



An
Bord
Pleanála

Inspector's Report ABP 308888-20

Development

Extension and re-surfacing of existing seafront public car park to include provision of coach parking spaces, a bicycle stand, a multi-use paved area and all associated works.

Location

Waterville, Co. Kerry.

Planning Authority

Kerry County Council

Type of Application

AA Screening Determination

Applicants

1. Caroline Clifford
2. Tanya O'Sullivan
3. Martin McLeod
4. Lisa Fitzgerald
5. Vincent Hyland
6. John O'Sullivan
7. Alison Clifford O'Sullivan
8. Desmond Lucey

9. Ralph Slattery
10. Angela Griffin
11. Ellis Slattery
12. Irene Fitzgerald
13. Elizabeth Conlon
14. Stephanie Fitzgerald
15. Linda O'Sullivan
16. Sean Constable
17. Lynda Higgins
18. Rachael Glynn
19. Eddie O'Keefe
20. Ciara Fitzgerald
21. Joanna Janicka
22. Shauna Clifford
23. Angela O'Connell
24. Niamh Fitzgerald
25. Deirdre Fitzgerald
26. Sean Clifford & Mary Clifford
27. Finbar McGillcuddy
28. Eileen Murray
29. Diarmuid Flahavan
30. Geraldine Fitzgerald
31. Kevin Fitzmaurice
32. John Fitzgerald
33. Elayne Fitzmaurice
34. Garret Collins
35. Annemarie Fitzmaurice
36. Elaine Carey O'Shea
37. Amy Rudd

38. Carmel Cunniffe
39. Denise Collins
40. Julie O'Connell
41. Daniel Murphy
42. Shelia O'Connor
43. Lisa Foran
44. Aoife Fitzgerald
45. Joan & Miriam Courtney
46. Nuala Doyle
47. Courtney O'Sullivan
48. Carmel Clifford
49. Deirdre Byrne
50. Alex Murphy
51. Erin Murphy
52. Dorothy Rudd
53. Sean Murphy
54. John Clifford
55. Jay Sheehan
56. Maura Clifford
57. Ciara O'Neill
58. Sean O'Connor
59. Judy Higgins
60. Russel Smith
61. Mark Benham
62. Patrick O'Connor
63. Veronica Murph

Date of Site Inspection

19th February 2021.

Inspector

Sarah Lynch

1.0 Introduction

- 1.1. Kerry County Council is proposing to construct an extension and re-surfacing of existing seafront public car park and associated development at the seafront in Waterville. Under the provisions of Article 250 (3)(b) a number of local residents are seeking a determination from An Bord Pleanála, as to whether the development would be likely to have such significant effect to require that an Appropriate Assessment of the proposed development should be carried out.
- 1.2. Kerry County Council have carried out an Appropriate Assessment Screening for the proposed development in which it is determined that an Appropriate Assessment is not required and has initiated the process set out in Part XI of the Planning and Development Act 2000, as amended and Part 8 of the Planning and Development Regulations, 2001, as amended.
- 1.3. There is a concurrent request for the Board to make a screening determination under Article 120 (3)(b) of the Planning and Development Regulations 2001, as amended, as to whether the development application would be likely to have significant effects on the environment requiring EIA (ABP 308890-20).

2.0 Site Location and Description

- 2.1. The site is located in Waterville within and adjacent to the current seafront carpark. The lands incorporate the existing carpark, a disused tennis court and an open green area of c. 0.06ha which is currently partially trunked and gravelled and forms part of a larger green amenity area (c. 0.9ha) at the seafront.
- 2.2. The development is within the Ring of Kerry scenic route and the Wild Atlantic Way. The site is bounded by the N70 to the east and a promenade to the west. The site directly overlooks the Atlantic Sea to the west and forms part of a coastal walk and access to the beach. It is stated within the information submitted that the development site and the adjacent green area is used for events such as festivals, sport activities and funfairs.
- 2.3. The surrounding area is a mix of residential properties and commercial with holiday properties interspersed throughout the town, development is typical of a seaside town.

The Butler Arms Hotel is located to the north east of the site and dominates the seafront location in this area

3.0 Proposed Development

- 3.1. The proposal provides for an upgrade and extension to the capacity of the existing Car Park at the Waterfront adjoining the promenade in Waterville Town. The footprint and capacity of the car park will increase to provide a maximum of 6no. coach spaces and 45 no. car spaces (33 spaces and 2 no. disabled spaces will be provided within the existing upgraded car park and tennis court, and an additional 10 overflow spaces will be provided within the proposed new multiuse paved space). The area of the development is 3014m² (0.3Ha).
- 3.2. The proposed development would expand the existing carpark's footprint and capacity and enhance regulation and management of the facility. The footprint of the permanent carpark would extend into an existing disused tennis court located to the north. To the south a paved multi-use area of c. 0.06ha is proposed to be located within an existing grassed amenity area. The paved area is designed to be used for carparking as the need arises. The paving would also facilitate its use as a space for amenity, community, cultural or social activities. Bicycle parking facilities are also proposed in this area. The reinstatement of a low stone wall within this element of the development is also proposed.

4.0 Request for Direction and Submitted Documents

- 4.1. A request was submitted by a number of local residents seeking a determination by the Board as to whether an Appropriate Assessment would be required for the proposed development. The following summarises the content of these submissions.
- 4.2. It is considered within the submissions received that the proposed development will have a significant effect on the environment. A number of concerns are put forward in this regard as follows.
 - It is stated that the green area on which development is proposed is Natura 2000 habitat and provides a feeding site for birds currently used by birds such as Oystercatchers, Ringed Plover and Lap wing as a feeding ground. Crows,

Chough and other smaller birds such as curlew are also mentioned to utilise the area for feeding.

- The green space is utilised as an active open space by residents for walking, exercising pets and yoga classes.
- It is contended that the removal of this open space would have a direct impact on birds and human beings.
- Further concerns relate to the visual impact of the proposed development. It is stated that the removal of green space and installation of tarmac and other hard landscaping is not visually appealing.
- The objectors state that Waterville is the only seaside village on the Ring of Kerry and the existing green provides an attractive open area within the village.
- The boundary and periphery between Natura 2000 sites should be considered in determining environmental factors.
- Environmental screening document was not signed. There is no evidence that the person carrying out the screening had the relevant expertise to do so.
- The proposed development site floods at high tide during storms.
- Development is not an appropriate use of public expenditure.
- Alternative sites are proposed for the development on higher ground.
- There are EU protected species within the site, any development would devastate this flora and fauna.
- Insufficient information was considered within the EIA screening report.
- It is the policy of the local plan for the area to retain such green open spaces, associated car parks will be considered under the policy but should not detract from the primary use as active open space.
- The council recognises within its plan that there is sufficient parking in the village.
- Retention of green space is essential to the health and well being of the residents of Waterville.

- Measurements are incorrect on the plans for the part 8.
 - There is an increasing focus on the quality of open space at policy level, reference is made to the Sustainable Residential Development in Urban Areas Guidelines.
 - There is a commitment to retaining open spaces in the development plan, the development is a contravention of the council's own plans.
- 4.3. In response to correspondence from the Board dated 18th December, 2020, Kerry Country Council confirmed that the development is subject to the process set out at Part XI of the Planning and Development Act, 2000, as amended and Part 8 of the Planning and Development Regulations, 2001, as amended, however it is stated by the Council that this process has been suspended until after the Board's screening determination is concluded.
- 4.4. The submission, which was received by the Board on 21st January 2021, **included the information specified in Schedule 7A** for the purposes of the screening determination. It also includes the following documents:
- Public Notice – Part 8 process
 - Layout Plan Drawings
 - EIA Preliminary examination
 - EIA Preliminary Screening Report Conclusions Statement
 - Appropriate Assessment Screening
 - Planning Authority Habitats Directive Assessment Screening Determination Statement.
- 4.5. The Council contends within its submission that the works will have a positive impact on the population, providing for safer parking arrangements at the seafront. It is further contended that the proposed works will facilitate the safe enjoyment of the waterfront by a range of users to appreciate its setting. The proposed multi-use paved area can be enjoyed as part of the promenade / public realm offering when not in use as a spill over car park. In terms of Biodiversity, the Council states that the Habitat loss comprises of amenity grassland (GA2) and artificial habitats of low ecological importance. Potential for loss or degradation of Natura 2000 qualifying interest habitat

can be ruled out with certainty – nearest associated saltmarsh habitats are located over 3 Km away to the north, inside the mouth of the Inny Estuary.

- 4.6. It is further stated that at operational stage, the project is not likely to impact on waterbird populations in the wider area with no impact on key mudflat, saltmarsh or estuarine waterbird feeding grounds in the area or on other coastal grasslands locations around the Bay. The park would remain useable during periods of low disturbance, such as the early in the morning.
- 4.7. Construction stage noise is not likely to cause significant disturbance as birdlife in the area are likely to be habituated to similar type noise in this urban environment. It is noted that significant construction works were undertaken in the wider park in recent years, including the installation of a waste water pumping station and storm water tank. Construction projects can release sediment once vegetation is removed and or soil disturbed. In this instance, it is considered that any such release would not impact water quality downstream given the minor scale of the works and the scale and dilution capacity of Ballinskelligs Bay. Even accounting for a possible coastal flood event occurring during the course of the works and overtopping the promenade, any input likely to arise would be imperceptible and easily dissipated and assimilated within the received waters so as not to significantly impact water quality in the Ballinskelligs Bay or further afield.
- 4.8. With regard to the Development Plan, the Council states that the Kerry County Development plan recognises the role that good quality open space, recreation and amenity facilities can play in creating healthy and active lifestyles to ensure the wellbeing and improved quality of life of the entire community.
- 4.9. The proposal as outlined, will not result in the loss or discontinuation of an existing amenity or sporting facility or intrude on the promenade. The proposed paved area is designed to function as a hard landscaped amenity space and therefore has potential to increase the areas usefulness as recreational space and can effectively function as part of the promenade's public realm, when not in use as a spill over carpark.

5.0 Policy Context

Kerry County Development Plan 2015-2021

- 5.1. Under the provisions of the Kerry County Development Plan 2015-2021, Waterville is District Town within the Settlement Hierarchy for the County. Such towns serve the rural hinterland as a service centre and market town.

West Iveragh Local Area Plan, 2019-2025

The lands are zoned M4 Built up area and G1 Open Space, carparking is acceptable under M4 and open for consideration under G1 zoning.

- Section 3.3 - The settlement strategy also identifies Waterville as a location suitable for population growth. The development of this settlement will allow for the provision of local services, by encouraging and facilitating population growth at a scale, layout and design that reflects the character of this settlement.
- Objective WE-T-01- Provide for the provision and improvement of pedestrian and cycling infrastructure in the town as required.
- Objective WE-T-02- Provide for the development of car parks with the capacity to accommodate dedicated tour bus parking.

6.0 Planning History

- 6.1. There is a current Part 8 for the Extension and Improvement of the existing Seafront Public Car Park at Waterville, no other recently recorded planning application history is of note at the site.

6.2. Natural Heritage Designations

- 6.3. The site is directly adjacent to the Ballinskelligs Bay and Inny Estuary SAC and c. 800 metres north of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC. A number of other sites are located proximate to the proposed development and include, The Inveragh Peninsula SPA which is located c. 5.4km south of the development and the Kenmare River SAC which is located c. 6.8km south of the development. The Deenish Island and Scariff Island SPA is located c. 9.5km south of the development.

7.0 **Legislation and Guidelines**

- 7.1. Under the provisions of article 250(3)(b) of the Planning and Development Regulations 2001, as amended, where any person considers that a development proposed to be carried out by a local authority would be likely to have a significant effect on a European site, he or she may apply to the Board for a determination as to whether the development would be likely to have such significant effect. Where the Board determines that a development would be likely to have a significant effect on a European site it would require the local authority to prepare a Natura Impact Statement.
- 7.2. The guidance contained in 'Appropriate Assessment for Plans and Projects in Ireland - Guidelines for Planning Authorities' (DoEHLG, 2009) advises that all plans and projects not directly connected to, or, for the management of a Natura 2000 site must be assessed for its potential significant effects on that site before any decision is made to allow that plan or project to proceed. Each plan or project must also be assessed for its possible in combination effects with other plans or projects. This process is designated 'appropriate assessment' and arises from obligations under Article 6(3) and 6(4) of the Habitats Directive.

8.0 **Assessment**

- 8.1. The proposal is to upgrade and extend an existing car park at the seafront in Waterville. The development will comprise the resurfacing of the existing car park and disused tennis court to provide for 33 car parking spaces and 6 no. coach spaces and the installation of paving on a green area to be utilised as a multi-use space for recreation and overflow parking for 10 cars when required.

Appropriate Assessment Screening

- 8.2. An Appropriate Assessment Screening document was prepared by Kerry County Council. The Screening document describes the proposed development, its receiving environment and relevant European Sites in the zone of influence of the development.
- 8.3. A desktop survey was conducted to establish baseline conditions on the site which comprises of an existing car park and disused tennis court and an area of improved and maintained grassland.

- 8.4. No habitats listed as qualifying habitats for the SAC or corresponding with Annex 1 were identified. No high-risk invasive species were recorded.
- 8.5. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on any European sites. The nearest site is the Ballinskelligs Bay and Inny Estuary SAC which is located directly adjacent to the proposed development site.
- 8.6. The AA Screening Report submitted by the Council considers Natura 2000 sites within a 15km radius of the proposed development. The report identifies 2 sites which have the potential to be impacted through a source-pathway-receptor link. These sites are, Ballinskelligs Bay and Inny Estuary SAC (site code 000335) and Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (site code 000365).
- 8.7. Table 1 below includes a list of all sites I have considered in the screening of the proposed development, all of which were also considered by the applicant within the Appropriate Assessment Screening document submitted to the Board.
- 8.8. Thus, having regard to the information and submissions available, nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the source-pathway-receptor principle and sensitivities of the ecological receptors, I consider that the following European Sites are relevant to include for the purposes of initial screening for the requirement for Stage 2 appropriate assessment on the basis of likely significant effects.

Table 1. European sites considered for Stage 1 screening

European Site Name & Code	Distance	Qualifying Interest	Source-pathway-receptor	Considered further in screening
Ballinskelligs Bay and Inny Estuary SAC site code 000335	Directly adjacent to west of site	1330 Atlantic salt meadows (Glaucopuccinellietalia maritimae) 1410 Mediterranean salt meadows (Juncetalia maritimi) 1395 Petalwort (Petalophyllum ralfsii)	Directly adjacent to the site	Given the proximity of the proposed development to this SAC, potential for significant effects will be considered in greater detail.

<p>Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC (site code: 000365)</p>	<p>c. 800m south of development site</p>	<p>3110 Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae)</p> <p>3130 Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea</p> <p>3260 Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation</p> <p>4010 Northern Atlantic wet heaths with Erica tetralix</p> <p>4030 European dry heaths</p> <p>4060 Alpine and Boreal heaths</p> <p>5130 Juniperus communis formations on heaths or calcareous grasslands</p> <p>6130 Calaminarian grasslands of the Violetalia calaminariae</p> <p>6410 Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae)</p> <p>7130 Blanket bogs (* if active bog)</p> <p>7150 Depressions on peat substrates of the Rhynchosporion</p> <p>91A0 Old sessile oak woods with Ilex and Blechnum in the British Isles</p> <p>91E0 Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae)*</p> <p>91J0 Taxus baccata woods of the British Isles* Species</p>	<p>Hydrological link via Atlantic</p>	<p>No</p> <p>No potential for meaningful biological or relevant hydrological connectivity to this site as it is upstream of the proposed development.</p>
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		<p>1065 Marsh Fritillary (<i>Euphydryas aurinia</i>)</p> <p>1095 Sea Lamprey (<i>Petromyzon marinus</i>)</p> <p>1096 Brook Lamprey (<i>Lampetra planeri</i>)</p> <p>1099 River Lamprey (<i>Lampetra fluviatilis</i>)</p> <p>1029 Freshwater Pearl Mussel (<i>Margaritifera margaritifera</i>)</p> <p>1106 Salmon (<i>Salmo salar</i>)</p> <p>1303 Lesser Horseshoe Bat (<i>Rhinolophus hipposideros</i>)</p> <p>1024 Kerry Slug (<i>Geomalacus maculosus</i>)</p> <p>1833 Slender Naiad (<i>Najas flexilis</i>)</p> <p>1355 Otter (<i>Lutra lutra</i>)</p> <p>1421 Killarney Fern (<i>Trichomanes speciosum</i>)</p> <p>5046 Killarney Shad (<i>Alosa fallax killarneyensis</i>)</p>		
Kenmare River SAC (site code: 002158)	6.5km	<p>1160 Large shallow inlets and bays</p> <p>1170 Reefs</p> <p>1220 Perennial vegetation of stony banks</p> <p>1230 Vegetated sea cliffs of the Atlantic and Baltic coasts</p> <p>1330 Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>)</p> <p>1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>)</p> <p>2120 Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes)</p> <p>2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)*</p>	Hydrological link via Atlantic Sea	<p>No</p> <p>No potential for meaningful biological or relevant hydrological connectivity to this site as it is connected via the Atlantic Sea.</p>

		<p>4030 European dry heaths</p> <p>5130 Juniperus communis formations on heaths or calcareous grasslands</p> <p>6130 Calaminarian grasslands of the Violetalia calaminariae</p> <p>8330 Submerged or partially submerged sea caves Species</p> <p>1303 Lesser Horseshoe Bat (Rhinolophus hipposideros)</p> <p>1014 Narrow-mouthed Whorl Snail (Vertigo angustior)</p> <p>1355 Otter (Lutra lutra)</p> <p>1365 Harbour Seal (Phoca vitulina)</p>		
Valencia Harbour/Portmaguee Channel SAC (Site code: 002262)	9.5km	<p>1140 Mudflats and sandflats not covered by seawater at low tide</p> <p>1160 Large shallow inlets and bays</p> <p>1170 Reefs</p>	Hydrological link via Atlantic Sea	No No potential for meaningful biological or relevant hydrological connectivity to this site as it is connected via the Atlantic Sea
Iveragh Peninsula SPA (site code: 004154)	5.5km	<p>A103 Peregrine (Falco peregrinus)</p> <p>A188 Kittiwake (Rissa tridactyla)</p> <p>A199 Guillemot (Uria aalge)</p> <p>A009 Fulmar (Fulmarus glacialis)</p> <p>A346 Chough (Pyrrhocorax pyrrhocorax)</p>	Hydrological link via Atlantic Sea	No No potential for meaningful biological or relevant hydrological connectivity to this site as it is connected via the Atlantic Sea. This site will be considered in greater detail as Chough have been seen feeding in the area.
Deenish Island and Scariff	9.5km	A183 Lesser Black-backed Gull (Larus fuscus)	Hydrological link via Atlantic Sea	No No potential for meaningful

Island SPA (site code: 004175)		A013 Manx Shearwater (Puffinus puffinus) A194 Arctic Tern (Sterna paradisaea) A009 Fulmar (Fulmarus glacialis) A014 Storm Petrel (Hydrobates pelagicus)	biological or relevant hydrological connectivity to this site as it is connected via the Atlantic Sea. No QI have been observed utilising the development site.
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Potential Impacts on European Sites and test of Likely significant effects

- 8.9. The Appropriate Assessment Screening document submitted screens out all of the aforementioned sites on the grounds that they are removed from the development and in most instances, there is no physical or meaningful link to the proposed development site.
- 8.10. I consider this approach to be reasonable. It is important to note at this juncture, that Kerry County Council considered two of the sites listed, the Ballinskelligs Bay and Inny Estuary SAC and the Killarney National Park, Macgillycuddy’s Reeks and Caragh River Catchment SAC, to have a source-pathway-receptor link to the site and examined these sites in more detail to establish whether there was a potential for impacts to arise. The screening report submitted concluded that beyond reasonable scientific doubt that the proposed works, individually or in combination with other plans/projects are not likely to have a significant effect on a European site (Natura 2000 site).
- 8.11. I consider that the potential for significant impacts to arise in relation to the Killarney National Park, Macgillycuddy’s Reeks and Caragh River Catchment SAC to be unlikely given the separation distance from the proposed development and the dilution and dispersion action of the sea and also having regard to the location of the qualifying interests which are significantly removed from the site relevant to the proposed development site, in addition the closest part of this Natura 2000 site to the development site is located upstream of the proposed works, therefore having no meaningful connection to the site.
- 8.12. Having regard to the foregoing I consider it reasonable to discount any likelihood for impacts to arise in relation to the Killarney National Park, Macgillycuddy’s Reeks and

Caragh River Catchment SAC at this juncture. I therefore consider that further consideration of this Natura 2000 site is not required.

- 8.13. The Ballinskelligs Bay and Inny Estuary SAC is located directly adjacent to the proposed works and a detailed examination of potential impacts is therefore reasonable. In addition to this site, I consider it reasonable to consider the potential for ex-situ impacts to arise in relation to the Iveragh Peninsula SPA given that Chough which are one of the qualifying interests of this designated site have been observed foraging in the park adjacent to the development site.

Ballinskelligs Bay and Inny Estuary SAC

- 8.14. The following is a detailed examination of the potential for the development to give rise to significant effects on the Ballinskelligs Bay and Inny Estuary SAC. The Ballinskelligs Bay and Inny Estuary SAC, is located directly adjacent to the proposed development site. This site comprises the marine waters of Ballinskelligs Bay, as far out as the five-fathom line, some adjoining terrestrial areas and the estuary of the River Inny upstream to Breahig townland. Much of the site comprises shallow marine water, Ballinskelligs Bay, but it also supports a wide variety of other habitats, including intertidal mud/sand flats, sandy beaches, shingle, tidal river channels, sea cliffs, wet and dry grassland, freshwater marshes, swamps, cut-away bog, scrub, Bracken and saltmarsh. The site is used in the winter by nationally important numbers of Common Scoter and Ringed Plover. The site is also commonly used by waders such as Oystercatcher and Curlew. A colony of Grey Seal, a protected species, occurs within the bay.
- 8.15. The conservation objectives for this site seeks the maintenance of habitats and species within Natura 2000 sites at favourable conservation condition which will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.
- 8.16. It is necessary to consider in detail, the potential for significant impacts to arise in relation to both the construction and operation phases of the proposed development. The submitted AA Screening document considers the potential for such significant impacts and states that potential impacts arising from the development relate solely to the deterioration of Water quality.

- 8.17. Construction activity will take place entirely within the boundaries of the site over a 7-week period, which removes the potential for any direct impacts on the designated site during the construction. Habitats within the development site do not correspond to habitats listed on Annex 1 of the Habitats Directive, or to the qualifying habitats for the SAC. Indirect impacts have the potential to arise from contaminated surface water entering the designated site.
- 8.18. In this regard the applicant has stated within the information submitted that limited soils will be stored at the site for reuse within the eastern side of the site, closest to the public road. No machinery lubricants or fuels will be kept on site. In the event of a storm surge during construction, it is stated that, given the limited scale of the works and the limited amount of soils to be stored on site, the dispersion and dilution action of the sea would result in an impact of limited significance.
- 8.19. Surface water drainage arrangements on site will be unaffected by the proposed development and will remain as currently provided for. The proposed development will be implemented in such a manner as to be able to withstand destructive sea surges, however in the unlikely event that material is broken up by sea surges, the scale and nature of the proposed development would not result in any significant effects to the Ballinskelligs Bay and Inny Estuary SAC.
- 8.20. Thus, having regard to the foregoing I am satisfied that there is no likelihood that potential pollutants arising from the proposed development either during construction or operation could reach the designated sites in such concentrations to have any likely significant effects on them, in view of their qualifying interests and conservation objectives.
- 8.21. With regard to foraging and feeding birds, I draw the Boards attention to the concerns raised within the submissions received in which it is stated that a number of bird species utilise the site, including Chough which are a qualifying interest of the Iveragh Peninsula SPA. Other species observed foraging on the green area adjacent to the development site include the Common Gull and Oystercatchers.
- 8.22. While the site may be used as casual feeding/foraging habitat for birds. I draw the Boards attention to the stated uses of the development site and the adjacent park which have been outlined by both the submitters, and within the Council's documentation. Such uses include exercise classes, events, festivals, walking, dog

walking and off lead exercising. The uses stated create significant disturbance to foraging birds. I note from the observations of the Council's ecologist that birds were observed foraging within the park area adjacent to the development site and whilst they displayed a high tolerance to human activity, they were significantly disturbed by dog walkers and unattended dogs. Once disturbed they fled the lands for significant periods of time whilst others retreated to the shoreline. It is important to reiterate at this juncture that the proposed green area is identified as amenity grassland within the Council's documentation and was evident as such at the time of my site inspection.

- 8.23. Having regard to the foregoing whilst I acknowledge that birds including Chough utilise this site for casual foraging, I do not consider the site to be a significantly important feeding site for Chough or other qualifying interests of the Iveragh Peninsula SPA given the habitat present and the significant levels of disturbance at this site arising from human activity and dog owners.
- 8.24. Whilst I consider that there is potential for general noise/disturbance to both birds and mammals that may be present on the site arising from the construction phase of the development, I do not consider that this level of disturbance, given the limited period of time it will occur over, would give rise to significant ex-situ impacts in relation to Chough or any other QIs of the SPA . Furthermore, it is important to note that the proposed works will not impact the green area habituated by birds and as such, given the scale and nature of the development and the information outlined above, I am satisfied that significant ex-situ effects are unlikely to arise in relation to protected bird species.

Cumulative Effects

- 8.25. In-combination effects are considered within both the Appropriate Assessment screening document and the documentation submitted by the Council.
- 8.26. The site is zoned for open space and built up area purposes in the development plan. The adopted plan has been subject to an AA by the planning authority, which concluded that its implementation would not result in significant adverse effects on the integrity of any Natura 2000 sites. I have had regard to the status of the surrounding lands which is largely for mixed use purposes and note that no substantial developments have been referred to within the information submitted which would give rise to concerns in relation to cumulative effects.

8.27. The development will not generate any wastewater and will have a minuscule increase on surface water discharges which I do not consider to have any measurable impact on water quality or significant negative effects on Natura 2000 sites or their qualifying interests. Thus having regard to the information submitted, the nature of the proposed development and the scale of planned development in the area I consider that impacts arising from cumulative effects do not arise in this instance.

Conclusion on AA Screening

8.28. The only pathway for potential impacts on Natura 2000 sites is via the discharge of pollutants directly to the sea during construction works. Having regard to the nature and limited scale of the proposed development on serviced lands, that no such pollutants will be stored at the site and the presence of an existing promenade between the site and the Ballinskelligs Bay and Inny Estuary SAC and the distance to the nearest European sites, I consider that it is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, either individually or in combination with other plans or projects would not be likely to have a significant effect on Ballinskelligs Bay and Inny Estuary SAC (site code 000335), Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (site code: 000365), Kenmare River SAC (site code: 002158), Valencia Harbour/Portmagee Channel SAC (Site code: 002262), Iveragh Peninsula SPA (site code: 004154), Deenish Island and Scariff Island SPA (site code: 004175), in view of the conservation objectives of these sites and that a Stage 2 Appropriate Assessment and the submission of a Natura Impact Statement for the proposed development is not, therefore, required.

9.0 Recommendation

I recommend that the local authority be directed not to prepare a Natura Impact Statement in respect of the said development for the reasons and considerations set out below.

Reasons and Considerations

Having regard to:

- (a) The nature and limited scale of the proposed development,

(b) The separation distance between the proposed development and European sites,

(d) the submission made on behalf of the local authority, including the Appropriate Assessment Screening Report received on the 21st January 2021.

(f) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter,

9.1. It is considered reasonable to conclude that on the basis of the information available, which is considered adequate to issue a screening determination, that the proposed development, either individually and in combination with other plans or projects, would not be likely to have a significant effect on Ballinskelligs Bay and Inny Estuary SAC (site code 000335), Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (site code: 000365), Kenmare River SAC (site code: 002158), Valencia Harbour/Portmagee Channel SAC (Site code: 002262), Iveragh Peninsula SPA (site code: 004154), Deenish Island and Scariff Island SPA (site code: 004175), in view of the conservation objectives of these sites and that a Stage 2 Appropriate Assessment and the submission of a Natura Impact Statement for the proposed development is not, therefore, required.

Sarah Lynch
Senior Planning Inspector

22nd February 2020.