



An
Bord
Pleanála

Inspector's Report ABP.306096-19

Development	(a) Extend 3no. industrial units and demolish existing boundary and (b) Construct 1no. industrial unit and all associated site works
Location	Killarney Enterprise Centre, St. Mary's Road, Inch, Killarney Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	19/974
Applicant(s)	John Quill
Type of Application	Planning permission
Planning Authority Decision	Grant s.t. conditions
Type of Appeal	Third Party
Appellant(s)	Pat Culloty
Observer(s)	None
Date of Site Inspection	16 th March 2020
Inspector	Mary Kennelly

1.0 Site Location and Description

- 1.1.** The site forms part of Killarney Enterprise Centre, which is located in Killarney Town Centre, to the west of the main retail/commercial area. St. Mary's Road is a one-way street which links New Street to the south with New Road to the north, and is located one block to the west of High Street. The southern section of St. Mary's Road is known as Bohereen-Na-Goun. A large Dunnes Stores is located on the corner of New Street and Bohereen-Na-Goun, and the entrance to the Dunnes carpark is to the north of the store. The western side of St. Mary's Road comprises the boundary with St. Brendan's College, whilst the eastern side is mainly residential with a high density of 2-storey terraced houses on narrow plots. Nos. 1-20 St. Mary's Terrace is one such terrace with c. 20 houses which front onto St. Mary's Road (East-West oriented) and a further 11 houses (Nos. 21-31) on a North-South orientation, to the north of No. 20. The rear gardens for Nos. 1-20 St. Mary's Terrace are very long and narrow and are separated from the houses that they serve by a rear lane to the east.
- 1.2.** Killarney Enterprise Centre is located at the southern end of the residential terrace, 1-20 St. Mary's Terrace. The appeal site (with a stated area of 0.26ha) is situated immediately to the south of No. 1 and also extends to the rear of Nos. 2, 3 and 4 St. Mary's Terrace, on the eastern side of the rear lane. The site is bounded to the south by the entrance to Dunnes carpark and to the east by a small stream. The northern boundary is more complex. At the western end, it is bounded by the residential property No. 1 St. Mary's Terrace, including its rear garden (on the far side of the lane). However, an additional area appears to have been added which incorporates the former gardens of Nos. 2, 3 and 4 St. Mary's Terrace, but the site excludes the rear gardens of Nos. 1 and part of No. 2. There is a road reservation for the Killarney Inner Relief Road which traverses part of the site at the southern end.
- 1.3.** The Enterprise Centre comprises a collection of buildings which are arranged around a small internal cul-de-sac road, extending eastwards from St. Mary's Road. The two buildings on either side of the entrance are old stone buildings (possibly cottages) and the buildings behind are more modern additions. The land uses include various businesses such as a tool hire business, a motor parts shop, a laundry and several repairs facilities. The buildings adjacent to (and immediately south of the entrance)

comprises Units 1, 2 and 3. The proposed new unit is located at the eastern end of the former gardens of Nos. 2, 3 and 4 St. Mary's Terrace.

2.0 Proposed Development

- 2.1.** Permission is sought for the construction of a new industrial unit at the north-eastern end of the site and for the extension of Units 1, 2 and 3 at the south-western corner of the site. The total floor area is stated as 482sq.m. The proposed layout shows that the existing units would be extended by 12sq.m and that the floor area of the new unit would be 470sq.m. The extension would necessitate the demolition of part of the southern boundary wall. This is a stone wall which has been altered and extended in the past and is covered in ivy. It extends along the southern boundary with the Dunnes car park entrance road. The alterations and extensions to the existing units would include the provision of shopfronts which would open directly onto the Dunnes carpark entrance road (i.e. the Proposed Inner Relief Road). However, no details of signage or shopfront designs have been provided.
- 2.2.** The submitted drawings indicate that there would be car parking provided on site and that vehicular access would be via the existing entrance from St. Mary's Road (one-way). The entire western section in front of the proposed new unit would be used for car parking and additional parking would be provided adjacent to the existing units. An additional entrance would be provided on the south-eastern boundary from the road serving the Dunnes car park, (i.e. the proposed Inner Relief Road). The internal roadway would be two-way from this new entrance.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 20 no. conditions, the most significant of which may be summarised as follows:

Condition 2. Financial contribution of €24,100 in respect of the General Development contribution Scheme.

Condition 3. Special Financial contribution of €30,000 in respect of infrastructure and facilities benefitting the development.

- Condition 4. Roof and walls to match those of existing buildings in colour, texture and materials. A signage scheme for the proposed shopfronts on the southern elevation shall be submitted to the P.A. for agreement.
- Condition 5. Use of new unit restricted to “non-comparison” retail or a use similar to those in situ at Killarney Enterprise Centre. Details to be agreed with P.A.
- Condition 6. Design and construction of unit to be as submitted plans, but the first-floor windows on the northern elevation shall be omitted. Details of finished floor levels and cladding to be agreed with P.A.
- Condition 10. A 2-metre high concrete post and panel fence shall be erected along the northern, southern and western boundaries of the proposed car parking area. The fence shall be in place prior to the commencement of any other development on the site.
- Condition 11. The development is proposed to be accessed from the proposed Bohereen na Goun Inner Relief Road. Accordingly, a portion of the land required by Kerry Co. Co. to construct this inner relief road shall be transferred to the local authority. No works for the proposed development (excluding the proposed car park) shall be carried out until such time as the lands have been transferred to the L.A. and the inner relief road has been substantially completed.
- Condition 12. The boundary wall between the proposed development and the proposed inner relief road shall be 1m high with a suitable 1m high railing mounted onto it. The southern face of the wall shall be stone faced. No advertising signs shall be placed on the wall or entrance gates.

3.2. Planning Authority Reports

3.2.1. Planning Reports

It was noted that the proposed industrial unit would be located partially within the M2 “Town/Village Centre” and partially within “Existing Residential” zonings. However, it was considered that as the industrial unit would be located a “considerable distance”

from the residential properties in St. Mary's Terrace, the activities in the unit would not seriously detract from the residential amenities of those properties. It was, therefore, considered to be acceptable given its close proximity to the enterprise centre and the town centre. It was proposed, however, that conditions be attached to any permission requiring the construction of "an adequate boundary wall" around the proposed car parking area and that the activities be restricted to use types already in place at the enterprise centre.

Reference was made to the planned Killarney (Bohereen na Goun) Inner Relief Road, which will pass to the south of the proposed unit, and it was noted that a proposed gate had been shown opening onto the proposed relief road. It was noted that the Town Engineer had no objection to the proposed development subject to conditions. It was considered that the proposed elevational changes to the units on the road leading into the Dunnes car park will improve the appearance of the buildings when viewed from this road and would have minimal impact on the adjoining properties. Permission was recommended subject to conditions which was generally consistent with the P.A. decision.

3.2.2. Other Technical Reports

Building Control Officer – no objection. Fire and Disability Access certificates required.

Municipal District Engineer Roads – No objection raised subject to 12 conditions, most of which were of a standard type. It was recommended that conditions be attached in respect of the planned Inner Relief Road, (including ceding of land), the erection of a boundary wall along the boundary with the proposed Inner Relief Road and the payment of a special financial contribution towards roads infrastructure of €30,000.

3.3. Prescribed Bodies

Irish Water – further information requested in respect of connections to water and wastewater services.

3.4. Third Party Observations

Two objections were received one from local residents and the other from a business owner within the Enterprise Centre (the third-party appellant). A summary of the main objections raised as follows:

Residents of St. Mary's Terrace (with 16 signatures)

- The road serving the Dunnes Stores car park and Eircom property is a privately-owned road. The proposal to allow these buildings to face onto this road is therefore inappropriate.
- The site is located within a Housing Protection Area where the amenities of existing residents should be protected. A grant of planning permission would contravene the P.A.'s own Development Plan.
- Amenity – the proposed development will affect amenity of the houses on St. Mary's Terrace and the extra volume of traffic will destroy the quiet neighbourhood.
- Boundary walls – there is no mention of the height of the boundary walls onto the rear laneway which would block natural sunlight. If no walls provided, the car park would be intrusive to residents' gardens.
- Inadequate access as laneway not suitable for the level of traffic.
- Drains – Sewers tend to get blocked in the area quite often. Has a full sewer and storm layout been approved?
- Inadequate access as laneway not suitable for the level of traffic.

Pat Culloty – Motor Shop (Business owner) – this submission from the appellant is generally similar to the grounds of appeal, which are summarised in 6.1 below.

The main points made to the P.A. related to the following topics

- Lack of clarity re one-way traffic system and new vehicular entrance, and inadequacy of new entrance in terms of design and sightlines available.
- Drawings inaccurate - Revised boundaries removes current turning area and parking for customers. Proposed parking spaces allocated to areas occupied by other uses such as car wash and parking bays protrude onto roadway.

- Overdevelopment of site with inadequate space for parking, deliveries, waste management on this busy industrial site, which is a backland site in close proximity to residential properties.

4.0 Planning History

14/205468 – permission granted by P.A. in May 2014 for elevational changes including raising of the roof of existing building and to extend existing building at Killarney Enterprise Centre subject to 7 conditions, which were of a standard type. This related to the building immediately to the east of Units 1, 2 and 3 and adjoins the southern boundary. The permitted plans show the building laid out as 3 existing retail units, one of which is for car repairs. The southern elevation was proposed to be altered with the introduction of 5 no. high level windows, under the raised roof.

5.0 Policy Context

5.1. Kerry County Development Plan 2014

6.0 Chapter 13 – Development Management Standards includes the following:-

6.1.1. Infill Sites – Infill development must have regard to the main adjoining existing uses, design features, building lines and heights, as well as the existence of any features such as trees, built and natural heritage and open spaces on the site or on adjoining sites. Proposals for infill development must demonstrate how they will integrate satisfactorily with the adjoining developments, without any loss of amenity.

6.2. Killarney Town Development Plan 2009-2015 (as extended)

Killarney Town Development Plan was extended by Variation 4, which was adopted in December 2018. This Variation replaces the zoning maps and many of the other maps of the original Development Plan. It also includes the population allocation and housing land requirement as contained in the Core Strategy of the Kerry County Development Plan 2014. It addresses the Killarney Municipal District LAP 2018-2024, which was adopted at the same time, and several other planning issues.

Part of the site is zoned as 'Existing Residential' (R2) – Northern section of site (behind St. Mary's Terrace) and the remainder (Enterprise Centre) as lands which are zoned 'Existing Built -Up Area Town Centre' (M2). The objective for Existing/Developed/Residential Areas (R2/M2/M4) is to protect and improve these areas and to provide facilities and amenities incidental to those areas (12.3.9).

The **Zoning Matrix** (Appendix 1 to Variation 4) shows that in a Residential Zone, uses including a Shop, Financial/professional services and Offices are 'Open for Consideration' but Light Industrial with Showroom uses and Wholesale Warehouse uses are Not Normally Permitted. In the M2 Zone, Shop, Financial Services and Offices are 'Permitted' and Light Industrial and Wholesale Warehouse are Not Normally Permitted.

- 6.2.1. **Development Management Policy** (12.3.9) states that it is the policy of the P.A. in respect of Existing Residential/Developed and Town Centre Areas to facilitate development that supports in general the primary land-use of the surrounding existing built-up areas. Development that does not support or threatens the vitality or integrity of the primary use of these existing built-up areas shall not be permitted. It states (12.3.5) that Residential areas (such as R2) are intended primarily for housing development but may also include a range of other ancillary uses for residential, particularly those uses that have the potential to foster the development of new communities, such as creches, schools and nursing homes.

The **HSG-03 objective** for this zone (as amended by Variations 1 and 4) is to preserve the residential distinctiveness and character of established residential communities by the designation of Housing Protection Areas.

Housing Protection Areas (Section 3.6) were established arising from pressures identified in the Plan on established residential areas for back land and infill development not in keeping with the traditional settlement pattern, due to the proximity of such areas to the town centre. The northern part of the subject site and adjoining lands to the north and west form part of such a Housing Protection Area. It is stated (3.6.2) that such protective status will ensure that the residential nature of such areas will be protected as well as the architectural merit of dwellings.

Killarney Inner Relief Road – specific objective INFRA-01-f – to complete the Inner Link Road through to St. Mary's Terrace (R12).

6.3. Natural Heritage Designations

The Killarney National Park, McGillicuddy Reeks and Caragh River Catchment SAC and the Killarney National Park SPA are located within 500m of the site.

7.0 The Appeal

7.1. Grounds of Appeal

The third-party appeal is against the decision of the P.A. to grant planning permission. The main points raised may be summarised as follows:

- Traffic hazard from existing entrance – The existing entrance to the site is substandard and is not capable of coping with the significant increase in the intensity of the use of the enterprise centre. There is limited sight distance/visibility which will pose a serious traffic hazard.
- Inadequacy of proposed new entrance – this will result in conflicting movements as the entrance is not wide enough or deep enough to accommodate the existing and proposed traffic movements and no car or truck turning diagrams have been provided to demonstrate its adequacy. A road safety audit should be required.
- Traffic hazard due to Layout of development – the lack of differentiation between parking areas, pedestrian areas and circulation space will give rise to conflict between vehicles and pedestrians. The parking bays are inadequate as they do not allow for reversing movements and are insufficient in number to cater for the proposed development. There is insufficient space for fire engines to pass.
- Premature development – details of the Inner Relief Road have not been made available to the public and there is no timeframe for its construction. Thus, it is not possible to assess the impact of the proposed development, including the new entrance/exit. No development should be permitted until such time as details of the construction of this road, its layout, details of footpaths and lighting and the proposed timeframe for its delivery are made public and agreed.

- Frontages to Units 1, 2 and 3 inappropriate – the introduction of new entrance onto the road serving the Dunnes car park is inappropriate as there is no footpath and it will result in unsafe and substandard development.
- Restriction of use of unit unrealistic – the permission is for an industrial unit and the range of uses within the enterprise centre is considerable. The enforceability of Condition 5 is questionable. The use of the building should be agreed prior to the grant of planning permission so that provision can be made for appropriate levels of car parking. Concern is raised that the unit is too large for the estate and constitutes overdevelopment.
- Residential amenity – the properties to the north of the estate will be badly affected in terms of residential amenity due to the backland nature of the development and its use for car parking. This substandard development will also result in devaluation of these properties.
- Waste management – no provision has been made for the collection and storage of waste and condition 8 is inadequate. This will result in bins being stored in a haphazard manner which will conflict with other aspects of the layout such as parking areas.

7.2. Planning Authority Response to appeal

A response from the P.A. was received on 14th January 2020. The main points made may be summarised as follows:

1. **Killarney Inner Relief Road** – the Local Authority is at an advanced stage of design of the Killarney Inner Relief Link Road which links Monsignor O’Flaherty Road with the Bohereen na Goun Road, for which Part 8 approval has been granted. The aim of the project is to open back lands, encourage development and improve the traffic flow within the town of Killarney (Refer to Drawing No. 1). The project is being funded by the Urban Regeneration & Development Fund. The proposed development which received planning approval under Ref. 19/974 aligns with the proposed Killarney Inner Link Road.

2. **Road Safety Audits** – The Killarney Town Development Plan as extended (Section 8.1) requires Road Safety audits to be carried out in respect of developments involving connection to national roads and those with 30 or more residential units. The current proposal (19/974) does not fall within either of these categories.
3. **Pedestrian and vehicular conflict** – Given the nature of the existing development and the proposed layout, it is considered that the ambient speed of travel for vehicles using the proposed development would be low, and that there would be minimal conflict between pedestrians and vehicles within the development. The proposed new entrance will also allow easier access for Emergency Vehicles to the existing development, which will also have reduced travel times to the site by reason of the Inner Relief Road.
4. **Condition 11 prohibits commencement of works until** lands are ceded – No part of the development, except for the car park may proceed prior to the transfer of lands to the Local Authority required for the construction of the Inner Relief Road, and until this road is substantially completed. All roads constructed by the local authority are built in accordance with Standards and Technical Documentation, as set by the TII. These standards included specifications for public footpaths and public lighting. The preliminary design drawings also include public footpaths at this location. The Part 8 Planning Drawings (which are available to the public on request) details the layout of the road and its associated infrastructure.
5. **Part 8 Approval** – this approval and its associated drawings show a proposed public footpath on the Killarney Inner Link Road which runs adjacent to this proposed new development. The preliminary design drawings also include public footpaths at this location (refer to Drawing No. 1).

7.3. First party response to appeal

The first party responded to the grounds of appeal on 7th January 2020. The main points may be summarised as follows:

1. **Transport policy** – the Inner Relief Road is provided for in the Killarney Town Development Plan (INFRA-01-f) which seeks to continue to provide new

roads designed and built to modern standards, to facilitate the strategic sustainable development of the town centre, backlands and suburban areas. There are a number of specific goals in relation to this policy, one of which is to “Complete the Inner Relief Road through to St. Mary’s Terrace (R12)”. The overall management plan for the town is also set out in the Killarney Municipal District Town Traffic Model/Traffic Management Study Strategic Recommendations Report 2016. A key component of achieving safe pedestrian environment in the town centre is moving the traffic away, which will reduce the pedestrian/vehicular conflict. The Inner Relief Road is viewed as being a critical to the reduction of vehicular traffic in the town centre with an associated enhanced pedestrian environment.

2. **Inner Relief Road Alignment** – the alignment of the proposed Inner Relief Road cuts through the applicant’s lands. This has necessitated a re-evaluation of the site in terms of its overall development. A set of 3 drawings have been enclosed with the response. These include a preliminary design of the section of the proposed road (18804-1001 Rev A); a plan showing the lands within the site that are to be acquired (1884-1101 Rev A); a drawing of the options for provision of access to the applicant’s lands, which facilitate access to the proposed new unit (18804-SK01); Aerial photograph indicating alignment of new road, footpaths, tie-ins and new junctions (18804-1002 Rev B). The only section of this road that remains to be completed is the section from Monsignor O’Flaherty Road to New Street, which runs through the appeal site and includes a junction modification at Dunnes Stores.
3. **Detailed Road Design** – the alignment agreed between the roads authority and the applicant has resulted in the modification of the internal layout of the appeal site together with a new access from the IRR serving the appeal site. Agreement has been made in relation to the location of the access and the boundary treatments within the applicant’s site. The alignment also necessitates alteration to the internal circulation within the appeal site.
4. **Pedestrian safety** – the proposed development will enhance pedestrian safety by removing conflicting movements. The proposal will also conform with all requirements of the IRR including the provision of safe vehicular and pedestrian movements.

5. **Prematurity** – it is recognised that occupation of the new unit is contingent on the completion of the road but it is understood that that the necessary finance has been allocated to complete the Inner Relief road given its importance to the development of the town, and that works will commence in mid 2020.
6. **Visual amenity** – the proposed alterations to the southern elevation of the existing units is considered to be appropriate in the context of opening up backlands and is consistent with the approach taken under P.A. Ref. 14/205/468.
7. **Restriction of use to non-comparison retail** – the applicant has no objection to this restriction imposed by Condition 5 or to the limitation of the use to one similar to those currently operating from the Enterprise Centre. The applicant would be happy to accept a condition to this effect or to one limiting the use to a use listed in Part 4 of the Planning and Development Regulations 2001 9as amended).
8. **Residential amenity** – the site is a town centre location with a diverse range of uses. Given that the proposed new industrial unit will be sited at a distance of 65m, it is considered that the physical and visual separation from the cottages will mean that no adverse impact on the residential amenities of these properties.
9. **Zoning** – the overall site is predominantly within the Town Centre Zone and is partially within the Residential Zone. The units that are proposed to be altered/extended comply with the Town Centre Zoning. The proposed unit is located within the Residential Zone, but the proposed use is not precluded in this zone. In terms of non-conforming uses, it is noted that the Development Plan allows for extensions and improvement of such premises where there is no adverse impact on the amenities of the area.
10. **Waste management** – the operator of each unit has responsibility for the collection and storage of waste which is collected by waste contractors. This situation will not change. The design and layout of the proposed unit provides for on-site waste storage which will be removed from the site in the most appropriate manner and in accordance with statutory requirements.

11. **Special financial contribution** – Condition 3 requires payment of €30,000 in respect of the Inner Relief Road. It is noted that it is stated that this is based on 5% towards the cost of the road and that it refers to reflecting the increase in the traffic volume generated by the development. The applicant does not question the legal basis for this condition, but requires greater clarity on the means of calculation of the amount and the proportionality attributed to the proposed development, which appears excessive.

8.0 Assessment

8.1. It is considered that the main issues arising from the appeal are as follows:-

- Principle of development - zoning
- Development Plan policy for established town centre and residential areas
- Impact on residential amenity
- Impact on Protected Structures
- Nature of proposed uses
- Design and layout of proposal (including waste management/parking circulation etc.)
- Traffic safety

8.2. Principle of development

8.2.1. The site is located in an established Town Centre area which is partially composed of a long-established Enterprise Centre and partially on long-established residential lands. The Development Plan zoning reflects the diverse nature of these uses in that the Enterprise Centre lands are zoned M2 – Town Centre Existing/Developed lands and the lands to the rear of St. Mary's Terrace are zoned Existing Residential. Although the Inner Relief Road is included in the Infrastructure objectives of the Plan, it is noted that it is not shown on the Zoning Map (as varied under Variation 4). However, it is accepted that the road alignment cuts through the southern part of the site and that this is an important element in the consideration of the principle of development on the site as proposed. I would accept the Town Engineer's statement that the design of the road is at an advanced stage and that it is funded via the

Urban Regeneration and Development Fund (Submission received by Board on 14/01/20). As such, it is considered that the proposed development would not be premature, provided that appropriately worded conditions are attached requiring ceding of the necessary lands and completion of the road prior to commencement of development.

8.2.2. **M2 Zoning** - The Zoning Matrix indicates that whilst a 'Shop', 'Financial/Professional Services' and 'Offices' are 'Normally Permitted' in the M2 Zone, 'Light Industrial Units with Showrooms', 'Wholesale Warehouse', 'Motor sales Showroom', 'Vehicle Repair Garage' and 'Warehouse/Storage Depots/Distribution Centres' are 'NOT Normally Permitted'. The three existing units are currently vacant but were recently used as a Dog Grooming unit, and two small retail units. The other uses within the Enterprise Centre include a car repairs unit (immediately to east and recently extended with permission), a car wash facility (adjoining the car repairs), a carpet showroom, a motor parts sales outlet and a laundry business. The submissions on file also referred to a tool hire business but this may no longer be present. Thus, the range of uses is primarily retail in nature, but of a lower order, and also includes several uses that would not be permitted under the M2 zone. The proposed development does not seek to change that nature of the use of the existing units, but does seek to alter and extend them. As the prevailing uses within the centre are generally non-conforming uses, this would need to be approached with a certain degree of caution. The nature of the uses and alterations proposed will be discussed further below.

8.2.3. **R2 Zoning** - The lands to the north of the Enterprise Centre comprise the rear gardens of three cottages fronting onto St. Mary's Terrace (Nos. 2, 3 and 4) and do not form part of the Enterprise Centre. The proposal to expand the Enterprise Centre onto these lands, which are zoned Existing Residential and are designated as a Housing Protection Area, requires an even more cautious approach in my view. It is further noted that Nos. 3 and 5 St. Mary's Terrace are listed in the Record of Protected Structures in the Killarney Town Development Plan 2009 (as extended), Reference 66-8-65 and 66-8-66. Thus, the subdivision of three residential sites, (one of which forms the curtilage of a Protected Structure and adjoins the curtilage of a further protected structure), for the purposes of the construction of a new industrial unit with associated car parking and circulation space, as an extension to a light industrial business park, is not considered to be appropriate in principle.

8.2.4. However, I would accept that there are many other aspects that need to be considered in terms of the appropriateness of the site for the form of development proposed. These include the policy framework regarding Housing Protection Areas and infill development in established residential areas, the existing character and pattern of development in the area, the nature of the site in terms of its relationship with adjoining lands/laneways, and the precedent established by previous history in the vicinity. These matters will be discussed below.

8.3. Development Plan policy - Existing Residential and Housing Protection Areas

8.3.1. The fundamental principle of the Existing/Developed/Residential Town Centre area is to facilitate development that supports the primary land-use in the surrounding built-up area. The northern part of the site (i.e. the section outside of the existing enterprise Centre) is an established residential land use, which is located within a Housing Protection Area. Such areas were designated in order to protect the character and nature of established residential areas, particularly close to the town centre, from the pressure to develop backland and infill sites, with little regard for the traditional settlement patterns of the areas. Policy Objective HSG-03, accordingly, seeks to preserve the distinctive character of such areas and to ensure that the residential nature of such areas will be protected.

8.3.2. It is clear that the Development Plan seeks to generally resist development proposals in the rear gardens of properties in these HPAs/Established Residential areas close to the town centre. The site of the proposed development appears to comprise an amalgam of the entire rear gardens of two properties and part of the rear gardens of a further property. Thus, the proposed development of the site for the expansion of the Enterprise Centre by constructing an industrial unit in the rear gardens of these properties clearly contravenes this policy.

8.3.3. It is noted that the planning authority and the Board have previously refused development proposals involving the subdivision and development of the rear gardens to the rear of St. Mary's Terrace. The most recent decision (ABP.301425) related to a proposal to construct 10 housing units for the elderly to the rear of Nos. 19 and 20 St. Mary's Terrace. The Board considered that this amounted to overdevelopment of a restricted site and to piecemeal development of the area, which would result in a congested layout and poor residential environment. It also

had regard to the distinctive character and pattern of development of this established residential area, which is characterised by narrow laneways which separate the terraced houses from their rear gardens and to the objective of the Killarney Town Development Plan to resist the subdivision of such residential sites. Reference was made in the Inspector's report of a further Board decision (232304) to the distinctive pattern of development and to the need for a comprehensive detailed design brief to guide the future development of these areas, with a view to avoiding negative impacts on existing residential properties in the area.

- 8.3.4. It is considered that the current proposal would constitute piecemeal development which would be likely to compromise the future development of the lands to the east of St. Mary's Terrace. The decisions referred to above indicate that the Board and the Planning Authority have taken a consistent approach in the application of policy and in seeking to prevent a piecemeal and un-coordinated development of the area. In this respect, it is considered that the proposed development would establish a precedent which would make it more difficult for the planning authority to refuse similar development in the future.

8.4. Residential amenity

- 8.4.1. The construction of the proposed new unit involves the development of the long narrow domestic rear gardens of two properties, and part of a further garden as an extension to the commercial enterprise centre. These gardens are not generally delineated physically and are separated from the houses that they are intended to serve by the laneway. It is considered that the interface between the back walls of the terraced housing and the allotment style gardens on the far side of the lane is very stark as the rear doors/windows face and open directly onto the lane with no defensible space. Thus, the subdivision of these gardens from the original dwellings would potentially have significant impacts on the residential amenities of these terraced houses, which are generally very small, as they would lose their only private amenity space and would be vulnerable to overlooking, loss of privacy, loss of outlook, loss of light and loss of outdoor storage space (e.g. for bins etc.).
- 8.4.2. It is considered that the residential amenity of these dwellings, the layout of which is quite distinctive as the rear elevations open directly onto public laneways, which separate the houses from their rear gardens, would be adversely affected by the

commercialisation of two and a half of the gardens. This would introduce public, commercial traffic into an area which has hitherto been used as a semi-private residential neighbourhood. The rear gardens of Nos 1 and 2 would also be surrounded by commercial use and or parking associated with said use. It is considered that this would significantly injure the residential amenities of the terrace of houses backing onto the lane in terms of noise and disturbance.

- 8.4.3. It is a requirement of the Development Plan that a minimum area of 48sq.m be provided as private amenity space for each dwelling unit. In the case of Nos. 3 and 4 St. Mary's Terrace, the entire rear gardens would be eliminated. It is clear that the elimination of the rear garden of these two dwelling units would contravene the objectives of the Development Plan and would be contrary to the proper planning and sustainable development of the area.

8.5. Impact on Protected Structures

- 8.5.1. As stated previously, No. 3 St. Mary's Terrace is a Protected Structure and as such, the industrial unit and associated parking would be located within the curtilage of the protected structure. No. 5 is also a protected structure and its rear garden is directly adjacent to the northern boundary of the site. It is considered that the change of use and construction of a large industrial unit, with associated parking and manoeuvring space, in the rear gardens of these house would negatively affect the character and setting of the Protected Structures and would contravene policy objective BH-04 which states:

BH-04 To ensure that any proposals for groundworks within the curtilage of a Protected Structure do not interfere with or disturb the setting attributing to the character of the Protected Structure.

- 8.5.2. It is considered that the proposed change of use of the domestic gardens to a car park serving a commercial entity would materially detract from the character and setting of the terrace of dwelling houses, two of which are Protected Structures. Furthermore, the erection of a large structure with a floor area of 470m² and a height of c.7.7m with an industrial appearance is inappropriate in the grounds of a protected structure, by reason of its excessive scale, bulk, mass and materials used. In addition, the subdivision of the garden areas, their physical separation from the dwellings that they serve, together with the proposal to enclosure the gardens with a

2-metre high concrete panel fence would permanently separate the Protected Structure from its attendant grounds and would, therefore, adversely affect its character and setting of the protected structures.

8.6. Nature of proposed uses

- 8.6.1. The proposed development as submitted to the P.A., in terms of the new building in the northern section of the site, was for the construction of an 'industrial unit'. The planning authority, in its decision (Condition 5) restricted the use to 'a "non-comparison" retail unit or a use similar to those already in situ in the Killarney Enterprise Centre' with precise details to be agreed with the P.A. prior to the first occupation of the unit. It should be noted, however, that the range of uses within the existing Enterprise Centre is quite diverse and includes several uses that would not normally be permitted under the current M2 zoning for the site or under the R2 Existing Residential zoning for the site of the new unit. In respect of "non-comparison" retail uses, it is assumed that the type of use would therefore be either convenience retail or bulky goods retail uses. However, the former would be wholly inappropriate in and directly adjoining domestic rear gardens and the latter is specifically excluded from the zoning for the site.
- 8.6.2. It is noted that the nature of the proposed uses of the existing units which are to be extended and altered has not been stated (other than commercial), and no restrictions have been placed on the use of these units, notwithstanding the fact that they are currently vacant. However, as the proposed alterations to the units (with floor areas of 36m², 49m² and 63m², respectively), indicate that there would be large windows/doors on both the northern and southern elevations, it is likely that they will be used as some form of retail units, or will perhaps continue the type of uses that formerly occupied these units.
- 8.6.3. The nature of the use of both the existing (renovated) units and of the proposed 'industrial' unit is therefore unclear, which raises concerns regarding the scale, nature and level of activity and hours of operation that are likely to be associated with these uses, which could have serious implications for the residential amenity of the established residential area nearby. This is of particular relevance given the dense nature of the established development and the close proximity between the residential and commercial uses. Should the Board be minded to grant permission,

therefore, it is considered that further information should be sought in relation to this matter, or alternatively, the nature of the uses should be restricted by means of appropriately worded conditions.

8.7. Design and layout of proposal

- 8.7.1. The alterations to the design and layout of the Enterprise Centre arise from three main elements. Firstly, the alignment and layout of the Inner Relief Road cuts through the south-eastern section of the site, resulting in a reduction in land area within the overall site. This necessitates the re-organisation of the layout of the estate, including car parking. Secondly, the Inner Relief Road presents an opportunity to alter the layout of individual units so that they can front directly onto the new road and also facilitates the creation of a new entrance to the industrial estate. Thirdly, the expansion of the enterprise centre into the residential lands to the north facilitates the construction of a new industrial unit, the provision of additional on-site car parking and the re-organisation of parking and circulation space within the site.
- 8.7.2. It is considered that the creation of active frontages along the new inner relief road at this location would be appropriate as the units would be close to Dunnes Stores and to New Street shopping area. However, no proposals for shopfronts have been included in the application/appeal. This matter could be addressed by means of a condition. The creation of a new entrance onto the relief road is also considered to be acceptable in principle and could potentially reduce, or even remove, the commercial traffic from the narrow roadway leading to St. Mary's Terrace (associated with the existing entrance). However, it is noted that there are no proposals to close the existing entrance, but the altered layout would at least reduce the amount of traffic using the lane as St. Mary's Road is one-way.
- 8.7.3. The existing parking on site is generally ad-hoc, but there are two distinct areas which are used as perpendicular parking bays, although not delineated on site. The first area provides for 4 spaces near the existing entrance, adjoining the northern boundary. This area is shown on the submitted plans as 5 bays but on site, it was clearly occupied as 4 bays, and is sandwiched between two buildings. The second area is shown on the plans submitted with the history file P.A. Ref. 14/205468 as "communal parking", (undefined number of bays), at the south-eastern corner of the

site. During my site inspection, I noted that there were 10 vehicles parked in this area (excluding the carwash/valet space under the canopy). However, it is likely that up to 12 spaces could be accommodated in this area. The remainder of the parking spaces are accommodated in front of existing units. However, there is realistically only two-three such spaces available on the ground, as the remainder would either obstruct the entrances to the units or the movement of vehicles within the estate. Thus, the existing parking provision is estimated to be 16-18 spaces.

- 8.7.4. The reduction in site area would result in the loss of an estimated 8-10 no. parking spaces. The proposed development makes provision for 30 parking spaces in the submitted plans. These would be accommodated within the existing estate (14 no.) and to the west of the new industrial unit (16 no.). It is considered, however, that it is not possible to accommodate 14 parking bays within the existing estate. The area of land to be lost to the road relates mainly to that part of the site that is currently laid out as the communal car park. It is considered that the submitted drawings misrepresent the space available for parking bays as laid out. Firstly, the dimensions of the bays are too small, and secondly, bays are shown in inappropriate locations (e.g. in front of the doors to individual units and occupying a car wash bay). It is estimated that a maximum of 9 bays could be accommodated within the existing estate area, following ceding of land to the road. However, if the proposed expansion of the estate into the lands to the north did not go ahead, there would be an additional area of land which could potentially accommodate a further 3-4 bays in the north-eastern corner of the site.
- 8.7.5. As stated previously, it is considered that the planned expansion of the light industrial estate into the residential lands to the north is unacceptable in principle, and it is further considered that the provision of 16 no. commercial car parking spaces on these lands is equally unacceptable. This element of the overall development would contravene the Development Plan policies for Established Residential and Housing Protection Areas, as well as the policies for the protection of the character and setting of Protected Structures, and would be contrary to the proper planning and sustainable development of the area.
- 8.7.6. The lack of provision for waste management in terms of dedicated areas for storage and collection is also problematic as it is likely to result in haphazard siting of bins which would interfere with the efficient layout of the centre.

8.8. Traffic safety

- 8.8.1. The third-party observers have raised concerns regarding potential conflict between pedestrians and vehicles due to the substandard layout of the site, including the circulation space and siting of parking bays and to the introduction and design of the proposed new vehicular entrance. It was further claimed that the existing entrance is dangerous, that the creation of a frontage onto the Dunnes car-park entrance road would be hazardous in the absence of footpaths and that a road safety audit for the proposed development should have been undertaken.
- 8.8.2. I would agree that the proposed layout is inadequate in terms of the siting and size of parking bays and the manoeuvring space, which was discussed in the preceding section. I would also agree that the existing entrance, which has been in existence for a long time, is also sub-standard and unsuitable for the type of traffic using the site. However, the Enterprise Centre has been in place for a very long time and it would not be appropriate to require the applicant to either carry out alterations to this entrance or to close it. I am also mindful of the fact that the layout of the existing enterprise centre is long established, and any requirements to alter the layout would be confined to proposals for changes to the existing layout.
- 8.8.3. In this respect, it is proposed to introduce a one-way system with additional bays to be accommodated in front of and adjoining existing units, which is considered to be substandard. The proposed layout would not operate effectively on the ground due to inadequate size of bays and manoeuvring space, which would result in random parking within the estate. This would be likely to give rise to a traffic hazard by reason of both conflict between pedestrians and vehicles and in terms of overspill parking onto the adjoining substandard laneways. It is considered that a Road Safety Audit would help to identify the precise inadequacies in the layout and propose solutions, which would be of assistance.
- 8.8.4. I would agree that it is not clear whether the new entrance from the Inner Relief Road is adequate to accommodate trucks or large vans and that the internal road leading to the expanded area to the north has a pinch-point, which could restrict movement. There is no provision for loading bays within the layout and no swept path analysis has been carried out. The intensification of the use and expansion of the development, together with the substandard access to the centre at present

would warrant a Road Safety Audit. Given that the new road represents a significant investment in the infrastructure of the area, it is considered that the design of the new entrance should be to an appropriate standard and that the implications of the use and development of the site should be carefully considered. To this end, a Road Safety Audit would be of assistance.

- 8.8.5. It is considered that the proposed layout is substandard and that inadequate information has been provided with the application and appeal to demonstrate that the proposed development would not give rise to a traffic hazard.

8.9. Environmental Impact Assessment

- 8.9.1. Having regard to the nature and scale of the proposed development, 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.

8.10. Appropriate Assessment

- 8.10.1. The site is located within 500m of two Natura 2000 sites, namely, the Killarney National Park, McGillicuddy Reeks and Caragh River Catchment SAC (Site code 000365) and the Killarney National Park SPA (Site code 004038). It is noted that there is a stream (known locally as The Folly Stream) which runs alongside the eastern boundary of the northern part of the site. There is no information on the file as to whether there is any hydrological link to the SAC/SPA. However, given the distances involved, that the site is located in an established urban area, on serviced lands, it is considered that no appropriate assessment issues are likely to arise.

9.0 Recommendation

- 9.1. It is recommended that planning permission be refused for the reasons and considerations set out below.

10.0 Reasons and Considerations

1. Having regard to the location of the site which is zoned Town Centre Existing Developed/Residential Area, and to the northern part of the site to the rear of St. Mary's Terrace which is designated as a Housing Protection Area, to the

distinctive character and pattern of development of this established residential area, which is characterised by narrow laneways which separate the terraced houses from their rear gardens, and to the objectives of the Killarney Town Development Plan 2009-2015, (as extended), to resist the subdivision and development of such residential sites and to preserve their distinctive character, it is considered that, the proposed development of a new industrial unit with associated car parking on this restricted site comprising the rear gardens of several terraced houses, would result in a congested layout and poor residential environment for existing occupiers, and would constitute overdevelopment of the site and contribute to piecemeal development of the area. The proposed development would, therefore, conflict with the provisions of the Development Plan, would create an undesirable precedent which would compromise any future comprehensive planning of the lands to the rear of St. Mary's Terrace, would seriously injure the amenities of the area, and would be contrary to the proper planning and sustainable development of the area.

2. The proposed industrial unit and associated enclosed car parking area would result in the separation and loss of private amenity space associated with the terraced houses fronting St. Mary's Terrace and would introduce a commercial use of the private amenity space which would be likely to give rise to noise and disturbance and in a loss of privacy and outlook. The proposed development would, therefore, seriously injure the residential amenity of these properties and would be contrary to the proper planning and sustainable development of the area.
3. Having regard to the designation of Nos. 3 and 5 St. Mary's Terrace as Protected Structures, it is considered that the construction of a large industrial unit in the rear garden of No. 3 and directly adjoining the garden of No. 5 St. Mary's Terrace, by reason of its excessive scale, height, mass and bulk and use of materials, together with the change of use of the remainder of the garden area to a commercial car park enclosed by a fence, would permanently separate the Protected Structures from their associated attendant grounds, would adversely affect the character and setting of the Protected Structures and would be contrary to Policy BH-04 of the Killarney Town Development Plan 2009 (as extended).

4. Adequate car parking spaces, loading and turning spaces have not been provided within the curtilage of the existing Enterprise Centre. The proposed development, notwithstanding the proposed car parking area in the northern part of the site, would therefore result in haphazard parking within the estate and in on-street parking on the adjoining streets which would give rise to conflict between pedestrians and vehicles and in congestion on the adjoining roads, which would be prejudicial to public health by reason of traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Mary Kennelly
Senior Planning Inspector

30th March 2020