



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313364-22

<b>Development</b>	Upgrades to and increase in capacity of pumping station and waste water treatment plant and all associated site development works. An NIS is included with the application.
<b>Location</b>	Kenmare Waste Water Treatment Plant, Kenmare, Co Kerry
<b>Planning Authority</b>	Kerry County Council
<b>Planning Authority Reg. Ref.</b>	22/55
<b>Applicant(s)</b>	Irish Water
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party v Grant of Permission
<b>Appellant(s)</b>	Patrick, John, & Martin Arthur
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	14 <sup>th</sup> September 2022
<b>Inspector</b>	Anthony Kelly

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## 1.0 Site Location and Description

- 1.1. Kenmare is located in south Co. Kerry. The pumping station (PS) and waste water treatment plant (WWTP) are located on two separate sites. The PS is located approx. 150 metres south west of The Square in the town, between the rear of properties addressing Market St. and the River Finnihy. The WWTP is approx. 300 metres further to the south west of the PS.
- 1.2. The PS site has palisade perimeter fencing with some buildings and other structures including a storm tank. It is relatively secluded with mature trees and vegetation within the site and around the boundaries. It is accessed by a roadway which is gated in places, along the side and to the rear of existing houses.
- 1.3. The WWTP site has palisade perimeter fencing with some buildings, and other structures including an oxidation ditch and settlement tank. It is relatively secluded with significant mature trees and vegetation within the site and around the boundaries. The access road to the site is gated in places and is in reasonably good condition.
- 1.4. The two sites have a combined area of 0.8089 hectares.

## 2.0 Proposed Development

- 2.1. Permission is sought to upgrade and increase the capacities of Kenmare WWTP and Cromwell's Bridge PS comprising:

### WWTP

- Decommission the inlet channel, control panels, oxidation ditch, and two sludge holding tanks, and remove all redundant civil infrastructure and mechanical and electrical assets.
- Construction of new inlet works, treatment system and associated pumping and storage infrastructure, motor control centre kiosk, dosing kiosk, and all ancillary works.

## PS

- Decommission the inlet works, grit separator, wet well, control building including dry well, and storm tank, and remove all redundant civil infrastructure and mechanical and electrical assets.
- Construction of a wet well and associated sewer, storm tank, retaining wall, odour treatment system, vent stack, motor control centre kiosk, dosing kiosk, and all ancillary works.

2.2. In addition to standard planning application plans and particulars the application was accompanied by:

- a 'Planning Report' prepared by Arup and dated 21<sup>st</sup> January 2022,
- a 'Natura Impact Statement' (NIS) prepared by Wetland Surveys Ireland Ltd. (Wetland Surveys) and dated January 2022,
- an 'EIA Screening Report' prepared by Arup and dated 24<sup>th</sup> January 2022,
- A 'Construction Environmental Management Plan' (CEMP) prepared by Tobin Consulting Engineers (Tobin) and dated 20<sup>th</sup> January 2022,
- a 'Stage 2 Flood Risk Assessment Report' (FRA) prepared by Tobin and dated November 2021,
- an 'Ecological Impact Assessment' (EclA) prepared by Wetland Surveys and dated January 2022,
- a 'Water Quality: Modelling Results' report prepared by Arup and dated 22<sup>nd</sup> December 2021,
- a 'Model Scoping Report' prepared by Arup and dated 22<sup>nd</sup> December 2021,
- an 'Invasive Plant Species Management Plan' prepared by APEM Ireland Ltd. (Apem) and dated January 2022.,
- an 'Outline Construction & Demolition Waste Management Plan' prepared by Tobin and dated 25<sup>th</sup> November 2021.

2.3. The WWTP currently has a capacity of 5,833 PE. The proposed upgrades have a design capacity of approx. 9,800 PE. The applicant states that the existing development requires upgrading and expansion to cater for seasonal population

variations, future growth, and to comply with emission limit values as set out in the EPA's waste water discharge licence. An amended EPA licence may be required. This is addressed by way a separate consenting process. The existing collection system is a combined system and spillages occur at the emergency overflows to the River Finnihy during adverse weather. The applicant has engaged a contractor (Glan Agua Ltd.) to undertake the detailed design and construction of the proposed development.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

3.1.1. Kerry County Council granted permission for the proposed development subject to three conditions. Conditions included submission of a Waste Management Plan, and implementation of the mitigation measures contained in the NIS and EclA.

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

3.2.1. The planning authority's Planning Report forms the basis of the planning authority's decision to grant permission. Inter alia, the report notes certain sections of local planning policy and summarises and addresses the content of the two third party submissions received. A brief assessment is also carried out. The report notes that the WWTP is overloaded in the summer which stymies new development, there would be no negative visual impacts, and there would be no negative impacts on any neighbouring residential amenity. A grant of permission was recommended.

3.2.2. Two appendices are attached to the planning authority's Planning Report; an AA Screening and AA Report carried out by the Biodiversity Officer, and an EIA Screening.

#### **3.2.3. Other Technical Reports**

**Environment Section** – Comments made. A waste management plan condition is recommended.

**Biodiversity Officer** – Comments made and concludes that if a grant of permission is considered it is recommended that mitigation proposed in the NIS and EclA be conditioned.

**County Archaeologist** – There is sufficient distance between recorded monuments Ke093 080 (Cromwell’s Bridge) and Ke093 032 (stone circle) and the proposed development, and the site has been previously disturbed. No mitigation is required.

**Environmental Health Officer** – Comments and recommendations made.

### 3.3. **Prescribed Bodies**

3.3.1. None received.

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

3.4.1. Observations were received from Martin Arthur, Lime Kiln Lodge, Market St., Kenmare, and Patrick, Martin, and John Arthur, c/o PJ O’Driscoll’s Solicitors, 36 Kilbrogan Hill, Bandon, Co. Cork. The issues raised are largely covered by the grounds of appeal.

## 4.0 **Planning History**

4.1. There has been no previous recent planning application on site. The planning authority Planning Report states the WWTP was upgraded in the 1990’s by the local authority.

## 5.0 **Policy Context**

### 5.1. **Kerry County Development Plan 2015-2021 (as varied and extended)**

5.1.1. On 22<sup>nd</sup> April 2022, Kerry Co. Co. decided to extend the duration of the County Development Plan 2015-2021 to the 28<sup>th</sup> November 2022.

5.1.2. The priority infrastructure requirements for the county over the plan period 2015-2021 and beyond include schemes listed in tables 7.1a/b & 7.2. ‘Kenmare Sewerage

Scheme' is listed in table 7.2 (Priority Water & Waste Infrastructure Project). It is a policy of the council to 'Work with Irish Water regarding the provision of services and facilities required for the economic, social and environmental development of the County'. Objective RD-4 is 'Provide or facilitate the sustainable provision of all infrastructure projects set out in Tables 7.1 a/b and 7.2 ...'

## **5.2. Draft Kerry County Development Plan 2022-2028**

5.2.1. This plan is to be adopted on expiry of the current plan.

## **5.3. Kenmare Functional Area Local Area Plan 2010-2016**

5.3.1. The PS site is in an area zoned 'Public/Community/Institutional/Educational'. The WWTP site is outside of the town boundary. Wastewater is addressed in section 3.5.2 where it is noted that the plant is at or near capacity. Objective WW-1 states it is an objective to 'Facilitate the provision and upgrading of the water and wastewater infrastructure to ensure the sustainable development and future growth of the town'.

## **5.4. Natural Heritage Designations**

5.4.1. Kenmare River SAC (site code 002158) is adjacent to the west of the PS site and the north of the WWTP site.

## **5.5. EIA Screening**

5.5.1. Schedule 5 of the Planning & Development Regulations, 2001 (as amended), sets out Annex I and Annex II projects which mandatorily require an Environmental Impact Assessment Report (EIAR). Development of a class included in Part 1 requires mandatory EIA. Development of a class included in Part 2 is subject to thresholds and may require EIA.

5.5.2. The paragraphs that I consider to be of potential relevance to the proposed development are:

- Schedule 5, Part 1, Paragraph 13 – Waste water treatment plants with a capacity exceeding 150,000 population equivalent as defined in Article 2, point (6), of Directive 91/271/EEC.

- Schedule 5, Part 1, Paragraph 22 – Any change to or extension of projects listed in this Annex where such a change or extension in itself meets the thresholds, if any, set out in this Annex.
- Schedule 5, Part 2, Paragraph 11(c) – Waste water treatment plants with a capacity greater than 10,000 population equivalent as defined in Article 2, point (6), of Directive 91/271/EEC not included in Part 1 of this Schedule.
- Schedule 5, Part 2, Paragraph 13(a) – Any change or extension of development already authorised, executed or in the process of being executed (not being a change or extension referred to in Part 1) which would:-
  - (i) result in the development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of this Schedule, and
  - (ii) result in an increase in size greater than –
    - 25 per cent, or
    - an amount equal to 50 per cent of the appropriate threshold, whichever is the greater’.
- Schedule 5, Part 2, Paragraph 15 – Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

5.5.3. The applicant has submitted an EIA Screening Report with the application. The WWTP was originally commissioned in 1997 at a design capacity of 3,500 population equivalent (PE), and after upgrades it now has a capacity of 5,833 PE. The proposed upgrades to the WWTP and PS will have a design capacity of approx. 9,800 PE.

5.5.4. Section 2.4 of the applicant’s report rules out the requirement for mandatory EIA, having considered the first four bullet points in section 5.5.2 of this inspector’s report as well as part 1 paragraph 16 (pipelines) and part 2 paragraph 10 (b)(iv) (urban development). I agree with the report that the proposed development would not require mandatory EIA as it does not meet any of the thresholds set out.

5.5.5. The proposed development is, however, sub-threshold by reference to schedule 5, part 2, paragraphs 11(c) and 15, and the EIA Screening Report provides information



on the characteristics of the proposed development and its likely significant effects, if any, on the environment, as per schedule 7A of the Regulations.

5.5.6. Sections 3 and 4 of the EIA Screening Report set out a description of the proposed development, and the baseline environment and likely significant effects of the proposed development. To ascertain whether this sub-threshold development may potentially require an EIAR, I have carried out the following screening exercise:

1. Description of the proposed development

5.5.7. A description of the proposed development is set out in section 2.1 of this inspector's report and in sections 3.1.1 (WWTP) and 3.1.2 (PS) of the applicant's screening report. Both sites are generally located in the urban environment of Kenmare, in particular the PS. Construction is expected to last 18 months. Demolition works are relatively limited. The method of construction is set out and existing assets will need to remain operational throughout the construction period. The WWTP and PS would be secured by fencing, restricting access.

5.5.8. Every urban centre has a WWTP, generally sized to its population. They exhibit a similar form in terms of buildings, tanks, fencing etc. Given the nature of the proposed development, and the fact that the two sites are already used for these purposes, the size or nature of the proposed development is not exceptional in the context of the existing environment.

5.5.9. The sites are adjacent to Kenmare River SAC. The impact of the proposed development on this European site is addressed in section 8 of this inspector's report. It concludes that the proposed development would not have a significant impact on the SAC.

2. Aspects of the environment likely to be significantly affected

5.5.10. Environmental sensitivities referenced in the EIA Screening Report include:

*Traffic/Transportation*

5.5.11. 40 construction staff are expected at peak, with up to 70 no. car movements per day. There would be up to approx. 30 no. HGV daily movements at peak during months 4-8, with up to approx. 30 no. LGV daily movements in the same period. Approx. 20 no. abnormal loads are expected. These movements 'are considered to be not significant', given they would occur throughout the day and for a temporary period.

5.5.12. Operational phase traffic movements e.g. deliveries of equipment and materials, or removal of wastes, are anticipated to be minimal in the context of existing traffic levels in the local area. Section 3.3.5 anticipates up to five vehicles would be required to enter the WWTP per day and it is anticipated all parking can be accommodated on site. One vehicle per week is anticipated to visit the PS according to the screening report, whereas the applicant's Planning Report states it would be one visit per day. Either way, traffic is limited.

*Population and human health*

5.5.13. The closest house to the WWTP is approx. 200 metres away and the closest house to the PS is approx. 40 metres away. Temporary construction impacts can be easily managed according to the report. Construction works 'are standard in nature and well understood'. The risk of major accidents or disasters 'is very low'. The proposed development would have a positive impact in that it would provide appropriate treatment for waste water.

*Land, Soil, Water, Noise, Vibration, Air, and Climate*

5.5.14. These issues are all considered in section 4.4 of the EIA Screening Report. A temporary additional area of land would be required for construction compounds, which would be reinstated on completion. With employment of mitigation measures and standard good construction practices, no significant impact to land and soil is expected from the construction and operation of the proposed development.

5.5.15. Treated effluent will be discharged to the Finnihy River. There would be significantly reduced concentrations of, for example, E. Coli in the receiving water with the proposed upgrade. There would be 'very minor increases' in some concentrations e.g. ammonia, and BOD, as a consequence of the predicted increase in the WWTP outfall flow, though environmental quality standard thresholds would not be exceeded. The report states it can be concluded that the proposed upgrade would improve the water quality of the river and Kenmare Bay. Infrequently occurring storm water overflow discharge from the PS to the river would have high dilution levels and the impact 'will be low'. Significant negative effects on water quality are not anticipated. The impact on Kenmare River SAC is addressed in more detail in section 8 of this inspector's report. Dewatering of groundwater may be required but no significant effect on water supply is anticipated.

- 5.5.16. Some mitigation measures are outlined in relation to flood risk at the PS.
- 5.5.17. Appendix A of the EIA Screening Report contains a Noise Impact Assessment. Residual impacts during construction show that compliance with limit values can be achieved provided the rock breaker does not operate simultaneously with other plant on Saturdays. For the operation phase, compliance with limit values can be achieved, though a moderate increase in noise levels at some receptors is expected at night.
- 5.5.18. The proposed development would have a positive effect on odour generation in the town once operational. An Odour Impact Assessment Report was submitted as appendix B of the EIA Screening Report. No significant impacts to air quality are expected. The development would result in an imperceptible impact on climate.

#### *Biodiversity*

- 5.5.19. The habitats within the proposed development footprint provide limited opportunities for mammals, and there was no evidence of protected mammals on site. An improvement in water quality would lead to a long-term positive effect on the Finnihy River and Kenmare Bay.

#### *Material Assets, Cultural Heritage, and Landscape*

- 5.5.20. 5,668 tonnes of demolition waste is expected to be generated. This would be transferred to an appropriately authorised facility. Excavation would be required on site. A combined 6,434m<sup>3</sup> of excavated material (soil and rock) is expected. Where it cannot be reused it would be removed from site.
- 5.5.21. It is considered that there is sufficient capacity in e.g. water and electricity, to facilitate the increase in demand from the upgraded facility. A new ESB substation would be provided. There would be a positive, long-term effect on material assets during the operation of the proposed development.
- 5.5.22. In terms of landscape, the proposed development represents an intensification of an already established land use, and it is currently heavily screened by dense mature vegetation. Very minor and very localised landscape and visual impacts would result. Photomontages have been provided in appendix C of the EIA Screening Report.
- 5.5.23. There are no protected structures within or immediately adjacent to the site and I note the County Archaeologist has indicated that no mitigation is required.

3. Likely significant effects on the environment resulting from residues, emissions, and the production of waste, and the use of natural resources

- 5.5.24. The nature of the development is that treated waste water would be discharged to the adjacent River Finnihy. Monitoring activities would be undertaken in accordance with the EPA wastewater discharge authorisation licence.
- 5.5.25. Dewatered sludge would be produced at the WWTP at a rate of approx. 3.59m<sup>3</sup> a day at the design horizon. This would be removed every four or five days and transferred to a sludge hub centre. Dewatered sludge is a frequent by-product of WWTPs.
- 5.5.26. Construction waste is referred to under Item 2 of this section. This would only occur for a temporary period.
- 5.5.27. As noted, every urban centre has a WWTP similar to that existing and proposed. The proposed upgrade would improve the water quality of the receiving waters. The developments, in themselves, would not produce any significant waste, they would treat waste already generated. Therefore, I do not consider the development would result in the production of any significant waste or result in significant emissions of pollutants.
- 5.5.28. There would be no significant increase in the use of natural resources. Schedule 7A refers particularly to soil, land, water and biodiversity. The current site boundaries would remain and no additional area would be used, except for temporary construction phase compounds.

Conclusion

- 5.5.29. The applicant's EIA Screening Report concludes that 'there is no real likelihood of significant effects on the environment arising from the proposed development and that an EIA is not required'.
- 5.5.30. I note that cumulative effects of the proposed development, and eight other developments identified in the area, are considered in table 8 of the EIA Screening Report. I do not consider any significant cumulative impact would arise.
- 5.5.31. In my opinion, having regard to the nature, scale, and location of the proposed development, the content of the EIA Screening Report, further consideration of traffic and transportation issues in section 7, the AA contained in section 8 of this inspector's report, and the absence of significant biodiversity sensitivity in the vicinity, I consider

that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for a sub-threshold EIAR can, therefore, be screened out at this stage.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. The grounds of appeal are submitted by Cunnane Stratton Reynolds Land Planning & Design on behalf of Patrick, John, and Martin Arthur, Lime Kiln Lodge, Market St., Kenmare. The main points made can be summarised as follows under headings as set out in the grounds of appeal.

#### *The Local Authority's Assessment of the Planning Application*

6.1.2. In relation to European sites, access for HGVs during construction is not identified and therefore the potential impact of the development cannot be fully considered. The local authority has assessed an incomplete application, and it should have been invalidated and once validated it should have been refused permission.

6.1.3. The planner's report acknowledged the main objection issues raised related to land ownership and land registration, and stated this was a civil matter. The possible use of construction materials from a nearby unauthorised quarry was also noted. No alternative authorised source has been presented to or assessed by the local authority. The appellants query where an authorised source of the construction materials will be and what the haul route will be, which could result in further HGV movement along the already compromised Market St. The suggestion of using the unauthorised quarry raises questions as to the validity of the traffic management report.

6.1.4. The application should have been invalidated in the first instance.

#### *The Decision of the Local Planning Authority*

6.1.5. The decision is very brief with only three conditions. The application is premature pending a full assessment, including the transfer of construction materials from an alternative location.

6.1.6. The appellants do not see how the proposal can be approved if stone has to come from an unauthorised quarry, or from an alternative, unspecified source where the haul route has not been assessed. Should the Board be minded to grant permission, conditions ensuring the impact of the development is limited to reasonable levels is requested. If the Board grants permission the appellants contend a further application would be required to source stone and other building materials. The Board would surely be reluctant to grant permission in this scenario.

*The Grounds of Appeal – Ground One: Validity of the Planning Application*

6.1.7. Plans – Requirements of the Planning & Development Regulations, 2001 (as amended) are not satisfied. Plans present rights of way which are not registered, concluded, or legally binding as the transfer of ownership of lands from Patrick and John Arthur to Kerry Co. Co. has not been finalised. The Council has no right to consent development over Patrick and John Arthur's lands. Plans show red and blue line boundaries over land the applicant does not own, and rights of way and easements that do not exist. The application is invalid, the Council had no jurisdiction to determine it, and the Board has no discretion to determine it.

6.1.8. Letter of Consent – Kerry Co. Co. is the beneficial owner, but not the legal owner of the lands, contrary to the application form. The appellants dispute that a letter of consent from the beneficial owner constitutes an ability to apply for planning permission. Patrick and John Arthur do not consent to development for the WWTP until such time as transfer of ownership is concluded and registered. Consequently the application is premature. The lands subject to the PS are not in dispute and is owned by Kerry Co. Co. However, the indication of an incorrect right-of-way to the PS is an issue as it traverses the land of Martin and Patrick Arthur and should have resulted in invalidation on the grounds of the site location map. There is no evidence of agreement despite the applicant's contention that this is so.

6.1.9. Public Site Notice – The site notices were not legible from the public road as required. They were placed on land in private ownership of Martin and Patrick Arthur. This breach renders the application invalid.

6.1.10. Issues Relating to the Proposed Development – There are many inconsistencies in the application. One is the proposal to use stone from the unauthorised quarry to

construct the WWTP. This quarry should not be allowed to be operated by the applicant.

- 6.1.11. 10-15 no. HGVs a day on Market St. during construction, as per the CEMP, would be unacceptable. Clarity on this calculation should be sought as it does not state the definite source location of materials, and possibly assumes the unauthorised quarry would be used which would not access the public road. The inspector in ABP-307488-20 noted problems on Market St. for the transport of material. If similar traffic loading was unacceptable on that occasion, it is similarly unacceptable on this occasion. A new traffic management plan would be required.
- 6.1.12. Further to traffic movements in relation to the PS, the applicant states it shall provide a turning circle on private lands. There has been no engagement in relation to the preferred location. The appellants' land is likely to be impacted. Any imposed condition should require detail of the turning circle to be agreed.
- 6.1.13. The Council's conditions are minimal and do not protect the surrounding environment against impacts of the construction phase. Revised conditions should relate to a traffic management plan, the turning circle, the storage compound at Cromwell's Bridge, and other ambiguous proposals.
- 6.1.14. The appellants support the principle of the development and upgrade of the WWTP.
- 6.1.15. Appendices are attached to the grounds of appeal as follows:
  - Appendix A – Proof of ownership – folio maps and registered deeds of the WWTP
  - Appendix B – Letter from Kerry Co. Co. Legal Department.
- 6.1.16. The submissions to Kerry Co. Co. are also included.

## 6.2. Applicant Response

- 6.2.1. The responses to the main issues raised can be summarised under headings as set out in the response as follows

*Sufficient legal interest to make the planning application*

- 6.2.2. The site, wayleave, and right of way have been in continuous use by Kerry Co. Co. since 1994, having been acquired following arbitration. Part of the WWTP site was

acquired from John, Joseph, and Patrick Arthur. A permanent wayleave and right of way covering most of the access route between the WWTP and PS were also acquired by the Council under the same arbitration and all compensation and interest were paid by the Council in 1995. To date no deed has been signed. The site of the PS is also owned by the Council and all other wayleaves and rights of way required were also acquired and have been in continuous use since 1994.

6.2.3. The appellants acknowledge the Council is the beneficial owner but contend this letter of consent is not sufficient. *Heather Hill Management Company CLG v An Bord Pleanála* [2019] IEHC 450 deliberates the issue that an application was made without the consent of the landowner. That judgement reasoned that the purpose of the letter of consent is to guard against the making of frivolous or vexatious applications by persons with no interest in the lands and no prospect of being able to carry out the development. This proposed development is neither frivolous nor vexatious. Further, section 5.13 of the Development Management Guidelines (2007) states the planning system is not designed as a mechanism for resolving disputes about title to land or rights over land, and these are ultimately matters for resolution in court.

6.2.4. The applicant notes that ‘any issue relating to the final step of the transfer the lands [sic] is a legal matter, outside the remit of the planning consent process’.

*Traffic Management (and Quarry)*

6.2.5. The CEMP clearly states that the quarry is a potential source of material that ‘may be’ selected, and an alternative quarry was also highlighted. A key factor in selecting the source of quarry material is that all statutory requirements, licenses, and consents are in place. Glan Agua Ltd., the contractor for the project, confirms no unlicensed quarry will be used.

6.2.6. CEMP traffic management volumes were based on maximum estimated volumes of potential HGV movements and would not be made on the basis of selecting a final quarry location at application stage. Regardless of the source, the estimate of 10-15 HGVs per day remains unchanged. Market St. is the only suitable access route to the site.

6.2.7. The appeal refers to a previous Board decision regarding the adjacent quarry, with specific reference to the unsuitability of Market St. to accommodate associated HGV



movement. This is not an appropriate comparison. Maximum HGV movement is for the construction phase and is not comparable to an operating quarry.

6.2.8. In terms of road safety, relevant traffic management plans shall be prepared.

6.2.9. Glan Agua Ltd. is satisfied that sufficient turning space is available within the PS and WWTP boundaries. No private ground shall be utilised without consent.

*Procedural Issues*

6.2.10. Issues in relation to the validity of the application and assessment by the Council are procedural issues and not a matter for the applicant to respond to.

**6.3. Planning Authority Response**

6.3.1. None.

**6.4. Observations**

6.4.1. None.

**6.5. Further Responses**

6.5.1. None sought.

**7.0 Assessment**

The main issues are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. Given the zoning objective of the pumping station site, the current use of both sites, Objective WW-1 of the Local Area Plan, and the improvement in water quality as a result of the proposed development, I consider that the principle of development is acceptable, subject to the detailed considerations below. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Validity of the Planning Application
- Traffic and Transportation

## 7.1. **Validity of the Planning Application**

- 7.1.1. The appellants have cited a number of reasons why the planning application should have been invalidated by the local authority. These primarily relate to land ownership issues and the location of the public notices.

### *Land Ownership*

- 7.1.2. The appellants consider issues relating to the maps submitted with the application (yellow wayleaves, red and blue line boundaries) are contrary to the Planning & Development Regulations, 2001 (as amended), and Kerry Co. Co., who provided a letter of consent to make the planning application, may be the beneficial owner but it is not the legal owner of the WWTP site and therefore does not have sufficient authority to consent to development at this location. Transfer of the lands from Patrick and John Arthur to the council has not been finalised though attempts have been made by the appellants to transfer the land. The appellants consider the application should have been invalidated by the council. The land subject to the PS is not in dispute though there is an alleged incorrect right of way indicated as it traverses the land of Martin and Patrick Arthur.
- 7.1.3. The applicant notes that the two sites have been in continuous use since 1994 having been acquired by Kerry Co. Co. through arbitration. All compensation and interest was paid by the council in 1995, but to date no deed has been signed. The applicant, in its response to the grounds of appeal, has referred to the judgement in Heather Hill Management Co. CLG v An Bord Pleanála, and to the Development Management Guidelines (2007).
- 7.1.4. I consider that the two issues cited by the applicant are relevant to the current application. The court case, though obviously based on different circumstances, involved, inter alia, a dispute over land ownership and the letter of consent. The judgement considered that this was not sufficient to invalidate the planning application. Though related to an application for a strategic housing development, as opposed to a 'normal' planning application, the purpose underlying the requirement to obtain a letter of consent is to guard against the making of a frivolous or vexatious planning application. I do not consider that Irish Water is making a frivolous or vexatious planning application and they and Kerry Co. Co. have, in my view, demonstrated

sufficient interest in this regard, for the purpose of facilitating the making of the planning application.

- 7.1.5. In this regard I would also refer to section 5.13 of the Development Management Guidelines for Planning Authorities (2007) which states, 'The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts'. Furthermore, section 34(13) of the Planning & Development Act, 2000 (as amended), states 'A person shall not be entitled solely by reason of a permission under this section to carry out any development'.

#### *Public Notice*

- 7.1.6. The appellants consider the site notices were placed on private land and were not legible from the public road, and the application should have been invalidated on this basis. The 'primary' public notice was located on private land at the entrance area to the separate access points and the two notices on the PS and WWTP sites were on private land which are gated at night and with no public access.

- 7.1.7. I initially note that the location of the 'primary' public notice was at a publicly accessible location. While it may be private land there is no indication on site that it is not a public area. The purpose underlying the placement of a visible and legible site notice is to inform the public and I consider this location has facilitated that. I do not consider there is any issue in placing additional site notices at the actual PS and WWTP locations even if they are gated off at night, as they further advertise the fact that a planning application is being/has been made. There is no evidence that any members of the public were prevented from making a submission to the planning authority because of a site notice issue.

- 7.1.8. Notwithstanding, the matter of whether or not the site notices had been adequately erected is a matter for the local authority and Kerry Co. Co. deemed them acceptable.

## **7.2. Traffic and Transportation**

- 7.2.1. Matters relating to transport and traffic also comprise a significant element of the grounds of appeal. These relate to the source of construction material, identifying a haul route, an incomplete traffic management plan, and the unsuitability of Market St. for access.

- 7.2.2. The applicant has clarified in the response to the grounds of appeal that the contractor has confirmed that 'no unlicensed quarry will be used to provide material for the proposed development'. The appellants consider that the absence of an alternative construction material source to the adjacent quarry results in a significant vacuum of information. The proposed development is a relatively standard construction project, and the appellant has confirmed that 'Regardless of the source of material for the construction work on site, the estimate of 10-15 HGV's per day remains unchanged'. Construction material sources/quarry locations are not normally identified at planning application stage, and I do not consider it a material deficiency in the application. It is unreasonable to expect an applicant to identify sources of building materials possibly several years in advance of the commencement of any development.
- 7.2.3. Market St. has been identified by the applicant as the only suitable access route to the PS and WWTP sites. While this is a relatively narrow street, I do not consider that it is significantly problematic in terms of construction activity. It was not considered to be a concern by the local authority. If planning permission was refused on this basis, then it would effectively sterilise any substantial future development that required access by way of Market St. that would also generate HGV traffic.
- 7.2.4. I note the Board's decision on ABP-307488-20 which related to the adjacent quarry and which has been referenced in the grounds of appeal in relation to this matter. I agree with the applicant that this is not an appropriate comparison. An operational quarry would likely create a very different traffic environment than the proposed upgrade works to the PS and WWTP.

## 8.0 **Appropriate Assessment (AA)**

### **Appropriate Assessment (AA) Screening**

#### Compliance with Article 6(3) of the Habitats Directive

- 8.1. The requirements of article 6(3) as related to screening the need for AA of a project under part XAB, section 177U of the Planning & Development Act, 2000 (as amended), are considered fully in this section.

### Background on the Application

- 8.2. The applicant submitted a 'Natura Impact Statement' (NIS) prepared by Wetland Surveys Ireland Ltd. and dated January 2022 with the planning application.
- 8.3. Section 4 of the NIS contains an 'Appropriate Assessment Screening'. This screening outlines the project and provides a description of the development sites, and identifies three European sites within a 5km potential zone of influence.
- 8.4. The applicant's screening report concludes that 'it has been determined by the authors that it is not possible to rule out likely significant effects on the conservation objectives of the Kenmare River SAC. It is therefore the view of the authors that it is necessary to prepare a Stage 2 Appropriate Assessment ...'
- 8.5. Having reviewed the documents, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development alone, or in combination with other plans and projects on European sites.

### Screening for Appropriate Assessment – Test of Likely Significant Effects

- 8.6. 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 a European site(s).
- 8.7. The proposed development is examined in relation to any possible interaction with European sites designated Special Areas of Conservation (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European site(s).

### Brief Description of the Development

- 8.8. The applicant provides a description of the project on pages 7-9 of the AA screening report and elsewhere e.g. pages 9-11 of the EclA. It is also provided in section 2.1 of this inspector's report.
- 8.9. The development sites are described on pages 9-16 of the NIS. The PS site 'mostly comprises buildings and artificial surfaces ... with some ornamental planting ... amongst amenity grassland ...' Within the WWTP site 'Amenity grassland ... and buildings and artificial surfaces ... are the dominant habitats ...' Photographs of the site and a table summarising the habitats recorded are contained in section 4.2 of the NIS.

8.10. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

- Habitat loss/fragmentation (there is no habitat loss or fragmentation)
- Habitat/species disturbance/mortality (construction and/or operational)
- Construction/operation related – uncontrolled surface water/silt/construction related pollution.

#### Submissions and Observations

8.11. Significant AA-related issues were not raised in third party submissions or observations.

#### European Sites

8.12. The development sites are located immediately adjacent to Kenmare River SAC (site code 002158).

8.13. Table 2 and figure 2 of the applicant's NIS identifies Kenmare River SAC and two other European sites (Mucksna Wood SAC and Killarney National Park ... SAC) within 5km of the proposed development.

8.14. The applicant's AA screening recommends that Kenmare River SAC is brought forward to Stage 2 AA because the proposed development occurs immediately adjacent to the SAC and discharge occurs from the sites directly to the SAC (River Finnihy). I agree that this SAC should be subject of Stage 2 AA. The QI habitats and species of this SAC are as follows:

- Large shallow inlets and bays [1160]
- Reefs [1170]
- Perennial vegetation of stony banks [1220]
- Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]
- Atlantic salt meadows [1330]
- Mediterranean salt meadows [1410]
- Shifting dunes along the shoreline with *Ammophila arenaria* [2120]
- Fixed coastal dunes with herbaceous vegetation [2130]
- European dry heaths [4030]

- Juniperous communis formations on heaths or calcareous grasslands [5130]
- Calaminarian grasslands of the Violetalia calaminariae [6130]
- Submerged or partially submerged sea caves [8330]
- Narrow-mouthed whorl snail [1014]
- Lesser horseshoe bat [1303]
- Otter [1355]
- Harbour seal [1365]

8.15. Mucksna Wood SAC is excluded from further assessment. Given the nature of its qualifying interest (QI), the nature and scale of the proposed development, and its location on the opposite of the bay to the development sites, adverse effects on this SAC are not likely. Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC is also excluded from further assessment given its hydrological isolation from the development site, distances, and absence of connectivity. Other European sites in the wider area are excluded from further consideration in the screening report because there is no hydrological or other connectivity, and because of the distances involved. I agree with the screening report that sites other than Kenmare River SAC can be excluded.

8.16. An identification and description of potential effects on Kenmare River SAC are set out in section 4.5 of the applicant's AA screening report, which includes table 5. These can be summarised as temporary to short-term negative effects on affected habitats and species during the construction phase, discharge of treated water to the River Finnihy during operation, and the spread of invasive species which occurs adjacent to the site.

8.17. The applicant's screening report does not consider in-combination effects.

8.18. Having regard to the foregoing, I agree with the applicant's AA screening report that progression to Stage 2 AA is required in relation to Kenmare River SAC.

#### Mitigation Measures

8.19. No measures designed or intended to avoid or reduce any harmful effects of the project on a European site have been relied upon in this screening exercise.

## Screening Determination

### **Significant effects cannot be excluded, and Appropriate Assessment required**

- 8.20. The proposed development was considered in light of the requirements of section 177U of the Planning & Development Act, 2000 (as amended). Having carried out screening for AA of the project, I conclude that the project individually (or in combination with other plans or projects) could have a significant effect on European site Kenmare River SAC (site code 002158) in view of the sites Conservation Objectives, and AA (and submission of a NIS) is therefore required.

### **Appropriate Assessment (AA)**

- 8.21. The requirements of article 6(3) as related to AA of a project under Part XAB, section 177V of the Planning & Development Act, 2000 (as amended) are considered fully in this section.
- 8.22. The proposed development is not directly connected to or necessary for the management of any European site and therefore is subject to the provisions of article 6(3).

### The Natura Impact Statement (NIS)

- 8.23. The applicant's NIS contains the information required for the competent authority to undertake AA in relation to Kenmare River SAC. It sets out the conservation objectives of the QI habitats and species of the SAC that could potentially be affected, and how the three potential impacts associated with the proposed development (disturbance impact, water quality impact, and spread of non-native invasive species) could affect each QI. Relevant studies and surveys include an Invasive Species Management Plan carried out by APEM dated January 2022, and a Bat Survey carried out by Doherty Environmental Consultants Ltd. dated January 2021, which was submitted as appendix II of the EclA. Mitigation measures are recommended, in-combination impacts assessed, and a conclusion reached.
- 8.24. The NIS concludes that 'provided that the mitigation measures listed ... are implemented it is concluded that the proposed development, alone or in-combination with other plans and/or projects will not give rise to significant effects on the integrity on the Natura 2000 network of sites'.



- 8.25. An AA Screening and AA Report was prepared by the planning authority's Biodiversity Officer and is attached as appendix I to the planning authority's Planning Report. It was concluded that the proposed development would not have an adverse effect on the integrity of Kenmare River SAC.
- 8.26. Having reviewed the documents, I am satisfied that the information allows for a complete assessment of any adverse effects of the development on the conservation objectives of Kenmare River SAC, alone or in combination with other plans and projects.

Appropriate Assessment of Implications of the Proposed Development

- 8.27. The following is a summary of the objective scientific assessment of the implications of the project on the QI features of the European site (Kenmare River SAC) using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

Aspects of the Proposed Development that could affect Conservation Objectives

- 8.28. The applicant's NIS considered that there is potential for impacts on QIs of the SAC as a result of:
- (i) disturbance impacts,
  - (ii) water quality impacts (construction and operation),
  - (iii) spread of non-native invasive species.

I agree that these are the issues that could affect the QI habitats and species.

- 8.29. There are 15 no. QI habitats and species included in the Conservation Objectives Series document. Seven of these are potentially affected by the proposed development for reasons of hydrological linkage (large shallow inlets and bays, and reefs), proximity (the presence of certain saltmarsh habitat approx. 900 metres away though there is uncertainty whether it is Atlantic or Mediterranean), the potential foraging area for bats, the presence of suitable otter habitat, and the likelihood of harbour seal occurring.
- 8.30. However, there is no potential for eight QI habitats and species (plus the Juniperus scrub [5130] which is cited on the NPWS website but not included in the document) to

be affected for reasons including the conservation requirements of certain habitat types, the absence of a pathway, and the distances involved. I have excluded these eight QIs from inclusion in table 1. I concur with the NIS in terms of the QI habitats and species that could be potentially affected and those that would not be affected.

- 8.31. Table 1 below summarises the AA and site integrity test. This is based on the NIS and NPWS data etc. The relevant conservation objectives for the European site have been examined and assessed with regard to the identified potential significant effects and all aspects of the project, both alone and in-combination with other plans and projects. Mitigation measures proposed to avoid and reduce impacts to a non-significant level have been assessed, and clear, precise, and definitive conclusions reached in terms of adverse effects on the integrity of the European site.

**Table 1: Summary of Appropriate Assessment of implications of the proposed development on the integrity of the European site alone and in-combination with other plans and projects in view of the site's conservation objectives**

<b>Table 2: Kenmare River SAC [002158]</b>					
<b>Summary of key issues that could give rise to adverse effects:</b>					
* Disturbance impacts					
* Water quality impacts					
* Spread of non-native invasive species					
Conservation objectives: see <a href="http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002158.pdf">http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002158.pdf</a>					
<b>Summary of appropriate assessment</b>					
<b>Qualifying Interest feature</b>	<b>Conservation objectives targets</b>	<b>Potential adverse effects</b>	<b>Mitigation measures</b>	<b>In-combination effects</b>	<b>Can adverse effects on integrity be excluded?</b>
Large shallow inlets and bays [1160]	To maintain the favourable conservation condition of large shallow inlets and bays	Water quality – The risk of nutrient run-off and siltation downstream is minimal during construction considering the nature and scale of the proposed development, and the resilience and assimilative capacity of the habitat. During the operational phase the upgraded facility will have a very positive impact on water quality resulting in long-term positive effects.	Construction site measures would be put in place to avoid release of potential pollutants in the River Finnihy or groundwater. A full set of mitigation measures are set out in section 5.3 of the applicant's NIS. These include:	No large-scale development is proposed in proximity. Objectives of the Kerry County Development Plan 2015-2021 ensure development is	Yes – The NIS concludes that, provided mitigation measures are implemented, the proposed development, alone or in-

			<ul style="list-style-type: none"> <li>- best construction practice measures</li> <li>- site compound south of the WWTP</li> <li>- off-setting of tree/shrub removal with native shrubs at the WWTP</li> <li>- no material stockpile within 10 metres of a watercourse</li> <li>- no wash out of suspended solids from the site</li> <li>- use of silt fencing, silt settlement tank</li> <li>- no cleaning of equipment in watercourses</li> <li>- fuelling and lubrication of equipment away from watercourses</li> <li>- appropriate chemical storage</li> <li>- An ecological clerk of works (ECoW) will be employed to</li> </ul>	<p>subject to relevant environmental assessment. The information presented in the NIS, EclA, and Invasive Species Report correspond with these policies and no adverse in-combination impacts are foreseen.</p>	<p>combination with other plans and/or projects will not give rise to significant effects on the integrity of the Natura 2000 network.</p>
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			ensure compliance with mitigation measures.		
Reefs [1170]	To maintain the favourable conservation condition of reefs	Water quality – In the absence of appropriate mitigation during construction the proposed works could adversely affect the integrity of hydrologically linked reef habitats. The improvement in water quality during operation is expected to result in long-term positive effects.	As above.	As above.	As above.
Atlantic salt meadows [1330]	To maintain the favourable conservation condition of Atlantic salt meadows	Invasive species – In the absence of mitigation, Japanese knotweed may lead to habitat degradation of the salt marsh habitat(s).	<p>Specific invasive species mitigation includes:</p> <ul style="list-style-type: none"> <li>– site specific measures for the management of Japanese knotweed and prevention of further infestation in the Invasive Species Management Plan.</li> <li>-Tool-box talk for personnel with identification sheets</li> <li>- Excavated soil within 7 metres of an infestation shall be protected.</li> <li>– De-contamination of equipment and machinery.</li> </ul>	As above.	As above.

			– Post-construction monitoring.		
Mediterranean salt meadows [1410]	To maintain the favourable conservation condition of Mediterranean salt meadows	Invasive species – As per Atlantic salt meadows, above.	As above.	As above.	As above.
Lesser horseshoe bat [1303]	To maintain the favourable conservation condition of lesser horseshoe bat	Disturbance – The site is within the foraging range of one (Dunkerron souterrain) of two important roost sites in the general area. Though there is no suitable foraging habitat within the site, broadleaf woodland in the vicinity is likely to be relevant. There was no lesser horseshoe bat activity recorded in the 2020 summer surveys and the existing buildings are unsuitable for roosting.  Noise, vibration, and light during construction may temporarily disturb foraging bats in a worst case scenario though this would not cause any significant long-term effects. Operational light may lead to disturbance in commuting corridors.	A number of mitigation measures are set out relating to best practice measures for artificial lighting for bats.	As above.	As above.

		No significant adverse impacts are expected. I consider there would be a degree of habituation from the species towards the site activities given their current uses.			
Otter [1355]	To restore the favourable conservation condition of otter	<p>Disturbance – Otter occur along the Finniyh though no evidence of activity in close proximity was recorded in June 2019 or August 2021 surveys. It is extremely likely otter utilise the river adjacent to the sites for foraging and commuting.</p> <p>Otter populations in the vicinity may be subject to short-term temporary impacts during construction, but it is noted that otter are accustomed to the potential WWTP disturbance during operation.</p> <p>Water quality – Impacts would likely be indirect through adverse impact on biomass availability linked to a deterioration of water quality during construction. The improvement in water quality during operation is expected to result in long-term positive effects.</p>	<p>Pre-construction otter verification surveys should be undertaken to confirm the surveys that informed the NIS remain valid.</p> <p>Water quality mitigation is as set out under large shallow inlets and bays.</p> <p>Invasive species mitigation is as per Atlantic salt meadows.</p>	As above.	As above.

		Invasive species – The spread of Japanese knotweed may degrade the riparian habitat leading to indirect effect on otter e.g. reducing riverbank stability for holts and/or couches, or siltation through riverbank erosion affecting prey species.			
Harbour seal [1365]	To maintain the favourable conservation condition of harbour seal	Disturbance – The SAC holds an important population of harbour seal, and the Finnihy may potentially be occasionally used. Considering the distance from moulting/breeding sites disturbance impacts are not foreseen, and it is unlikely the river is regularly used by this species.  Water quality – As per otter.	Water quality mitigation is as set out under large shallow inlets and bays.	As above.	As above.
<p><b>Overall Conclusion: Integrity Test</b></p> <p>Following the implementation of mitigation, I am able to ascertain with confidence that the construction and operation of the proposed development would not adversely affect the integrity of Kenmare River SAC in light of the site's conservation objectives. No reasonable scientific doubt remains as to the absence of such effects.</p>					



### Mitigation Measures

- 8.33 As referenced in table 1, mitigation measures are set out in section 5.3 of the applicant's NIS. I note that the final mitigation measure is; 'An Ecological Clerk of Works (ECoW) will be employed to monitor the construction phase of the proposed development and to ensure compliance with mitigation measures, in particular those measures relating to silt control and preventing spread of invasive species. The ECoW will be employed through all stages of the construction phase of the proposed development'.
- 8.34 I consider that the proposed mitigation measures for disturbance, water quality, and invasive species comprise relatively standard, well proven good practice measures for construction works in the vicinity of watercourses and would maintain the integrity of the adjacent European site. I consider that the proposed measures are suitably detailed to remove any lack of clarity regarding potential adverse effects and that they are capable of being successfully implemented.

### In-Combination Effects

- 8.35 No other development of scale has been identified in the NIS in proximity to the site. The Kerry Co. Co. website online planning application map does not show any significant development in the vicinity. I agree with the NIS finding that no adverse in-combination impacts are foreseen with any other plan or project.

### **Appropriate Assessment (AA) Conclusion**

- 8.36 The proposed upgrade and extension of Cromwell's Bridge Pumping Station and Kenmare Waste Water Treatment Plant has been considered in light of the assessment requirements of sections 177U and 177V of the Planning & Development Act, 2000 (as amended).
- 8.37 Having carried out screening for AA of the project, it was concluded that it may have a significant effect on Kenmare River SAC (site code 002158). Consequently, an AA was required of the implications of the project on the qualifying features of that site in light of its conservation objectives.
- 8.38 Following AA, it has been ascertained that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of

European site No. 002158, or any other European site, in view of the sites Conservation Objectives.

8.39 This conclusion is based on:

- a full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the Conservation Objectives of Kenmare River SAC,
- assessment of the in-combination effects with other plans and projects,
- no reasonable scientific doubt as to the absence of adverse effects on the integrity of Kenmare River SAC.

## 9.0 Recommendation

I recommend that planning permission should be granted subject to conditions, for the reasons and considerations as set out below.

## 10.0 Reasons and Considerations

Having regard to the provisions of the Kerry County Development Plan 2015-2021, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of traffic safety and would result in an improved quality of treated discharge to the River Finnihy from the waste water treatment plant. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

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

2. All of the environmental, construction, and biodiversity-related mitigation measures, as set out in the Natura Impact Statement, Construction Environmental Management Plan, Invasive Species Management Plan, and Ecological Impact Assessment, and other particulars submitted with the application, shall be implemented by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this Order.

**Reason:** In the interests of clarity and of the protection of the environment during the construction and operational phases of the development.

3. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall include all environmental and ecological measures arising from reports submitted with the planning application and shall provide details of intended construction practice for the development, including:
  - (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
  - (b) Location of areas for construction site offices and staff facilities;

- (c) Details of site security fencing and hoardings;
- (d) Details of on-site car parking facilities for site workers during the course of construction;
- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of any abnormal loads to the site;
- (f) Measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) Construction working hours;

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

4. Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

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

**Reason:** In the interest of sustainable waste management.

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Anthony Kelly  
Planning Inspector  
18<sup>th</sup> October 2022