



An
Bord
Pleanála

Inspector's Report ABP 311997-21.

Development

Construct 10 no. 2 storey semi - detached dwelling houses and 2 no. 2 storey apartment blocks consisting of 4 no. apartments in each all served by an access road and connected to public services and also to include associated site works. A Natura Impact Statement (NIS) has been submitted with the application.

Location

Bothar Finnihy, Glanerough Estate, Dromneavane, Kenmare, Co. Kerry.

Planning Authority

Kerry County Council

Planning Authority Reg. Ref.

21/1004

Applicant

Ross Building and Maintenance Solutions Ltd.

Type of Application

Permission

Planning Authority Decision

Refuse permission

Type of Appeal

First Party

Appellant	Ross Building and Maintenance Solutions Ltd.
Observers	(1) Helen Joyce (2) Catherine O'Brien
Date of Site Inspection	20 th January 2022
Inspector	Siobhan Carroll

Contents

1.0 Site Location and Description	5
2.0 Proposed Development	5
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	6
3.3. Prescribed Bodies	7
3.4. Third Party Observations	7
4.0 Planning History.....	8
5.0 Policy Context.....	8
5.1. Kerry County Development Plan 2015-2021	8
5.2. Kenmare Functional Area Local Area Plan 2010-2016 (As extended)	8
5.3. Natural Heritage Designations	8
5.4. EIA Screening	9
6.0 The Appeal	11
6.1. Grounds of Appeal	11
6.2. Planning Authority Response	15
6.3. Observations	15
7.0 Assessment.....	17
7.1. Design.....	17
7.2. Impact on residential amenity.....	19
7.3. Wastewater treatment	21
7.4. Connection to services and surface water drainage.....	23
7.5. Traffic and car parking	24
7.6. Appropriate Assessment	24

8.0 Recommendation..... 36

9.0 Reasons and Considerations..... 37

1.0 Site Location and Description

- 1.1. The site is situated to the northern side of the town of Kenmare, Co. Kerry. It is located within the existing housing development of Glanerough Estate. The estate contains a mix of detached, semi-detached and terraced two-storey dwellings. Glanerough Estate is accessed from the Railway Road to the east.
- 1.2. This site lies circa 1.3km from the town centre. To the south of the site on Railway Road St. John's National School is located circa 700m from the site. Kenmare Shopping Centre containing Super Valu supermarket is also situated circa 700m from the site and accessed from Pat Scarteen Road. Finnihy River is situated circa 176m to the south-west of the site.
- 1.3. The site is which is rectangular in shape has a stated area of 0.46 hectares. It contains deciduous woodland. It has frontage of 58m onto the existing estate road, Bothar Finnihy. The boundary is defined by a low wooden fence. To the east of site is a detached single storey dwelling. Immediately to the north of the site is a private road which serves the Inter Kenmare Football Club pitches. The western boundary of the site adjoins the rear gardens of 7 no. dwellings situated within a cul-de-sac within the Glanerough Estate known as Parc Roughty.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of 10 no. 2 storey semi-detached dwelling houses and 2 no. 2 storey apartment blocks consisting of 4 no. apartments in each all served by an access road and connected to public services and also to include associated site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority refused permission for 4 no. reasons.

1. It is considered that the proposed development would be premature by reference to the existing capacity deficiencies in the Kenmare Wastewater Treatment Plant to which connection is proposed and the period within which this constraint may reasonably be expected to cease. In the absence of improved wastewater treatment capacity, the proposed development would be prejudicial to public health and would therefore, be contrary to the proper planning and sustainable development of the area.
2. It is considered that the proposed development, in particular the proposed apartment structure, due to their proximity to the side boundary and the proposed rear facing windows would result in overlooking and overshadowing of the adjoining residential amenities and property values of said property and would therefore be contrary to the proper planning and sustainable development of the area.
3. Based on the information submitted the Planning Authority is not satisfied of the applicant's legal right to access existing underground services or to lay separate underground services to the subject site over the existing private estate road and therefore the proposed development would be contrary to the proper planning and sustainable development of the area.
4. Based on the information submitted and due to the lack of capacity of the Kenmare waste water treatment plant, the Planning Authority is not satisfied that the proposed development would not result in negative adverse effects on the Kenmare River cSAC, European Natura 2000, site. Therefore, the proposed development would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- In relation to effluent disposal the report from the Water Services Department states that the existing sewerage treatment plant serving Kenmare is at capacity and cannot accommodate the proposed development. In relation to the matter of biodiversity the report from the Biodiversity Officer recommends a refusal of permission on the basis that due to the lack of capacity at the

Kenmare WWTP adverse effects on the integrity of a European Site cannot be excluded. In relation to the design of the proposed scheme the proximity of the proposed apartment building to the site boundaries and neighbouring dwellings to the north-east was considered to result in overlooking, overshadowing, negative impacts on residential amenities and property values. A refusal of permission was therefore recommended.

3.2.2. Other Technical Reports

Water Services – The Waste Water Treatment Plant in Kenmare has currently no spare capacity. Accordingly, the grant of permission of the proposed development would be premature pending the upgrading of the WWTP and the Council's Water Services Department recommends that the application be refused. The upgrade of the Plant is included in Irish Water's Capital Investment Plan 2020 to 2024 with a targeted completion date of late 2024. Irish Water have yet to apply for planning permission for the upgrade.

Biodiversity Officer – Due to the lack of capacity at the Kenmare WWTP into which the development proposes to discharge wastewater, adverse effects on the integrity of a European Site cannot be excluded.

Housing Estates Unit – Recommended that a revised site layout be submitted indicating a number of design issues to be addressed.

Environmental Health Service – Recommended the attachment of conditions in relation to the construction phase of the development.

County Archaeologist – No mitigation is required.

3.3. Prescribed Bodies

- None

3.4. Third Party Observations

- 3.4.1. The Planning Authority received 21 no. submissions/observations in relation to the application. The issues raised are similar to those set out in the observations to the appeal.

4.0 Planning History

Reg. Ref. 20755 – Permission was refused for the construction of (a) 10 no. two-storey semi-detached dwellings and (b) 2 no. apartment blocks consisting of 4 no. apartments in each all served by an access road and connected to public services and also to include associated site works. Permission was refused for 4 no. reasons. (1) Development would be premature pending the upgrade of the Kenmare Wastewater Treatment Plant (2) The proposed apartments due to their proximity to the side boundary and rear facing windows (3) The Planning Authority was not satisfied that the applicant had legal right to gain access to the site serving the existing private estate roadway (4) Based on information submitted and in the absence of a NIS the Planning Authority was not satisfied that the proposed development would not result in significant effects on the Kenmare River cSAC.

5.0 Policy Context

5.1. Kerry County Development Plan 2015-2021

5.1.1. Chapter 3 – Settlement Strategy

5.1.2. Kenmare is designated a regional town in the settlement hierarchy for County Kerry.

5.1.3. Chapter 13 – Development Management Standards & Guidelines

5.2. Kenmare Functional Area Local Area Plan 2010-2016 (As extended)

5.2.1. The site is located within the development boundary of Kenmare and within an area zoned 'Residential Proposed.'

5.3. Natural Heritage Designations

5.3.1. Kenmare River SAC (Site Code 002158) is situated circa 700m to the south of the appeal site.

5.3.2. Blackwater River (Kerry) SAC (Site Code 002173) is located 5.3km to the west of the appeal site.

5.3.3. Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (Site Code 000365) is situated circa 3.8km to the north of the appeal site.

5.3.4. Killarney National Park SPA (Site Code 004038) is located 6km to the north of the appeal site.

5.4. EIA Screening

5.4.1. An Environmental Impact Assessment Screening report was not submitted with the application.

5.4.2. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)

5.4.3. It is proposed to construct 10 no. dwellings and 4 no. apartments. The number of dwelling units proposed is well below the threshold of 500 dwelling units noted above. The site has an overall area of 0.46ha and is located within an existing built-up area but not in a business district. The site area is therefore well below the applicable threshold of 10 ha. The site is a greenfield site located within the existing built-up area. The introduction of a residential development will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not likely to have a significant effect on any European Site. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The issues arising in terms of capacity in the wastewater treatment system to accommodate the development has been dealt with in section 7.3 of this report. The proposed development would use the public water upon which its effects would be marginal.

5.4.4. Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site on lands that are zoned for 'Residential' uses under the provisions of the Kenmare Functional Area Local Area Plan 2010-2016(As extended), and the results of the strategic environmental assessment of the Kerry County Development Plan, undertaken in accordance with the SEA Directive (2001/42/EC),
- The location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of residential development in the vicinity,
- The location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended) and the mitigation measures proposed to ensure no connectivity to any sensitive location,
- The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

5.4.5. I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case (See Preliminary Examination EIAR Screening Form).

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal was submitted by Social Housing Co. on behalf of the applicant Ross Building and Maintenance Solutions Ltd. The issues raised are as follows;

- It is set out in the appeal that after consultation with the Housing Department of Kerry County Council and a number of housing associations that Kenmare town urgently needs the supply of social housing units. It is stated that there are 660 qualified housing applicants in the Kenmare area.
- It is submitted that the houses and apartments proposed with the scheme will supply much need housing in Kenmare.
- It is stated that the scheme was designed in compliance with the following policy documents.
 - Urban Development Building Heights Guidelines (2018)
 - Sustainable Urban Housing Design Standards for New Apartments (Dec 2020)
 - National Planning Framework (2018)
 - Design Manual for Urban Roads and Streets (2013)
 - The Sustainable Residential Development in Urban Areas Design Manual (2009)
 - Site Layout Planning for Daylight and Sunlight
 - Housing for all
 - Kenmare functional Area Local Area Plan (2010)
 - Kerry County Development Plan 2015-2021
- In relation to the principle of the development it is submitted that having regard to the fully serviced nature of the site, the urban location, the residential zoning, the established pattern of development that the proposal should be viewed as an infill type development and therefore should be viewed positively.

- The first party state that they understand the deficiencies of the Kenmare WWTP that currently exist. However, they state that a plan is being implemented by Irish Water for the system to be upgraded. It is submitted that the development of the site could be carried out concurrently with the upgrade works to the WWTP. The housing could therefore be built and ready to occupy upon the operation of the new WWTP.
- The site is accessible to local retail, educational healthcare and community services. It is submitted that the site is an edge of town centre infill plot location. It is stated that national policy encourages the development of existing built-up areas.
- The report of the Planning Officer sets out that the proposal was assessed having regard to the provisions of the Kenmare Functional Area Local Area Plan 2010. It is submitted that since the adoption of the Plan that policies have changed significantly. It is considered that inappropriate standards have been applied by the planning authority to the assess the proposal particularly in relation to perceived overlooking and overshadowing.
- Refusal reason no. 1 refers to the development being premature with regard to the existing capacity deficiencies of the Kenmare WWTP. In response to the matter the first party states that the waste water treatment works have received capital funding allocation and works to the Kenmare WWTP upgrade are to get underway in quarter three of 2022. It is stated that Irish Water expects the works to be completed in early 2024. The contract for the works is currently at tender stage. It is submitted that the timeline for completion of the works at the WWTP is comparable to the schedule for the subject proposed housing scheme.
- The first party state that they are happy to accept a condition attached to a grant of permission which precludes occupation of the residential units until the WWTP upgrade is fully completed and operational. It is considered that the delayed approach will result in years of waiting for the provision of housing.
- A copy of the conclusion of the pre connection enquiry made to Irish Water has been included with the appeal. Irish Water provided confirmation that the

proposed connection can be facilitated subject to a valid connection agreement being put in place and some on site upgrade works.

- It is submitted that the proposal should not have been considered premature by the Planning Authority as the upgrade works are scheduled and financed. Therefore, the first party states that the attachment of an occupancy restriction condition is appropriate in this instance. If permission is granted it is expected that the development would be completed sometime in 2024 which would be at the same time as the upgrade of the WWTP would be completed.
- Refusal reason no. 4 issued by the Planning Authority relates to the unavailability of additional capacity of the Kenmare WWTP. It is submitted that the proposed development is not going to be served by the existing treatment plant and the development will only be operational when the Kenmare WWTP is fully operational. Therefore, the Kenmare River cSAC will not be affected by the additional loading onto the Kenmare WWTP.
- The existing capacity of the Kenmare WWTP is 5,850 PE. The upgrade will have a capacity of 14,000 PE. The first party stated that they are happy to accept all the recommendations contained within the Natura Impact Statement prepared by Wetland Survey Ireland.
- In relation to refusal reason no. 2 the first party strongly disagree with the opinion of the Planning Authority that the proposed apartments would result in overshadowing and overlooking of adjoining residential property.
- The apartments have been specifically designed and located to avoid overlooking of the rear garden of the adjoining house. There would be some overlooking of front driveways and front garden areas. The proposed rear facing windows are to bedrooms with the kitchen rear windows at a high level which prevents overlooking.
- There would be no overlooking of the rear garden of the adjoining house and extensive boundary planting is proposed. It is also stated that the clearing of trees on site will improve the sunlight reaching the adjoining property and the proposed development could serve to improve sunlight to the adjoining house.

- As part of the appeal submission the applicant has proposed some alternative design options. It is suggested that the first floor high level windows to the kitchen/dining rooms could be omitted and that obscure glass could be fitted to the windows serving the first floor bedroom windows.
- Under design Option 1 – Revisions to the Apartment Building, it is proposed to omit the first floor apartments. Therefore, providing single storey structures. A 2m high concrete block boundary wall is proposed to address potential overlooking.
- Under design Option 2 – The apartment buildings would be omitted from the proposed scheme. It is stated that the applicant would reluctantly accept the omission of the apartments if the Board considered it appropriate.
- It is requested that if the Board decides to refuse the proposed development on other grounds that the issues of overlooking and overshadowing are acknowledged as being addressed.
- Refusal reason no. 3 refers to the matter of whether the applicant has legal right to access the existing underground services. The appeal includes a letter from Niamh White, Solicitor from O’Shea White & Co. Solicitors, Old Market Lane, Killarney, Co. Kerry which states that the applicant has legal right to access existing underground services and to lay separate underground services to the subject site over the existing private estate road. It is acknowledged in the Planner’s report that the applicant has legal right of way over the existing estate road.
- In relation to matter of the capacity of the existing surface water system which was raised in an observation to the appeal, it is stated that an attenuation tank is proposed. The design of the tank is indicated on Drawing number ROSS/01/103. The tank will store excessive surface water generated from the proposed development. The tank design is oversized for the scheme to prevent any undue surge in surface water to the existing surface water drainage network.
- In relation to the concerns regarding potential damage arising during construction it is stated that a condition requiring the payment of a bond could be attached to a grant of permission.

- Regarding the issue of insufficient car parking, it is stated that the car parking within the scheme is in accordance with the provisions set out in Table 1 of the Kerry County Development Plan 2015-2021. It is highlighted that car parking for the houses is provided to front driveway of each individual house. The scheme includes 16 no. spaces to serve the proposed apartments with 5 no. visitor spaces.
- In conclusion, the first party reiterate the point that they consider that the Board should grant permission for the proposed development and that the upgrading of the Kenmare Wastewater treatment plant would be carried out within the same timeframe as the development of the scheme and that a connection to the treatment plant could be provided when it was completed and operational.

6.2. Planning Authority Response

- None received

6.3. Observations

Observations to the appeal have been submitted by (1) Catherine O'Brien and (2) Helen Joyce.

(1) Catherine O'Brien

- In relation to the matter of social housing the figure of 660 cited in the appeal as the number on the social housing list in the Kenmare is queried.
- It is queried whether the applicant proposes to sell units on the open market.
- It is highlighted that planning permission was refused on the site under Reg. Ref. 20/755 for the same scheme as is currently proposed.
- Kenmare WWTP currently operates at capacity.
- The proposed development would result in the loss of privacy and light to neighbouring residential properties.
- The density of the proposed scheme is considered excessive.

- The proposed development would generate additional traffic which would negatively impact upon the area.
- It is considered that inadequate car parking has been provided to serve the scheme.
- It is stated that the Glanerought Estate roads, drainage and sewerage system are in private ownership. Concern is expressed that the surface water system could not accommodate the additional water which would be generated and would enter the system.
- It is considered that the proposed development would be out of character with surrounding development.

(2) Helen Joyce

- Under Reg. Ref. 20/755 permission was refused to the applicant for the construction of (a) 10 no. two-storey dwellings and (b) two-storey apartment building containing 4 no. apartments. Served by an access road and connected to public services and all associated site works. It is noted that the applicant did not appeal the decision.
- The Kenmare Wastewater Treatment Plant (KWWTP) has no spare capacity. The proposed development is considered premature. The observer cites that permission was refused by the Board for 55 no. dwellings in Kenmare in 2019. Permission was refused on the basis that the existing KWWTP could not process the additional load. It is stated in the observation that the upgrade of the KWWTP is not due to be delivered for at least another two years.
- The applicant proposes to construct the development prior to the upgrade of the KWWTP and they propose that the development remain unoccupied until the upgrade is completed. The observer raises concern that the proposed development could result in a ghost estate being built.
- Concern is expressed in relation to the siting and design of the proposed apartment building due to the proximity to the site boundary and neighbouring dwellings to the north-east. It is submitted that the proposed

development would result in overlooking, overshadowing and negative impact on the residential amenities and property values in the area.

- The estate is privately owned and is managed by the residents management company. The observer questions whether the applicant has a legal right to access the existing services and whether they have the necessary rights of way and wayleaves.
- A Traffic Impact Assessment has not been included with the application.

7.0 Assessment

I consider that the issues arising in the appeal can be addressed under the following headings:

- Design
- Impact on residential amenity
- Wastewater treatment
- Connection to services and surface water drainage
- Traffic and car parking
- Appropriate Assessment

7.1. Design

- 7.1.1. The lands in question are located within the development boundary of Kenmare and within an area zoned 'Residential Proposed' under the provisions of the Kenmare Functional Area Local Area Plan 2010-2016 (As extended). The proposal entails the construction 14 no. residential units comprising 10 no. dwellings and 4 no. apartments. The site has an area of 0.46 hectares the proposed density would be equivalent to 30 units per hectare. An observation to the appeal contends that the proposed density is out of character with the surrounding area and is excessive for the site.
- 7.1.2. It is set out in the first party appeal that the proposed development is appropriate to the site context having regard to the fully serviced nature of the site, the urban location, the residential zoning, the established pattern of development that the

proposal should be viewed as an infill type development and therefore should be viewed positively.

- 7.1.3. The site is located within the Glanerough Estate which comprises a mix of detached, semi-detached and terraced two-storey dwellings. While I would note that the density of the existing housing estate would be lower than that proposed on the appeal site, the housing proposed in the scheme comprising two-storey semi-detached dwellings 2 no. two-storey apartment buildings would be comparable in character to the design of the existing housing within the estate.
- 7.1.4. Section 13.2 of the Kerry County Development Plan 2015-2021 refers to Standards for Residential Development in Urban Areas. In relation to density, it states that 'each application will be looked at on its own merits and 'higher density levels may be applicable to certain urban areas.' Objective OO-16 of the Kenmare Functional Area Local Area Plan 2010-2016 (As extended) seeks to promote the provision of permanent residential development in a sustainable manner.
- 7.1.5. The site is situated circa 1.3km from the town centre of Kenmare and circa 700m from Kenmare shopping centre on Railway Road and St. John's National School Kenmare to the south. Accordingly, having regard to the relative proximity of the site to local services and town centre, I consider that the proposed density of 30 units per hectare is appropriate and in accordance with the provisions of the Kenmare Functional Area Local Area Plan 2010-2016 (As extended) and the Kerry County Development Plan 2015-2021.

Loss of Daylight/Sunlight

- 7.1.6. The provisions of BS 8206-2:2008 (British Standard Light for Buildings- Code of practice for daylighting) and BRE 209 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011) are relevant in the assessment of this development. Neither document is specifically referenced in the Kenmare Functional Area Local Area Plan (as extended) or the Kerry County Development Plan 2015-2021. The Section 28 Ministerial Guidelines on Urban Development and Building Heights 2018 refer to both BS 8206-2:2008 (British Standard Light for Buildings- Code of practice for daylighting) and BRE 209 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011). While I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 'Daylight in

buildings'), which replaced the 2008 BS in May 2019 (in the UK), I am satisfied that this document/UK updated guidance does not have a material bearing on the outcome of the assessment and that the more relevant guidance documents remain those referenced in the Urban Development & Building Heights Guidelines.

7.1.7. No Sunlight Analysis was submitted as part of the planning documentation by the applicants. The proposed development consists of a mix of residential units including 10 no. two-storey semi-detached and terrace dwellings and 4 no. apartments. In relation to the proposed dwellings these units are dual aspect and therefore the BRE209/BS2806 targets would generally be met. In relation to the proposed apartments, apartments are dual aspect with floor to ceiling heights of 2.5m. There is nothing apparent in the documents and drawings submitted that would highlight any issue here. Therefore, while there is no documentary evidence to demonstrate compliance with BRE209 requirements, based on the planning documentation submitted, I am satisfied that this is not a material or likely potential impact/deficit in information.

7.2. Impact on residential amenity

7.2.1. Refusal reason no. 3 referred to the matter of impact upon residential amenity. It is set out in the refusal reason that the proposed apartment building due to its proximity to the side boundary and the proposed rear facing windows would result in overlooking and overshadowing of the adjoining residential amenities and property values of said property and would therefore be contrary to the proper planning and sustainable development of the area.

7.2.2. In response to the matter the first party stated that they strongly disagree with the opinion of the Planning Authority that the proposed apartments would result in overshadowing and overlooking of adjoining residential property. They submit that the proposed the apartments have been specifically designed and located to avoid overlooking of the rear garden of the adjoining house. They contend that due to the extensive boundary planting is proposed there would be no overlooking of the rear garden of the adjoining house.

7.2.3. In relation to the matter of potential overshadowing of the adjacent property the first party submit that the proposed clearing of trees on site will improve the sunlight

reaching the adjoining property and the proposed development could serve to improve sunlight to the adjoining house.

- 7.2.4. In response to the refusal reason referring to overlooking and overshadowing the applicant has proposed some alternative design options. In relation to the originally proposed scheme the first party states that the revisions to the glazing could be provided with the first floor high level windows to the kitchen/dining rooms omitted and that obscure glass could be fitted to the windows serving the first floor bedroom windows. As detailed in design Option 1 – it is proposed to omit the first floor apartments and provide 4 no. single storey apartments. Under design Option 2 –it is proposed that the apartment buildings would be omitted from the proposed scheme. The first party state that it is their preference that the originally proposed scheme be permitted however should the Board consider it appropriate they would accept a condition requiring an amended scheme.
- 7.2.5. In relation to the matter of overlooking in terms of the originally proposed scheme I would note that the proposed apartments no's 12 & 14, no's 15 & 17 and no's 16 & 18 are set forward from the front building line of the adjacent dwelling to the east. Apartment no. 13 would address the half of the gable of the dwelling. A separation distance of circa 9.5m is provided between the properties. Having regard to the siting, boundary treatment and separation distance provided and taking into account the fact that the proposed apartments would address the front of the property which is fully visible from the public road I am satisfied that the proposed development would not unduly impact upon the residential amenities of the adjacent property.
- 7.2.6. In relation to the issue of overshadowing, I note that shadow diagrams have not been submitted with the application or appeal. The proposed 2 no. two-storey apartment buildings are located to the west the adjacent property. Any potential overshadowing to the north-east and east would occur in the afternoon and evening. In the absence of shadow diagrams the extent or otherwise of any potential overshadowing has not been demonstrated. As part of the appeal the applicant submitted revised plans in respect of the proposed two-storey apartment buildings. Under Option 1 –the first floor apartments would be omitted with 4 no. single storey apartments provided. Alternatively, it is suggested in the appeal that the apartments could be omitted from the scheme. Therefore, should the Board decide to grant permission but have concerns regarding potential overshadowing of the

neighbouring property to the east then there is the option to grant the revised scheme or omit the apartments from the scheme.

7.3. Wastewater treatment

- 7.3.1. Refusal reason no. 1 issues by the Planning Authority stated that it is considered that the proposed development would be premature by reference to the existing capacity deficiencies in the Kenmare Wastewater Treatment Plant to which connection is proposed and the period within which this constraint may reasonably be expected to cease. In the absence of improved wastewater treatment capacity, the proposed development would be prejudicial to public health and would therefore, be contrary to the proper planning and sustainable development of the area.
- 7.3.2. The Kenmare WWTP has a plant capacity of 5,833 PE. The treatment plant provides secondary treatment. The WWTP is located adjacent to the Finnihy River situated to the west of the town with its discharge point to the adjacent river. The watercourse forms part of the Kenmare River SAC.
- 7.3.3. The EPA Annual Environmental Report – D0184-01 for 2020 states that in relation to the operation of the Kenmare WWTP that there was an exceedance of ELV for orthophosphate with ELV limit of 0.3mg/l. The report refers to two incidents which occurred at the WWTP in the previous year. There was one recorded incident where there was plant or equipment breakdown and also there was one recorded incident where there was an uncontrolled release due to adverse weather.
- 7.3.4. The report of the Water Services Department of the Council dated 8th of October 2021 in respect of the application for planning permission states that the Kenmare Waste Water Treatment Plant currently has no spare capacity. It was concluded in the report that a grant of permission of the proposed development would be premature pending the upgrading of the WWTP and a refusal of permission was recommended on that basis. It was noted in the report that the upgrade of the plant is included in Irish Water's Capital Investment Plan 2020 to 2024 with a targeted completion date of late 2024 and that Irish Water have yet to apply for planning permission for the upgrade.
- 7.3.5. Presently the treatment plant cannot accommodate the additional waste which the proposed development would generate. As detailed in the Irish Water Capital

Investment Plan 2020-2024 work on the Kenmare Wastewater Treatment Plan is at the design stage as of July 2021. However, to date no application has been made to upgrade the existing treatment plant.

- 7.3.6. The first party have argued that the Board could grant permission for the proposed development with the inclusion of a condition which specified that the dwellings units would not be occupied until such time as the WWTP upgrade is fully completed and operational. The first party consider that the timeline for completion of the works at the WWTP is comparable to the schedule for the subject proposed housing scheme. It is stated in the appeal that Irish Water expects the works to be completed in early 2024. However, given that an application has yet to be made to upgrade the existing treatment plant I would consider this timeframe does not seem feasible in this context.
- 7.3.7. A copy of the conclusion of the pre connection enquiry made to Irish Water has been included with the appeal. Irish Water provided confirmation that the proposed connection can be facilitated subject to a valid connection agreement being put in place and some on site upgrade works. While I would note the that the pre connection enquiry would indicate that a connection to the public foul sewer network is feasible at the subject site it does provide details in respect of the capacity of the treatment plant to accommodate the connection.
- 7.3.8. Accordingly, having regard to the existing deficiencies in the Kenmare WWTP it is not capable of accommodating the additional loading the proposed development would generate. While I note the request from the applicant that permission be granted with the attachment of a condition precluding the occupation of any dwelling until the upgrade of the WWTP has been constructed and is operational such a condition is only appropriate where a reasonable timescale for the subject upgrade of the WWTP is available. I do not consider that such a timescale for the upgrade of the Kenmare WWTP is currently available given that to date an application has not been made and that the process has the potential to be subject to delays. Accordingly, I would recommend a refusal of permission on the grounds of prematurity.

7.4. Connection to services and surface water drainage

- 7.4.1. The third refusal reason issued by the Planning Authority stated that based on the information submitted the Planning Authority is not satisfied of the applicant's legal right to access existing underground services or to lay separate underground services to the subject site over the existing private estate road and therefore the proposed development would be contrary to the proper planning and sustainable development of the area.
- 7.4.2. In response to the matter a letter from Niamh White, Solicitor from O'Shea White & Co. Solicitors, Old Market Lane, Killarney, Co. Kerry was submitted with the appeal. The letter states that the applicant has legal right to access existing underground services and to lay separate underground services to the subject site over the existing private estate road. The first party stated that it is acknowledged in the Planner's report that the applicant has legal right of way over the existing estate road. The letter issued by O'Shea White & Co. Solicitors confirms that the applicant has a right to construct pipes and then to connect up with and cleanse, repair, renew the conduits and the right to inspect, cleanse, repair and renew same and the right to free and uninterrupted passage and running of the sewer and water to and from the dominant owners lands (Folio KY37475F). Accordingly, I am satisfied that the applicant has demonstrated that they have the legal right to access existing underground services.
- 7.4.3. The matter of the surface water drainage was raised in an observation to the appeal. In response to the matter the first party state that on site attenuation is proposed as detailed on Drawing number ROSS/01/103. The attenuation tank is proposed to be located within the open space area to the south-eastern corner of the site. Accordingly, subject to the surface water generated within the development being attenuated, controlled and managed in accordance with a full suite of SUDS measures are required under Section 7.3.5 of the Development Plan I am satisfied that the proposed development would not give rise to undue surface water flooding of the surrounding area.

7.5. Traffic and car parking

- 7.5.1. The observations to the appeal raised the matters of traffic and car parking. In relation to the issue of traffic generated by the proposed scheme, in principle, the proposal for a vehicular access from Bothar Finnihy is considered acceptable. Bothar Finnihy is a road within the Glanerough Estate and it has footpaths on its northern and southern sides. I note the concerns from observers regarding this proposal however I consider that the existing estate and local road network is capable of carrying the additional traffic the proposed scheme would generate given the number of residential units proposed is 14.
- 7.5.2. In relation to the matter of car parking, standards are set out under Table 1 of the Kerry County Development Plan 2015-2021 with the requirement for housing estates being two parking spaces per dwelling with 0.5 spaces required for visitor spaces per dwelling. For apartments, the requirement is 1 car parking space per bedroom. The first party in response to the matter stated that the car parking within the scheme is in accordance with the provisions set out in Table 1 of the County Development Plan. They highlighted that car parking to serve the houses is provided to front driveway of each individual house and that the scheme includes 16 no. spaces to serve the proposed apartments with 5 no. visitor spaces. The proposed layout provides the car parking for the dwellings within each house plot and the apartments with two bedrooms would require 8 no. spaces and 7 no. spaces would be required for visitor parking. Accordingly, I am satisfied that the car parking is in accordance with the provision Table 1 of the Kerry County Development Plan 2015-2021.

7.6. Appropriate Assessment

Overview

- 7.6.1. Accompanying this application is a Screening Report for Appropriate Assessment and a Natura Impact Statement prepared by Wetland Surveys Ireland.

Screening

- 7.6.2. In accordance with the obligations under the Habitats Directive and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a European site; there

is a requirement on the Board, as the competent authority, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision, by carrying out appropriate assessment. The first stage of assessment is 'screening.'

7.6.3. The methodology for screening for Appropriate Assessment as set out in EU Guidance and the Department of Environment, Heritage and Local Government is:

1. Description of the plan or project and local site or plan area characteristics.
2. Identification of relevant European site and compilation of information on their qualifying interests and conservation objectives.
3. Assessment of likely significant effect-direct, indirect, and cumulative, undertaken on the basis of available information.
4. Screening Statement with conclusions.

Project Description and Site Characteristics

7.6.4. The project description is given as the construction of 10 no. two-storey dwellings and 2 no. two-storey apartment blocks (comprising four apartments each), an access road, 21 no. car parking spaces, 2 no. open green areas, all associated site works and connections to public services.

7.6.5. The access road will connect to the existing public road (Bothar Finnihy) to the south of the proposed development site. It is proposed to connect to the existing mains water supply. It is proposed that foul water discharge from the proposed development will discharge to the Kenmare Wastewater Treatment Plant and storm water discharge will discharge to the public storm water sewer on Bothar Finnihy.

7.6.6. The majority of the site will be cleared to facilitate the development, however the treeline and stone wall along the northern site boundary will be retained. The site comprises a mixed broadleaf woodland. The canopy height ranges between 6-7m. The main species on site is Willow with Birch, Alder, Sycamore and Hawthorn also present.

7.6.7. The screening report identified the following European sites:

- Kenmare River SAC (Site Code 002158) circa 700m to the south of the site.
- Mucksna Wood SAC (Site Code 001371) circa 1.8km to the south of the site.

- Killarney National Park Macgillicuddy's Reeks and Caragh River Catchment SAC (Site Code 00365) circa 4.4km to the north of the site.

Table 1: European Sites within the Zone of Influence of the Appeal Site

Site Name & Code	Distance	Qualifying Interests	Conservation Objectives
Kenmare River SAC (002158)	700m	<p>Large shallow inlets and bays [1160]</p> <p>Reefs [1170]</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>European dry heaths [4030]</p> <p><i>Juniperus communis</i></p>	To maintain and/or restore the favourable conservation condition of the Annex I habitats and/or the Annex II species for which the SAC has been selected which are defined by lists of attributes and targets

		<p>formations on heaths or calcareous grasslands [5130]</p> <p>Calaminarian grasslands of the <i>Violetalia calaminariae</i> [6130]</p> <p>Submerged or partially submerged sea caves [8330]</p> <p><i>Vertigo angustior</i> (Narrow-mouthed Whorl Snail) [1014]</p> <p><i>Rhinolophus hipposideros</i> (Lesser Horseshoe Bat) [1303]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p> <p><i>Phoca vitulina</i> (Harbour Seal) [1365]</p>	
Mucksna Wood SAC (001371)	1.8km	<p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</p>	<p>To restore the favourable conservation condition of Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles in Mucksna Wood SAC, which is defined by a list of</p>

			attributes and targets.
Killarney National Park Macgillicuddy's Reeks and Caragh River Catchment SAC (00365)	4.4km	<p>Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110]</p> <p>Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea [3130]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation [3260]</p> <p>Northern Atlantic wet heaths with Erica tetralix [4010]</p> <p>European dry heaths [4030]</p> <p>Alpine and Boreal heaths [4060]</p> <p>Juniperus communis formations on heaths or calcareous grasslands [5130]</p> <p>Calaminarian grasslands of the Violetalia</p>	To maintain and/or restore the favourable conservation condition of the Annex I habitats and/or the Annex II species for which the SAC has been selected which are defined by lists of attributes and targets

		<p>calaminariae [6130]</p> <p>Molinia meadows on calcareous, peaty or clayey- silt-laden soils (Molinion caeruleae) [6410]</p> <p>Blanket bogs (* if active bog) [7130]</p> <p>Depressions on peat substrates of the Rhynchosporion [7150]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Taxus baccata woods of the British Isles [91J0]</p> <p>Geomalacus maculosus (Kerry Slug) [1024]</p> <p>Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</p> <p>Euphydrias aurinia (Marsh Fritillary) [1065]</p>	
--	--	--	--

		<p>Petromyzon marinus (Sea Lamprey) [1095]</p> <p>Lampetra planeri (Brook Lamprey) [1096]</p> <p>Lampetra fluviatilis (River Lamprey) [1099]</p> <p>Salmo salar (Salmon) [1106]</p> <p>Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]</p> <p>Lutra lutra (Otter) [1355]</p> <p>Trichomanes speciosum (Killarney Fern) [1421]</p> <p>Najas flexilis (Slender Naiad) [1833]</p> <p>Alosa fallax killarnensis (Killarney Shad) [5046]</p>	
--	--	--	--

7.6.8. An assessment of the significance of potential impact upon the European Sites within the zone of influence of the proposed development is determined on the basis of the following indicators;

- Habitat loss or alteration;
- Habitat/species fragmentation;
- Disturbance and/or displacement of species;

- Changes in population density; and
- Changes in water quality and resources.

7.6.9. In relation to the matter of habitat loss or alteration the proposed development site is not located adjacent to any European sites and therefore there will be no direct loss or alteration of the habitat. Regarding the issue of habitat/species fragmentation the proposed development would not result in any direct habitat loss or fragmentation.

7.6.10. In relation to the matter of disturbance and/or displacement of species as set out in the screening report the proposed development does not have the potential to cause a disturbance and/or displacement to species of qualifying interest in the European sites identified within the zone of influence of the appeal site.

7.6.11. The proposed development is not considered to have the potential to result in the reduction in the baseline population of species associated with any of the European sites identified within the zone of influence.

7.6.12. In relation to the matter of changes to water quality and resources it is set out in the screening report that while the site is not directly hydrologically connected to any European sites within the zone of influence of the appeal site, the River Finnihy is the nearest watercourse to the proposed development site it is situated 190m to the south-west. The appeal site slopes towards the river there are existing buildings, surfaces and mix woodland located in the area between the appeal site and the river. Kenmare River SAC is located 1km downstream from the part of the River Finnihy closest to the proposed development site. Therefore, there is the potential that surface water run off from the site could enter the River Finnihy.

7.6.13. In relation to the matter of changes to water quality and resources the proposed development would connect to the Kenmare Wastewater Treatment Plant which discharges to the Finnihy River which has a hydrological connection to Kenmare River Special Area of Conservation (site code 002158). The issues arising in terms of capacity in the wastewater treatment system to accommodate the development has been dealt with in section 7.3 of this report. The Kenmare WWTP is deficient in terms of capacity and to date no application has been made to upgrade the facility.

Assessment of likely Effects

7.6.14. Having regard to the 'source-pathway-receptor' model the submitted screening report identified potential effects on the Kenmare River SAC (Site Code 002158). The aquatic habitats/species in the SAC would be sensitive to any deterioration of water quality by overland flow from the development site. Furthermore, aquatic habitats/species in the SAC would be sensitive to any deterioration of water quality arising from discharge from the Kenmare Wastewater Treatment Plant. In the absence of appropriate controls and mitigation measures the potential for significant adverse effects on the conservation status of the Kenmare River SAC cannot be ruled out.

Screening Statement and Conclusions

7.6.15. The screening assessment concludes that significant effects cannot be ruled out on the Kenmare River SAC (Site Code 002158) and that a Stage 2 Appropriate Assessment is required. In conclusion having regard to the foregoing, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that significant effects cannot be ruled out and a Stage 2 Appropriate Assessment is therefore required.

Stage 2 – Natura Impact Statement (NIS)

7.6.16. I propose to consider the requirements of Article 6(3) with regards to appropriate assessment of a project under Part XAB, Sections 177U and 177V of the Planning & Development Act, 2000, as amended, in this section of my report. In particular, the following matters:

- Compliance with Article 6(3) of the EU Habitats Directive.
- Screening the need for Appropriate Assessment.
- The Natura Impact Statement; and,
- An Appropriate Assessment of the implications of the proposed development on the integrity of each Natura site set out under Section 7.6.8 to 7.6.13 as detailed above.

7.6.17. On the matter of screening the need for 'Appropriate Assessment', this I have set out under Section 7.6.14 and 7.6.15 of my report above and in this case 'Appropriate

Assessment' is required as it cannot be excluded on the basis of the information available to the Board that the proposed development individually or in-combination with other plans or projects in its vicinity would have a significant effect on the following Natura sites:

- Kenmare River SAC (Site Code 002158)

7.6.18. A description of the site and their Conservation and Qualifying Interests/Special Conservation Interests, including any relevant attributes and targets for these sites, are set out in the NIS and summarised in tables no.1 of this report as part of my assessment. I have also examined the Natura 2000 data forms as relevant and the Conservation Objectives supporting documents for these sites available through the NPWS website (www.npws.ie).

Potential for direct and indirect effects

7.6.19. Having regard to the location of the site at a location where it does not form part of, is not adjacent too nor is it in the vicinity of any European sites with there being significant lateral separation distance between the site and the nearest site which is the Kenmare River SAC no direct effects on any European site will arise.

7.6.20. There is the potential for indirect effects on the Kenmare River SAC. The indirect effects would be the potential for the proposed development to affect the qualifying interests and special conservation interests of these designated sites through deterioration of water quality in the Kenmare River SAC during the construction phase and also during the operational phase.

Construction phase

7.6.21. In terms of water quality impacts there is the potential for site clearance, excavation and ground works carried out during the construction phase of the development to give rise to excessive amounts of silt and sediment which could enter the River Finnihy via overland transport. Any pollutants or hydrocarbons arising on the site during either construction phase or the operational phase have the potential to threaten water quality within the SAC.

7.6.22. Detailed site specific conservation objectives for Kenmare River SAC are provided by the National Parks and Wildlife Service. Kenmare River SAC is designated for 12 habitats listed on Annex I and for four species listed as qualifying interests. Some of

the habitats and species could be impacted by a decrease in water quality downstream. While the qualifying interests are predominantly coastal or marine and do not occur in close proximity to the appeal site, the qualifying species *Otter (Lutra lutra 1355)* is likely to occur in proximity to the appeal site and potentially be impacted by a decrease in water quality.

- 7.6.23. Detailed site specific conservation objectives for Kenmare River SAC are provided by the National Parks and Wildlife Service. In respect of Otter *Lutra Lutra 1355* it is the objective to restore the favourable conservation condition of the Otter in Kenmare SAC. As set out in the detailed site specific conservation objectives it is the target that no significant decline occurs in terms of the distribution of the species and that no significant decline occurs in respect of the extent of the terrestrial habitat, the extent of the marine habitat and the extent of the freshwater habitat. It is also a target to ensure no significant decline in couching sites and holts, fish biomass availability and barriers to connectivity. As detailed in the NIS there are no significant threats currently facing Otter and that its conservation status is favourable with an improving trend. Regarding the matter of the potential for significant effects on this qualifying species Otters are present in the River Finnihy downstream of the appeal site and the proposed development has the potential to result in deterioration of water quality which could impact the Otter in the absence of mitigation measures.

Operational phase – increased loading to wastewater treatment plant

- 7.6.24. In terms of water quality impacts there is the potential for discharges from the Kenmare wastewater treatment plant to threaten water quality within the SAC.
- 7.6.25. The waste water treatment plant serving Kenmare does not have sufficient capacity to accommodate the proposed development. As set out in the Irish Water Capital Investment Plan 2020-2024 an upgrade of the Kenmare wastewater treatment plant forms part of the list of current capital projects. Further details are not available in relation to the project. Following the design stage, the project will be subject to detailed planning, procurement and approvals. Accordingly, precise timelines for delivery of the project are not currently available. It is likely that the upgraded WWTP will discharge to the Finnihy River which is currently the case.
- 7.6.26. I consider that the issues arising in terms of the obligations of the Habitats Directive will be required to be addressed by Irish Water during its advancement of the project

and the onus will be on same to provide the information necessary for the relevant competent authority to adjudicate as to whether the proposal would/would not adversely affect the integrity of the European site. The requirements of the Water Framework Directive and the Surface Water Regulations will also be required to be assessed. However, in the absence of details on the upgrade of the treatment plant it cannot be definitively concluded that the proposed development would not have a significant negative impact on the Conservation Objectives of the European Site.

Mitigation Measures

7.6.27. Mitigation measures are proposed to be introduced to avoid, reduce, or remedy the adverse effects on the integrity of the designated site. The mitigation measure detailed in the NIS are as follows:

- Concrete washing of machines will take place off-site at an appropriate dedicated wash facility which would not impact surface waters.
- Re-fuelling of machinery will only be carried out in designated areas removed from any natural watercourses. Fuels on site will be stored in bunded units
- Weather forecasting will be used to plan for dry days for concrete pouring.
- An earth berm will be placed in any locations where the natural relief of the topography might allow a potential flowpath along the surface beyond the construction site footprint.
- Any concrete delivery lorry chutes shall be scrapped down before the vehicle leaves the footprint of the construction site.
- Stockpiling of materials during construction will only occur in suitably designated areas away from natural watercourses with adequate measures taken to prevent any surface water run-off. Silt traps and silt curtains will be used to safeguard the protection of watercourses in the vicinity of the proposed development.
- Materials will only be stockpiled for very short periods before being used again as backfill. If materials are stockpiled for extended periods they shall be covered to ensure the material does not become entrained by rainfall.

- A surface water management plan will be implemented for the construction and operational phases of the development. All construction related run-off will be intercepted by silt control measures and will be tankered off site if required.

7.6.28. The mitigation measures as detailed above address on-site activities primarily during the construction phase. The mitigation measures do not address the existing deficiencies in the Kenmare Wastewater Treatment Plant.

Cumulative and In-combination effects

7.6.29. The information available is insufficient in respect of the Kenmare Wastewater Treatment Plant to determine whether or not the proposed development individually, or in combination with other plans or projects would not result in adverse effects on the integrity of Kenmare River SAC (Site Code 002158).

Appropriate Assessment Conclusions

7.6.30. On the basis of the information provided with the application and the appeal, and, particularly having regard to the absence of an examination of the likely significant effects the proposed development would have on the conservation objectives of the Kenmare River Special Area of Conservation (site code 002158) in relation to the proposed connection to the Kenmare wastewater treatment plant which is deficient in capacity and from which discharge flows into the Finnihy River and has a hydrological connection to Kenmare River Special Area of Conservation (site code 002158), the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not result in adverse effects on the integrity of Kenmare River SAC (Site Code 002158) or any other such designated European, in view of the their Conservation Objectives.

8.0 Recommendation

8.1. I recommend that permission be refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. It is considered that the proposed development would be premature by reference to the existing deficiencies in the Kenmare wastewater treatment plant to which connection is proposed and the period within which this constraint may reasonably be expected to cease. The proposed development would, therefore, be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.
2. On the basis of the information provided with the application and the appeal and particularly having regard to the absence of an examination of the likely significant effects the proposed development would have on the conservation objectives of the Kenmare River Special Area of Conservation (site code 002158) in relation to the proposed connection to the Kenmare Wastewater Treatment Plant which is deficient in capacity and which discharge from the plant flows into the Finnihy River and has a hydrological connection to Kenmare River Special Area of Conservation (site code 002158), the Board cannot be satisfied that the proposed development individually, or in combination with other plans and projects would not result in adverse affects on the integrity of Kenmare River Special Area of Conservation (site code 002158) in view of the site's Conservation Objectives. In such circumstances, the Board is precluded from considering a grant of permission for the proposed development.

Siobhan Carroll
Planning Inspector

7th April 2022