the average depth of fill involved was about 0.8m. It is submitted that the volume of stone and soil involved is estimated to have been around 2108m³. An additional shallower area adjacent to Area B1 was also filled – 0.21ha with a 0.5m average depth requiring approx. 1055m³ of soil and stone materials (Area 4, Figure 5)

comprising a total area of 0.06ha were also filled requiring about 214sq.m of fill material. It is submitted that the total area of 'wetland' that has been filled is therefore 0.53ha, assuming a rigid interpretation of the definition of 'wetlands' and including the concrete splash pools as their precise configuration is unknown. In addition to this it is proposed to infill the following areas:

- Lower pond – 0.28 ha, with an average depth of 1.5m, requiring 4236m³ of material (Area C2, Figure 5)
- Middle pond – 0.06ha, with an average depth of 1m, requiring 592m³ of material (Area C1 Figure 5)

7.2.7. The total area of 'wetland' to be filled is therefore 0.34ha. The total 'wetland' area filled and proposed for infilling is thus 0.87 ha. Approx. 3377m³ of soil and stone material has been required to infill the features to date. With the exception of 500m³ of soil and stone that was imported into the site the majority of this material is understood to have come from within the site arising from the removal of previously established soil embankments that were constructed as part of past developments on the site. Approx. 5000m³ of additional soil and stone material will be required to complete the infilling proposed. This will be done by recovering waste soil and stone material in order it is contended to conserve quarried mineral resources. The recovery of waste soil and stone will be undertaken with an appropriate waste facility authorisation issued by Kerry County Council. The activity will therefore be regulated by the local authority and conducted with environmental controls and monitoring in place. The Environment Department of Kerry County Council have no objection and highlight that environmental conditions will be specified in the waste facility permit.

7.2.8. It is pertinent to highlight that extensive further information was requested on this application, as set out in detail above in section 3.0 of this report, all areas of concern were addressed to the satisfaction of the planning authority, in the further information response and clarification of further information.

7.2.9. In conclusion, regard being had to the foregoing, having carried out a site visit and reviewed all plans and drawings and supporting documentation on the file I consider that permission and retention permission to:

- (i) Retain partially reclaimed lands & permission for a waste management facility for the recovery of Inert Waste Material for the purpose of Land Reclamation,
- (ii) Further develop existing visitors centre. With the construction of the following; Famine Village, Play area, Falconry area, Fairy Village, construction of walks and paths around existing lake
- (iii) Construction of storage shed
- (iv) Reconfigure front boundary and parking area
- (v) New signage
- (vi) Decommissioning existing waste water treatment system and install a new wastewater treatment system and associated site works. And
- (vii) Retention Permission to retain as constructed stone tower.

is acceptable in principle subject to condition. Cognisance is had to the previous permitted use of the site and the current vacant and dilapidated state of the site. The proposal to re-develop the visitor centre is welcomed, it will enhance the visual amenity of the area and in particular views of the site from the N86 Tralee to Dingle National Secondary road.

7.2.10. The proposed development does not significantly materially alter the nature of the land use at the site which has historically operated as a visitor centre but with alternative attractions. The proposal does not require any significant consequential development works such as roads or other significant infrastructure as the existing roads and site infrastructure will be used. It is considered that the development, subject to condition, would not be out of scale or character with the existing environment given its scale and location and the fact that a visitor centre (albeit currently dis-used) already exists at this location.

7.2.11. I note refusal of permission for the bus parking area Schedule 2 (e) of the draft decision to grant planning permission (Reg. Ref. 17/1289). I agree that the proposal for a new bus park to house 10 buses (not solely connected with the visitors centre) is not considered an appropriate use of the lands at this location and would have a negative impact on visual amenities in the area, would set an undesirable precedent for further such development in a rural location and would interfere with the character

of the landscape, which is necessary to preserve, in accordance with Objective ZL-1 of the Kerry County Development Plan 2015 – 2021. I consider refusal or omission of this part of the proposal is appropriate and justifiable.

7.3. Ownership and Funding

- 7.3.1. The third party has raised concern with respect to ownership of the site and funding for the project. It is submitted in the response to the appeal that the land is owned by Trabeg Teoranta (the applicant) and Folios are provided. It is submitted that the applicants purchased the property in October 2017.
- 7.3.2. The planning authority have not raised this matter as a concern. Ultimately the p.a. and An Bord Pleanala are not the arbitrator of civil disputes, the role of the planning system is to consent or otherwise to the land use. Disputes over title / ownership should be resolved via the appropriate channels i.e. the civil courts.
- 7.3.3. In conclusion, I consider that the applicant has submitted sufficient legal estate or interest in the land for the purpose of a grant of planning permission. I highlight that it is also not the role of An Bord Pleanala to adjudicate on civil property disputes, this is a matter for the courts. Section 34(13) of the Planning and Development Act 2000, as amended, sets out that a person shall not be entitled solely by reason of a permission to carry out any development.
- 7.3.4. I consider that funding or financing of the project is not a planning matter per se. It is noted that the applicant has responded to this matter, stating that the project is being financed by TraBeg Teoranta and not the public domain.

7.4. Impact upon wildlife

- 7.4.1. Third party concern has been raised with respect to impact upon existing wildlife within the site and particularly around the lakes and measures proposed to protect the natural environment. The proposed development includes the installation of a new waste water treatment system. The development is proposed to be carried out in accordance with the EIA screening report and Method Statement submitted. I consider that sufficient information has been submitted in relation to the development, incl. environmental information on the protection of the lakes, river stream and the wildlife within and around the development. The measures outlined in

the supporting documents and reports submitted comply with all current planning and environmental requirements.

- 7.4.2. There are existing walks around the lakes and these walks will be developed further while protecting the environment. The project involves the promotion of nature and wildlife throughout the property and surrounding areas.
- 7.4.3. The falconry area will have minimal impact on the wild animals within the property. The falconry is a trained bird of prey and will be under control of the trainer at all times and will not be allowed free outside the property.
- 7.4.4. The River Owenalondrig flows adjacent to the site and not through it. There are no building works near the river or the stream. The River will be fully protected during the construction phase and the operational phase of the visitors centre.
- 7.4.5. Overall I consider that matters with respect to the environment can be satisfactorily dealt with by way of condition, should planning permission be forthcoming from the Board.

7.5. Appropriate Assessment (AA)

- 7.5.1. The p.a. carried out a stage 1 screening which concludes that there is no potential for significant effects upon a Natura 2000 site.
- 7.5.2. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest Natura 2000 sites. No Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

8.0 Recommendation

- 8.1. I recommend that Planning Permission be Granted to:
 - (i) Retain partially reclaimed lands & permission for a waste management facility for the recovery of Inert Waste Material for the purpose of Land Reclamation,

- (ii) Further develop existing visitors centre. With the construction of the following; Famine Village, Play area, Falconry area, Fairy Village, construction of walks and paths around existing Lake
- (iii) Construction of storage shed
- (iv) Reconfigure front boundary and parking area
- (v) New signage
- (vi) Decommissioning existing waste water treatment system and install a new wastewater treatment system and associated site works. And
- (vii) Retention Permission to retain as constructed stone tower.

subject to the reasons and considerations marked (1), as set out below.

AND

Permission be Refused for the bus parking area for the reasons and considerations marked (2), as set out below.

9.0 Reasons and Considerations (1)

- 9.1.1. Having regard to the planning history of the site, its location and scale, it is considered that, subject to compliance with the conditions set out below, that the proposed development and that for retention would promote rural tourism, would be acceptable in terms of traffic safety and convenience, would not be prejudicial to public health, would not detract from the character or setting of the rural area and would be in accordance with the policies and objectives of the planning authority as set out in the Kerry County Development Plan 2013 – 2019. 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 retained, carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 29th May 2018, 6th September 2018 and the

21st September 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. (a) The existing and proposed buildings on site shall remain under one ownership and no section thereof shall be disposed off as a separate entity.

(b) The existing and proposed buildings on site shall be used solely for the purposes set out in the description of this development and shall not be used for residential / habitation accommodation purposes

Reason: To regulate the use of the site and in the interests of orderly development.

3. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

4. (a) The proposed development shall be undertaken in compliance with all environmental commitments made in the documentation supporting the application.

(b) No polluting matters including sediment laden waters shall be discharged directly or indirectly to any waters from the proposed works. Suitable measures shall be put in place onsite in advance of any works to prevent sediment laden waters entering any waters as described in details received on 22nd November 2018.

(c) Any nearby watercourses / drains shall be protected from waste material and a buffer maintained between same.

Reason: To protect the environment.

5. (a) Prior to the commencement of development on site and prior to the re-opening of the Visitor Centre the developer shall submit detailed proposals for the safety barrier, for written agreement of the planning authority.

(b) Prior to the commencement of development on site and prior to the re-opening of the Visitor Centre the developer shall submit details of signage, including an assessment of the impact upon sightlines to be agreed in writing with the planning authority.

(C) The proposed development shall be carried out in accordance with the accepted recommendations of the Transport (Traffic) Assessment and Roads Safety Audit submitted.

(d) No development shall take place within 5 m of either the temporary or permanent land acquisition on the property acquired under the N86 Dingle to Annascaul and Gortbreagoge to Camp Compulsory Purchase Order 2011.

(e) As part of the construction of the N86 Dingle to Annascaul and Gortbreagoge to Camp Road Improvement Scheme, adjacent to this property, the access and egress layouts shall revert permanently to those shown on drawing 65-404f-365 which forms part of the clients Land Acquisition Agreement.

Reason: To avoid traffic hazard and to protect public property.

6. (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 22nd November 2018 and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009.

Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) Within three months of the re-opening of the visitors centre, the developer shall submit a report from a suitably qualified person with professional indemnity

insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

7. (a) Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects published by the Department of the Environment, Heritage and Local Government in July, 2006.

Reason: In the interest of sustainable waste management.

8. Comprehensive details of the proposed lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.

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

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

- (a) details of site security fencing and hoardings,
- (b) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site,
- (c) measures to obviate queuing of construction traffic on the adjoining road network,

- (d) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
- (e) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
- (f) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained; such bunds shall be roofed to exclude rainwater,
- (g) details of on-site re-fuelling arrangements, including use of drip trays,
- (h) details of how it is proposed to manage excavated soil, and
- (i) means to ensure that surface water run-off is controlled such that no deleterious levels of silt or other pollutants enter local surface water drains or watercourses.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of environmental protection, amenities, public health and safety.

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

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

11.0 Reasons and Considerations (2)

1. The proposed development of a bus Park at this location, adjacent to the N86, National Secondary Road on lands zoned Rural General as determined by the Kerry County Development Plan 2015 – 2021 would be unduly obtrusive by virtue of its visual impact on this rural landscape, would set an undesirable precedent for further such development in a rural location and would interfere with the character of the landscape, which is necessary to preserve, in accordance with Objective ZL-1 of the Kerry County Development Plan 2015 – 2021. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Fiona Fair

Planning Inspector

11.04.2019