



An  
Bord  
Pleanála

## Inspector's Report ABP-314381-22

### Development

Storage area and shed for mussel farm, and associated site development works. An updated Natura Impact Statement (NIS) and an updated Ecological Impact Assessment (EclA) submitted with the application.

### Location

Ardgroom Inward, Bear, Kilcatherine,  
Near Ardgroom Harbour, Co. Cork

### Planning Authority

Cork County Council

### Planning Authority Reg. Ref.

22402

### Applicant

John Harrington of Kush Seafarms

### Type of Application

Permission

### Planning Authority Decision

Refuse permission

### Type of Appeal

First Party

### Appellant

John Harrington of Kush Seafarms

### Observers

Catherine and Patrick McCarthy

### Date of Site Inspection

7/3/2024

**Inspector**

Siobhan Carroll

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## **1.0 Site Location and Description**

- 1.1. The appeal site is located Ardgroom Inward on the Beara peninsula in west Co. Cork. The site is situated circa 3.3km to the north of the village of Ardgroom. The village of Ardgroom is situated 14km to the north-east of Castletownbere.
- 1.2. Ardgroom Harbour is an inlet within Kenmare River which lies to the north-east of Ardgroom. It is located on the southern shore of the Kenmare River and directly opposite Sneem Harbour on the north shore.
- 1.3. Pallas Harbour comprises a pier which extends for circa 40m. There are berths directly along the pier for small fishing vessels and the depth of water varies from between 2 to 6 metres. There is a jetty to the southern side of the pier wall. Ardgroom Harbour contains floats and ropes associated with mussel fishery. There is a detached single storey dwelling to the west of the Pallas Harbour on the opposite side of the local road. On the eastern side of the road and along the pier wall there are materials associated with the fishery operations being stored in the open. A section of a field to the west of this dwelling is also being used for external storage associated with the harbour and fishery operations.
- 1.4. The appeal site with an area of 0.6503 is situated approximately 164m to the west of Pallas Harbour. The site lies on the northern side of the local road the L-491127. The roadside boundary is formed by low hedgerow and wire fence. The site has frontage of circa 70m. The site slopes to the north. There is a dwelling located approximately 25m to the west of the site. There is a residential property located to the east of the site circa 50m away and further residential properties are located along the surrounding roads.

## **2.0 Proposed Development**

- 2.1. Permission sought for the creation of a storage area and shed for existing mussel farm operations near Ardgroom Harbour. Together with access and other associated works. The site is adjacent to the Kenmar Bay SAC and an updated Natura Impact Statement (NIS) and an updated Ecological Impact Assessment (EclA).
- 2.2. The proposed shed has an area of 120sq m and a ridge height of 5.065m.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

3.1.1. The Planning Authority refused permission for the following reason;

1. The proposed commercial storage building and commercial storage yard would be situated on an unspoilt hillside within an area dominated by agriculture and isolated dwellinghouses being with the “High Value Landscape” and immediately adjacent to a Scenic Route and part of the Wild Atlantic Way. Objectives GI 14-9, GI 14-13, GI 14-14 and TM 12-8 of the Cork County Development Plan 2022-2028 acknowledged the limited capability of the High Value Landscape, the sensitivity of the Scenic Route and seek to protect the area from inappropriate development as well as ensuring safe access and safe visibility. Notwithstanding the accepted need for storage facilities in connection with mussel farm operations within the locality and the existing unauthorised storage arrangements, the subject rural site is remote and divorced from Pallas Pier and has no direct visual linkage or affinity with it and the Planning Authority is not satisfied that this is the optimum site available in closer proximity to Pallas Pier. Furthermore, the proposed large commercial storage building coupled with the external storage area would be visually disruptive to the immediate landscape setting and unnecessary injurious to the Scenic Route and Wild Atlantic Way as well as negatively impacting upon the residential amenities of the area, with an emerging access to the L-4911-27 public road where it has not been satisfactory demonstrated that proper emerging sightlines can be provided and maintained in perpetuity. The development is inappropriate for this area, would seriously injure the amenities of the area, would materially contravene stated objectives of the Cork County Development Plan 2022-2028, and therefore would not be accordance with the proper planning and sustainable development of the area.

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

3.2.1. Planning Reports

- Report of Executive Planner dated 8/8/2022 – Refusal of permission recommended.
- Report of Senior Executive Planner dated 8/8/2022 – There is extensive planning history on the subject site as detailed in the Area Planner's report. The proposed development is similar to that refused permission on the subject site under Plan Ref. 22/16. No-pre planning discussions were held with the Planning Authority. As set out in the Area Planner's comprehensive assessment, there are significant concerns regarding the adverse impact this proposed commercial mussel storage development would have on the visual and residential amenities of the area, on the chosen rural site remote from the operation Pallas Pier. The site is not appropriate for the development proposed and the application lacks a proper assessment of alternative site options closer to the Pier. The Senior Executive Planner concluded that they agreed with the recommendation of the Area Planner to refuse permission for the proposed development.

#### 3.2.2. Other Technical Reports

3.2.3. Area Engineer - Further information sought regarding the submission of proposals to improve sightlines to 90m in both directions from a 2.40m set back.

3.2.4. County Ecologist – A revised Natura Impact Statement was required to address the following issues:-

- An assessment of the potential direct, indirect and cumulative impacts the proposal may have on the qualifying species 'Otter' of the Kenmare Bay SAC that have been recorded at the pier and potentially at the proposed site.
- Site has the potential to hold avian species of conservation such as breeding birds. Given the loss of rank grassland and hedgerow habitat a summer breeding bird survey report and results of the same is required.
- The site potential for the Common Frog and/or Smooth Newt, which are both protected under the Wildlife Acts. An appropriate survey is required. Should amphibians be discovered a mitigation plan to prevent

impacts to amphibians which avoids direct impacts to these species and allows for their continued occurrence onsite is required.

- A detailed habitat map, showing the location of all habitats recorded on site is required.

3.2.5. Environment Unit – Permission recommended subject to the attachment of 4 no. conditions.

### 3.3. **Prescribed Bodies**

- None

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

3.4.1. The Planning Authority received 7 no. submissions/observations in relation to the application. The issues raised are as follows;

- A submission was in favour of providing a shed to provided storage for the mussel farm.
- Concern was expressed that there is a second cottage on an adjoining property which has been identified by the applicant as garage.
- Concern was expressed that the proposed development would appear unsightly and would negatively impact upon the residential amenities of the area.
- The site is in an exposed and elevated area and it is considered that the proposal would not be in keeping with the proper planning and sustainable development of the area.
- The proposed development would have a negative impact on the Wild Atlantic Way Route.
- Concern was raised in relation to the proposed vehicular entrance and whether adequate sightlines are available.
- The road survey carried out at end of September 2021 would not reflect the true movement of normal traffic volumes carried out during Covid regulations.



Consequently, this survey does not justify the adoption of a non-standard approach to mitigate the required sightlines.

- Concern was raised regarding additional traffic which would be generated.
- Activity at this location would generate air, light and noise pollution at night and early morning.
- It would be necessary to excavate the hill to carry out the proposed development.
- It was highlighted that otters were observed entering the stream at the position of the site notice.
- Concern was raised regarding potential run-off from the site containing oil from machinery which could enter Kenmare Bay and effect the SAC.

## **4.0 Planning History**

4.1.1. Reg. Ref. 22/16 - Permission was refused for the development of a storage area and storage shed for existing mussel farm operations together with access and other associated works. The application included a Natura Impact Statement. Permission was refused for the following reason;

1. The proposed commercial storage building and yard would be situated on an unspoilt hillside within an area dominated by agriculture and isolated dwellinghouses being within the mapped “High Value Landscape” and immediately adjacent to a Scenic Route and part of the Wild Atlantic Way. Objectives GI 6-1, GI-71, GI 7-2 and TM 3-3 of the County Development Plan 2014 acknowledges the limited capability of the High Value Landscape, the sensitivity of the Scenic Route and seeks to protect the area from inappropriate development as well as ensuring safe access and safe visibility. Notwithstanding the accepted need for storage facilities in connection with mussel farm operations within the locality and the existing unauthorised storage arrangements, the subject site is remote and divorced from Pallas Pier and has no direct visual lineage or affinity with it and the Planning Authority is not satisfied that this is the optimum site available in closer proximity to Pallas Pier. Furthermore, the proposed development of such a

large commercial storage building and storage area would be visually disruptive to the immediate landscape setting and unnecessary injurious to the Scenic Route and Wild Atlantic Way as well as negatively impacting upon the residential amenities of the area with an emerging access to the public road where it has not been satisfactorily demonstrated that proper emerging sightlines can be provided and maintained in perpetuity. Give the absence of compelling reason justification such development is wholly inappropriate for the area and would therefore materially contravene stated objectives of the Cork County Development Plan 2014 that would not be in accordance with the proper planning and sustainable development of the area.

4.1.2. Reg. Ref. 03/863 - Permission was refused for siting of a mobile home.

4.1.3. Reg. Ref. 98/966 - Permission was granted for a dwellinghouse. The development was not carried out.

## **5.0 Policy Context**

### **5.1. National Marine Planning Framework – Project Ireland 2040**

5.1.1. Chapter 9 refers to Aquaculture

5.1.2. Aquaculture Policy 3 – Land-based coastal infrastructure that is critical to and supports development of aquaculture should be supported, in accordance with any legal requirements and provided environmental safeguards contained within authorisation processes are fully met.

### **5.2. Cork County Development Plan 2022-2028**

5.2.1. The appeal site at Ardgroom Inward Bear, Kilcatherine, Ardgroom Harbour, Co. Cork is located within an area designated as ‘High Value’ Landscape Area.

5.2.2. Scenic Route S116 – Road between Eyeries and Kilcatherine and Ardgroom.

5.2.3. Chapter 7 refers to Marine, Coastal and Islands

5.2.4. Section 7.2.6 refers to Aquaculture – It is important to acknowledge the essential role played by Roaringwater Bay, Dunmanus Bay and Bantry Bay in aquaculture activities. These areas are mostly involved in shellfish production with a small

number of sites licenced for finfish farming. A recent survey of aquaculture sites carried out by the Harbour Masters' section established that a number of Cork County Council piers in the Beara Peninsula were extensively used by fish farmers and provide opportunities for valuable local employment. Other areas like the Bandon River or Oysterhaven export high value products (oysters) to the European market. Aquaculture developments must take account of the ecological, social and scenic impacts of any such developments and these factors will be taken into consideration during the assessment process.

5.2.5. Chapter 8 refers to Economic Development

5.2.6. Section 8.20 refers to Fishing and Aquaculture – Commercial fishing and aquaculture play a major role in local economies in our coastal areas throughout the County. The Council will support the provision of appropriate infrastructure that facilitates a modern and innovative fishing industry.

5.2.7. County Development Plan Objective EC: 8-18 Fishing and Aquaculture

- (a) To support the sustainable development of fishing and aquaculture industries ensuring that new development is compatible with the protection of the environment, nature conservation, heritage landscape and other planning considerations.
- (b) Support the use of existing port facilities for the catching and processing of fish as an economic activity that contributes to the food industry in the County.
- (c) Support and protect designated shellfish areas as an important economic and employment sector.
- (d) Recognise the potential of alternative sites, such as quarries, for aquaculture and commercial fisheries.
- (e) Strengthen rural economies through innovation and diversification into new sectors and services including in the marine economy.

5.2.8. County Development Plan Objective GI14-9: Landscape

- (a) Protect the visual and scenic amenities of County Cork's built and natural environment.

- (b) Landscape issues will be an important factor in all land-use proposals, ensuring that a pro-active view of development is undertaken while protecting the environment and heritage generally in line with the principle of sustainability.
- (c) Ensure that new development meets high standards and design.
- (d) Protect skylines and ridgelines from development.
- (e) Discourage proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments.

#### 5.2.9. County Development Plan Objective GI 14-13: Scenic Routes

Protect the character of those views and prospects obtainable from scenic routes and in particular stretches of scenic routes that have very special views and prospects identified in this Plan. The scenic routes identified in this Plan are shown on the scenic amenity maps in the CDP Map Browser and are listed in Volume 2 Heritage and Amenity Chapter 5 Scenic Routes of this Plan.

#### 5.2.10. County Development Plan Objective GI 14-14: Development on Scenic Routes

- (a) Require those seeking to carry out development in the environs of a scenic route and/or an area with important views and prospects, to demonstrate that there will be no adverse obstruction or degradation of the views towards and from vulnerable landscape features. In such area, the appropriateness of the design, site layout, and landscaping of the proposed development must be demonstrated along with mitigation measures to prevent significant alterations to the appearance or character of the area.
- (b) Encourage appropriate landscaping and screen planting of developments along scenic routes (See Chapter 16 Built and Cultural Heritage).

#### 5.2.11. County Development Plan Objective TM 12-8: Traffic/Mobility Management and Road Safety

- (a) Where traffic movements associated with a development proposal have the potential to have a material impact on the safety and free flow of traffic on National, Regional or other Local Routes, the submission of a Traffic and Transport Assessment (TTA) and Road Safety Audit will be required as part of the proposal. Where a Local Transport Plan exists, it will inform any TTA.

- (b) Support demand management measures to reduce car travel and promote best practice mobility management and travel planning via sustainable transport modes.
- (c) For developments of 50 employees or more, residential developments over 100 units, all education facilities, community facilities, health facilities, as well as major extensions to existing such uses developers will be required to prepare Mobility Management Plans (travel plans), with a strong emphasis on sustainable travel modes consistent with published NTA guidance to promote safe, attractive and convenient, alternative sustainable modes of transport as part of the proposal. Where a Local Transport Plan exists, it will inform any Mobility Management Plan.
- (d) Ensure that all new vehicular accesses are designed to appropriate standards of visibility to ensure the safety of other roads users.
- (e) Improve the standards and safety of public roads and to protect the investment of public resources in the provision, improvement and maintenance of the public road network.
- (f) Promote road safety measures throughout the County, including traffic calming, road signage and parking.
- (g) Co-ordinate proposed zoning designations and/or access strategies in settlement plans with speed limits on national roads.

### **5.3. Natural Heritage Designations**

- 5.3.1. Kenmare Bay Special Area of Conservation (Site Code 002158) is located 96m at the closest point to the east of the appeal site.

### **5.4. EIA Screening**

- 5.4.1. The proposal entails the development of a storage area and shed for existing mussel farm operations near Ardgroom Harbour. Having regard to the nature and scale of the proposed development comprising the construction of a storage area and shed for existing mussel farm operations near Ardgroom Harbour and the installation of an

effluent treatment tank and polishing tank there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. See Appendix 2 attached to this Report for the preliminary examination.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

A first party appeal was submitted by Planning Street on behalf of the applicant John Harrington of Kush Seafarms. The issues raised are follows.

- It is submitted that the reason for refusal is weak. It is considered that the decision makers failed to place fair weight on the national need for the scheme including marine policy and climate change against actual impacts.
- In relation to the landscape the reason for refusal states:-
- (i) The proposed commercial storage building and yard would be situated on an unspoilt hillside within an area dominated by agriculture and isolated dwelling houses being within the mapped “High Value Landscape” and immediately adjacent to a scenic route and part of the Wild Atlantic Way. Objectives GI 6-1, GI-71, GI-72 and TM3-3 of the Cork County Development Plan 2014 acknowledge therefore the limited capability of the High Value Landscape, the sensitivity of the scenic route and seek to protect the area from inappropriate development as well as ensuring safe access and safe visibility.
- (iii) “the proposed development of such a large commercial storage building and storage area would be visually disruptive to the immediate landscape setting and unnecessary injurious to the scenic route and Wild Atlantic Way.”
- The applicant agrees that the area is scenically important. They note that there are two issues to be considered the actual impact on the wider landscape and the degree to which the development is “inappropriate”.

- Regarding the actual impact on the landscape, the site is located within a fold in the land which is well below the ridgeline of the hills to the north and south. Therefore, it is not visible in the wider landscape context.
- Views from the road would be brief and limited. It is proposed to plant native species on site which will further screen the site and will enhance biodiversity.
- Objective GI 6-1 of the Plan is noted. However, the policy does not seek to prevent all development but ensure that any development which occurs does not harm the landscape.
- The applicant fully concurs with the aims of the policies. The design of the scheme has been carefully considered to minimise impact, and in particular avoid breaking the ridge line or impeding views from a nearby property to the west.
- The applicant accepts that a high quality of design will be required and a considerable enhancement of hedgerows is proposed together with additional native landscaping including numerous trees.
- It is submitted that the proposed development would sit 'in' rather than 'on' the landscape.
- Regarding the impact on the 'Wild Atlantic Way' it is stated that the road passing the site is a seldom used minor road and largely untravelled part of the 'Wild Atlantic Way'.
- At the point where the site is located the view is enclosed and dominated by road and hedges. The siting of proposed shed building will be set back and landscaped. The building will have a green finish which would not be highly visible.
- The County Development Plan policies in respect of the landscape serves to restrict residential and commercial development and not to restrict the development necessary to the economy of the area.
- Regarding site selection it is stated in the refusal reason that 'the subject site is remote and divorced from Pallas Pier and has no direct visual linkage or

affinity with it and the Planning Authority is not satisfied that this is the optimum site available in closer proximity to Pallas Pier.”

- In response to this it is stated that the site is in fact located very close to the pier at approximately 165m. Any land closer to the pier is closer to sharp bends. All land closer to the pier is also closer to existing dwelling and the proximity of the proposed shed would cause disturbance. No other land nearby is either owned by the applicant or is available for sale.
- It is submitted that the site is very close to the pier where the catch is unloaded. The site is the first available field that would be able to accommodate the development in a manner that would avoid unacceptable impact on local properties or road safety.
- It is considered unreasonable that the Planning Authority require the ‘optimal’ site is chosen for any development. Securing the ‘optimal’ site is often impossible for local geographical reasons or because such a site is not available to purchase.
- A site selection rationale was included with the application. It is the only land within reasonable distance of the pier which is owned by the applicant. It is very close to the pier and any road movements will be minimised. It is screened by the landscape from the SAC and from neighbouring properties. Access is as good as could be reasonably be expected on such a rural road.
- Regarding the matter of scale and visual impact, the reason for refusal refers to the size of the building. It is stated that a larger building than originally proposed was requested by the Planning Authority under the previous application on the site. The request stated, ‘it is advised that a larger building may be preferred than excessive open storage.’
- Under the current application the area of the building proposed is 120sq m. The building is necessary for the operation of an indigenous industry that supports local jobs in aquaculture.
- It is highlighted that the industry is supported by Government for its role in safeguarding Ireland’s food security and cutting carbon footprint to meet EU targets.



- In relation to impacts on nearby properties the refusal reason stated that the proposed development would 'negatively impact upon the residential amenities of the area.' In response to this it is stated that the site is over 66m from the nearest property and is shielded from it to a large extent by the landform. The building has been carefully located below the view line of the property to the west. The hours of operation are limited within only occasional use (2-3 days a week). No unclean, unwashed materials will be stored therefore no odours would occur, only wood, metal and plastic items would be stored. The only machinery operating on the site will be a farm tractor and trailer which is a common vehicle to the rural area. No external lighting will be proposed.
- Regarding the vehicular access the Planning Authority in their report referred standards specification for an access but these are based on standard rural speeds. It is stated that speed and traffic surveys were carried out at the road and that the speeds and level of traffic are exceptionally low.
- The report prepared by the applicant's consultant engineer stated, "It is considered that on the basis of the above assessment the proposed application and site access is in accordance with Transport Infrastructure Ireland and DMRB standards. The site access achieves the required sight lines based on the independently surveyed and calculated Design Speed of the local road. 'Although no permanent or solid visual obstructions are proposed within the required sight line envelop the applicant intends to cut back and maintain roadside vegetation within the ownership of the applicant thereby improving overall road conditions for all.
- The proposed development will have a negligible traffic impact as it will serve the existing business operations only and will generate no additional traffic/trips onto the local road network.
- The Planning Authority had concerns in relation to the maintenance of sightlines. In response to this matter the applicant's consultant engineer states that, "where the sightline slightly extends outside the site boundary (approximately 5m either side) this small portion of the required sightline is not located on part of the public road (road edge/ verge/ lower ditch area) and is

therefore considered part of the public road and under the control of the Local Authority. This is an extremely common situation regarding sightlines.

- It is concluded by the applicant's consultant engineer that 'in fact, based on site observations these small portions of the available sightlines are not currently visually obstructed and will not require annual maintenance or cutting back to maintain the required sightlines.
- Therefore, it is stated that there is no question of sight lines not being maintained in perpetuity.
- In relation to the contention that the development is inappropriate for the area, the first party question this. The Beara peninsula where the site is located has continued to depend on the sea for sustenance and employment. The proposed development is required to support a local aquaculture business which should be regarded as indigenous and traditional.
- The existing local aquaculture business supports a number of jobs which are particularly valuable in Beara where the communities depend mainly on tourism. Tourism is highly seasonal providing most income in the summer. Shellfisheries provides most work in autumn and spring.
- Therefore, it is submitted that the proposed storage facility which is considered modest for such an industry should therefore be regarded as highly appropriate.
- It is submitted that the proposed development is consistent with the strategy of the West Cork Strategic Planning Area (CS 4-4f) which is to:- 'Encourage a vibrant and well populated countryside, recognising the need to strengthen and protect the rural communities of the area by encouraging sustainable and balanced growth in both urban and rural populations, maintain traditional rural settlement patterns in rural areas and the islands, protecting agricultural and fishery infrastructure and productivity and focusing other employment development in the main towns and key village.'
- Objective RCI 9-1: Development in Coastal Areas is also relevant – (b) 'Reserve sufficient land in the various settlements to accommodate the

particular requirements of coastal industry, ports and harbour development and other coastal infrastructure.

- Specifically in relation to fishing and aquaculture, policy EE 11-1 states that development should: (a) Support the use of existing port facilities for the catching and processing of fish as an economic activity that contributes to the food industry in the county. (b) Support and protect designated shellfish areas an important economic and employment sector.'
- The Marine Spatial Plan (NMPF) is also relevant. This is a parallel document to the National Planning Framework. The NPF recognises the importance of integration between land and marine planning and EU Directive 2014/89/EU requires that these interactions are considered.
- It is the aim of the Marine Spatial Plan to double the value of Irish Ocean wealth of 2.4% of GDP by 2030 and increase the turnover from the Irish ocean economy to exceed €6.4 billion by 2020. Meeting these targets will not be possible without extensive private sector investment in infrastructure such as the storage area and shed proposed.
- Paragraph 3.176 of the draft NMPF states: - 'Land based infrastructure is critical to realising the economic and social benefits of marine activities which only accrue when brought on land. The type of infrastructure concerned includes but is not limited to physical structure or facilities for landing, storage and processing of catch or freight for passenger transfer or utilities transmission slipways and boat repair facilities.
- The matter of climate change is discussed it stated that the National policy position is to achieve transition to a competitive low carbon, climate resilient and environmentally sustainable economy by 2050.
- The policy approach to carbon neutrality in the agriculture and land use sector is such that the meeting of carbon targets will require shifting food production methods away from traditional farming towards more sustainable alternatives. Rope mussels as a food product generate 610g of carbon per kg of mussel meat compared with 19,000g of carbon kg pf edible meat.
- Objective CS 5-1: Climate Change Adaptation states:

'The County Council will promote sustainable settlement and transportation strategies in urban and rural areas including the promotion of measures to

(a) reduce energy demand in response to the likelihood of increases in energy and other costs due to long-term decline in non-renewable resources.

(b) Reduce anthropogenic greenhouse gas emissions, and

(c) Address the necessity for adaptation to climate change in particular having regard to location, layout and design of new development.

- Mussel farming produces many times less CO<sub>2</sub> per kilo of protein than agriculture and switching to less harmful forms of food production is a priority of the Government.
- Therefore, the proposed development supports this policy by facilitating production of a low-carbon food source and also be reducing the number of vehicle movements needed to service the existing licenced operations from Ardgroom Pier.
- In conclusion, it is submitted that there will be no harmful effects on the landscape. The actual landscape impact will be minimal. The site selection has been entirely rational the location close to the pier is considered to be good. The scale is appropriate for the need and the area. There are unlikely to be any significant negative impacts on neighbouring properties due to the distances separating them.
- A specialist report has demonstrated that traffic speeds and levels are unusually low. An access has been designed that complies with regulations and can be maintained in perpetuity. Additionally full weight should be given to the benefits of the scheme in relation to the following: -
  - Expansion of low carbon food source improving the Country's food security and carbon footprint in accordance with National Policy aims as set out in the National Marine Plan.
  - Removal of ad-hoc storage on and close to the pier, creating improved safety and ease of movement on the pier as well as free up parking to the benefits of local views/tourism.

- The expansion of jobs as the company grows with the creation of two new posts over the next five years.
- Accordingly, the applicant respectfully requests that the Board grant permission for the proposed development.

## **6.2. Planning Authority Response**

- None received.

## **6.3. Observation**

6.3.1. An observation to the appeal was submitted by Catherine and Patrick McCarthy. The issues raised are as follow;

- The observers state that they are disappointed that the applicant did not accept the refusal of permission by the Planning Authority.
- They consider that the proposed development which consists of a 100sq m open yard and shed cannot be described as small-scale development.
- The property to the west adjoins the site and overlooks the location of the proposed shed and yard.
- The adjoining property to the east would also be negatively impacted. The larger dwelling is 70m from the proposed shed and 40m from the small residence.
- The development would be visually disruptive to the high value landscape and injurious to a designated scenic route.
- The proposed shed would have a height of approximately 5m above the road level. The proposed development would be directly visible from the public road.
- The road is on a designated scenic landscape route, coastal area route (A132) part of the Beara Way and the Wild Atlantic Way.
- It is stated in the appeal that the road is seldom used that is a minor and largely untravelled part of the Wild Atlantic Way.

- It is noted that this is in contrast with the Area Engineer's and Senior Engineer's reports which stated that the site is located on a relatively heavily trafficked local road, both for local traffic and especially due to tourism traffic as the road is part of the Beara Way and the Wild Atlantic Way.
- It is highlighted that the road is heavily used by recreational cyclists, motor cycling clubs, vintage car clubs and tourists. Road safety is a major concern.
- It is noted that the engineer used their discretion in reducing by two steps in exceptional circumstances the site line requirements to 90m from a recommended 160m. It is stated that adjoining property owners have not been approached in relation to providing legal guarantees of maintaining site lines in perpetuity.
- The applicant stated that transport from Pallas Pier to the proposed site would be by way of tractor and trailer. It is noted that a teleporter is currently used to move bags and pallets.
- The matters of potential noise, air and light pollution are raised. Concern is expressed in relation to odours generated. Bags and pallets which would be stored in the yard area would appear unsightly.
- The applicant stated in the appeal that they have aspirations of increasing output and increasing those employed by two people in the next five years. The observer state that this would require additional licences. Any potential licence issued for areas outside of Ardgroom Harbour would have dedicated landing piers including Kilmakilloge, Bunaw and Blackwater piers.
- The County Ecologist has concerns which have not been addressed.
- In conclusion, it is submitted that to permit a commercial activity in an area which is primarily agricultural with some residential properties and tourism would not be acceptable.

## 7.0 Assessment

I consider that the issues arising from the appeals can be addressed under the following headings:

- Development Plan and policy context
- Impact upon residential amenity
- Vehicular access and traffic
- Appropriate Assessment

## **7.1. Development Plan and policy context**

- 7.1.1. The Planning Authority refused permission on the basis that the proposed development of a commercial storage building and commercial storage yard on an unspoilt hillside in an area designated as “High Value Landscape” and immediately adjacent to a Scenic Route and part of the Wild Atlantic Way would by virtue of the height and scale of the large commercial storage building and external storage area would be visually disruptive to the immediate landscape setting and would be unnecessary injurious to the Scenic Route and Wild Atlantic Way.
- 7.1.2. The reason for refusal acknowledged that it was accepted that there is a need for storage facilities in connection with mussel farm operations within the locality and the presence of existing unauthorised storage arrangements was also noted. However, the Planning Authority considered that the appeal site is remoted and divorced from Pallas Pier with no direct visual linkage or affinity with it and they were not satisfied that the appeal site represented the optimum site available.
- 7.1.3. The reason for refusal stated that the proposed development would be contrary to several objectives of the development plan with specific reference to Objective GI 14-9, Objective GI 14-13, Objective GI 14-14 and Objective TM 12-8 of the Cork County Development Plan 2022-2028.
- 7.1.4. Objective GI 14-9 of the Development Plan refers to Landscape. It sets out that it is an objective to (a) protect the visual and scenic amenities of County Cork’s built and natural environment (b) landscape issues will be an important factor in all land-use proposals, ensuring that a pro-active view of development is undertaken while protecting the environment and heritage generally in line with the principle of sustainability (c) Ensure that new development meets high standards of siting and design (d) Protect skylines and ridgelines from development (e) discourage

proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments.

- 7.1.5. Objective GI 14-13 of the Development Plan refers to Scenic Routes. It is an objective of the development plan to protect the character of those views and prospects obtainable from scenic routes and in particular stretches of scenic routes that have very special views and prospects identified in this Plan.
- 7.1.6. Objective GI 14-14 refers to Development on Scenic Routes. It is an objective to (a) require those seeking to carry out development in the environs of a scenic route and/or an area with important views and prospects, to demonstrate that there will be no adverse obstruction or degradation of the views towards and from vulnerable landscape features. In such areas, the appropriateness of the design, site layout, and landscaping of the proposed development must be demonstrated along with mitigation measures to prevent significant alterations to the appearance or character of the area.
- 7.1.7. Objective TM 12-8 refers to Traffic/Mobility Management and Road Safety, part (d) of this objective refers to standards of visibility. It states that it is an objective of the Development Plan to ensure that all new vehicular accesses are designed to appropriate standards of visibility to ensure the safety of other road users. In relation to this objective of the Plan it refers to traffic and access considerations which are discussed under section 7.3 of this report.
- 7.1.8. The first party responded to the issues raised in the refusal reason concerning the location of the site within the “High Value Landscape” and Scenic Route and part of the Wild Atlantic Way. They argued that the site is located within a fold in the land which is well below the ridgeline of the hills to the north and south. Therefore, it is not visible in the wider landscape context. They stated that views from the road would be brief and limited and that it is proposed to plant native species on site which will further screen the site. They submit that the proposed building would ‘sit in’ the landscape, that it would be set back from the road and landscaped and therefore they consider that it would not be highly visible.
- 7.1.9. The first party also outlined the necessity of the proposed storage shed to remove the ad hoc storage on and close to the pier. The appeal also referred to the importance of the aquaculture industry to the local economy on Beara peninsula.



- 7.1.10. In relation to the location of the site, the first party submit that they consider the site is located close to Pallas Pier as it is approximately 165m away. In response to the matter of an alternative site closer to Pallas Pier the first party stated that other lands are closer to sharp bends in the road, that the lands are closer to an existing dwelling and that no other land closer to the pier is in their ownership or available for sale. They submit that the site is very close to the pier where the catch is unloaded.
- 7.1.11. Accordingly, having regard to the details set out in the appeal I note the case made by the first party in respect of the requirement for the proposed commercial storage building and commercial storage yard associated with the mussel fishing operations at Pallas Pier. In relation to the location of the appeal site relative to Pallas Pier, having visited the site and surrounding area, I would concur with the Planning Authority that it is remote from and not directly visually connected to Pallas pier. I would also agree with the assertion of the Planning Authority that the appeal site does not represent the optimum site available in relation to proximity to Pallas Pier.
- 7.1.12. With regard to visual impact, the appeal site is located on a hillside within a highly scenic area which is designated “High Value Landscape” under the provisions of the Cork Development Plan. The scenic nature of the area is further specifically protected under the provisions of the development plan with the designation of the L-4911-27 as part of Scenic Route S116. The proposed commercial storage building has a floor area of 120sq m and a ridge height of 5m. The development includes an external storage area and car parking area of circa 780sq m proposed to be hard surface with concrete. Having visited the site and surrounding area, I would note that while there are a number of dwellings in the vicinity the area is relatively unspoilt by development. The introduction of the proposed commercial development of this nature, height and scale would represent a visually disruptive element in this designated “High Value Landscape” would be located away from Pallas Pier and the village of Ardgroom and it would form a visually obtrusive feature within Scenic Route S116 and the Wild Atlantic Way notwithstanding the applicant’s proposals to provide additional screen planting.
- 7.1.13. Therefore, I would concur with the assessment of the Planning Authority that it would be appropriate that a commercial development of this nature be located in closer proximity to the pier in order that there is a coherent direct visual connection

between the pier and the commercial storage associated with the mussel fishery landed at the pier.

- 7.1.14. In conclusion, I would consider that the proposed development would be visually disruptive to the immediate landscape setting and would form a visually obtrusive feature within Scenic Route S116 and the Wild Atlantic Way and that it would be contrary to Objective GI 14-9 which refers to Landscape, Objective GI 14-13 which refers to Scenic Routes and Objective GI 14-14 which refers to Development on Scenic Routes in the Cork County Development Plan 2022-2028. Accordingly, I would consider that it would have an unacceptable impact on the visual amenities of the area. I consider, therefore, that planning permission should be refused on this basis.

## **7.2. Impact upon residential amenity**

- 7.2.1. The reason for refusal refers to impact upon residential amenity. The observation to the first party appeal raised the matter of the potential impacts on residential amenity. The observers raised the matter of the view of the proposed shed and yard which they consider would be unsightly. The observation also referred to potential impacts arising from noise, odour and light generated by the proposed premises. In relation to the location of neighbouring properties, I note that they are located to the east and west of the subject site. There is a dwelling located approximately 25m to the west of the site. There is residential property located to the east of the site circa 50m away.
- 7.2.2. In relation to impacts on nearby residential properties the first party in their appeal submitted that the site is over 66m from the nearest property and is shielded from it to a large extent by the landform. It is stated in the appeal that the shed has been carefully located below the view line of the property to the west. In this regard I note that the proposed shed is sited towards the front of the site and that would be sited forward of the neighbouring dwelling to the west and would also be forward of the neighbouring dwelling to the east.
- 7.2.3. It is detailed in the appeal that the hours of operation are limited within only occasional use (2-3 days a week). In relation to potential impacts on residential amenity the first party confirmed that no unclean, unwashed materials will be stored

at the premises and therefore no odours would occur. They also confirmed that there would be no external lighting at the premises.

- 7.2.4. Accordingly, having regard to the details set out above, I consider that the proposal would not unduly impact upon residential amenity.

### **7.3. Vehicular access and traffic**

- 7.3.1. The reason for refusal refers to the sightlines at the proposed vehicular access to the L-4911-27 public road. The Planning Authority considered that it was not satisfactory demonstrated that proper emerging sightlines can be provided and maintained in perpetuity. The L-4911-27 is a relatively narrow local road where in sections it is necessary for vehicles to pull over to facilitate the pass of two vehicles in opposite directions.
- 7.3.2. The first party set out in the appeal that based on their Consultant Engineers report that speed and traffic surveys were carried out at the road and that the speeds and level of traffic are exceptionally low. In relation to the provision of sightlines at the proposed entrance, the applicant's consultant engineer sets out that the site access is in accordance with Transport Infrastructure Ireland and DMRB standards.
- 7.3.3. The Access and Sightline report of Coakley Consulting Engineers sets out that the local road the L4911-27 has significantly low traffic volumes and naturally low ambient vehicle speeds lower than the assigned speed limit of 80km/h. As detailed in the report following traffic surveys at the subject location it was determined that the design speed of the road is 37.06km/h to the east and 35.04km/h to the west. Therefore, it was determined that 44m sightline was required to the west and 40m sightline was required to the east. Drawing no: 20-017-002-02 "Proposed Traffic Layout" indicates these sightlines, and it is detailed on the drawing that the sightlines do not impact upon third party lands. It is discussed in the report of the Consulting Engineers that the sightlines extend slightly outside the site boundary by approximately 5m to each side and this area is located on part of the public road (road edge/verge/lower ditch) and that it is under the control of the Local Authority. It is concluded by the applicant's consultant engineer that, based on site observations these small portions of the available sightlines are not currently visually obstructed and will not require annual maintenance or cutting back to maintain the required

sightlines. Therefore, they submit that there is no question of sight lines not being maintained in perpetuity.

- 7.3.4. In relation to the issue of sightlines it is highlighted in the report of the Planning Officer that the report of the Area Engineer drew attention to the heavily trafficked nature of the local road and the fact that the distance between Pallas Pier and the appeal site is over 175m. It was set out in the report of the Planning Officer, notwithstanding the applicant's argument that the proposed sightlines could be reduced due to the lower vehicles speed on this section of the L-4911-27 they do not accept this. The report of the Planning Officer highlighted that sightlines of 44m are proposed to the west where 90m are required and they further state that they are not satisfied with the case made by the applicant that they could rely upon the Area Engineer and Local Authority to provide adequate sightlines in perpetuity.
- 7.3.5. Regarding the matter of the level of traffic generated, it is submitted in the appeal that the level of traffic which the proposed development would generate will have a negligible traffic impact as it will serve the existing business operations only and will generate no additional traffic/trips onto the local road network. The report of the Planning Officer highlighted that the report of the Senior Executive Engineer dated 3rd March 2022 in relation to the previous application on the site which was withdrawn, stated that the site is located on a relatively heavily trafficked local road both for local traffic and especially due to tourism traffic as this is part of the Beara Way and also the route to a Wild Atlantic way viewing point. As detailed in the access and sightline report it was estimated that 10 no. trips would be generated during days of operation at the proposed premises.
- 7.3.6. The report of the Planning Officer highlighted that the proposal would generate traffic movements between the appeal site and Pallas Pier. I also note that the characterisation of the level of traffic on the L-4911-27 by the applicant at this location is that of relatively low traffic. A traffic flow survey was carried out between Thursday 23<sup>rd</sup> and Wednesday 29<sup>th</sup> of September 2021 as part of the Access and Sightline report of Coakley Consulting Engineers. The result of the traffic survey indicated that there was an average of 132 vehicular movements per day at the survey section of the L-4911-27. I also note the report of the Planning Officer referred to the heavily trafficked nature of the local road and that this was a consequence of scenic nature of the area which generates tourist traffic. Therefore, I

would not concur with the assertion of the first party that the area experiences low levels of traffic.

- 7.3.7. Having regard to the details set out above and fact that the report of the Area Engineer sought further information that the proposed sightlines be improved in both directions to provide 90m in both directions from a 2.40m set back and in the absence of satisfactory available sightlines, I am not satisfied that the proposed vehicular entrance is suitable to serve the proposed development.

#### **7.4. Appropriate Assessment**

##### **Overview**

- 7.4.1. Accompanying this application is a Natura Impact Statement dated May 2022 prepared by Ciaran Ryan M. Sc of Kerry Ecological Services. The report of the County Ecologist in assessing the application requested the submission of a revised Natura Impact Statement with specific reference to the qualifying species 'Otter' of the Kenmare Bay SAC that have been recorded at the pier and potentially at the proposed site.
- 7.4.2. The NIS submitted with the first party appeal, prepared by Ciaran Ryan M. Sc of Kerry Ecological Services is dated May 2022. The content of this NIS is the same as that submitted with the application.

##### **Screening**

- 7.4.3. 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.'
- 7.4.4. 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 of 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**

- 7.4.5. The project description is the creation of a storage area and shed for existing mussel farm operations near Ardgroon Harbour with a vehicular access.
- 7.4.6. The screening report identified that the Kenmare River SAC (Site Code 002158) is located 150m from the appeal site.

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

Site Name & Code	Distance	Qualifying Interests	Conservation Objectives
Kenmare River SAC (Site Code 002158)	150m	<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 (Glauco-</p>	<p>To maintain the favourable conservation condition of all the Annex I habitats and/or the Annex II species for which the SAC has been selected (apart from Otter -Lutra lutra) which are defined by lists of attributes and targets</p>

		<p>Puccinellietalia maritima) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>European dry heaths [4030]</p> <p>Juniperus communis formations on heaths or calcareous grasslands [5130]</p> <p>Calaminarian grasslands of the Violetalia calaminariae [6130]</p>	<p>To restore the favourable conservation condition of Otter in Kenmare River SAC which is defined by a list of attributes and targets.</p>
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		<p>Submerged or partially submerged sea caves [8330]</p> <p>Vertigo angustior (Narrow-mouthed Whorl Snail) [1014]</p> <p>Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]</p> <p>Phocoena phocoena (Harbour Porpoise) [1351]</p> <p>Lutra lutra (Otter) [1355]</p> <p>Phoca vitulina (Harbour Seal) [1365]</p>	
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7.4.7. 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;
- Change in population density; and



- Changes in water quality and resources.

- 7.4.8. In relation to the matter of habitat loss or alteration the proposed development site is not located directly 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.
- 7.4.9. In relation to the matter of disturbance and/or displacement of species of qualifying interest in the European site. It is identified in the appropriate assessment screening that a potential impact to the European otter a species of qualifying interest within the Kenmare River SAC is identified. Given the proximity of the proposed development site to this SAC, there is the potential for indirect effect on otter in the form of disturbance during the construction phase. The potential for disturbance to otter was raised in the report of the County Ecologist.
- 7.4.10. In relation to matter of changes to water quality and resources there is a direct surface water connection between the appeal site and Kenmare River SAC (Site Code 002158). Accordingly, there is potential for run-off occurring during the construction phase and operational phase containing sediment, dust, hydrocarbons and other potential pollutants.

### **Assessment of likely Effects**

- 7.4.11. Having regard to the 'source-pathway-receptor' model the submitted screening report identified potential effects on Kenmare River SAC (Site Code 002158). The aquatic habitats/species in Kenmare River SAC would be sensitive to any deterioration of water quality to any deterioration of water quality by flow via the stream from the development site and also identified the potential to disturb and/or displace species in Kenmare River SAC. In the absence of appropriate controls and mitigation measures the potential for significant adverse effects on the conservation status of the Kenmare River SAC (Site Code 002158) cannot be ruled out.

### **Screening Statement and Conclusions**

- 7.4.12. 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)**

7.4.13. 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 7.4.15 as detailed above.

7.4.14. On the matter of screening the need for ‘Appropriate Assessment’, this I have set out under Section 7.4.7 to Section 7.4.12 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 site:

- Kenmare River SAC (Site Code 002158)

7.4.15. A description of the site and their Conservation and Qualifying Interests/Special Conservation Interests, including any relevant attributes and targets for this site, 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](http://www.npws.ie)).

### **Potential for direct and indirect effects**

- 7.4.16. There would be no direct effects upon the Kenmare River SAC (Site Code 002158) as there would be no direct habitat loss or fragmentation as a result of the proposed development.
- 7.4.17. There is the potential for indirect effects on Kenmare River SAC. The appeal site is located 150m from Kenmare Bay SAC with the stream on the appeal site flowing into Pallas Harbour providing a pathway to Kenmare River SAC. Potential indirect impacts could arise from surface water run-off contaminated with suspended sediment impact on water quality in the stream. A threat to the aquatic environment is possible if hydrocarbons and other chemicals including washed cement or concrete enter the aquatic system during the construction phase.
- 7.4.18. In relation to indirect effects it was identified in the screening that the proposed development could have the potential to disturb and displace Otter a species of qualifying interest in the Kenmare SAC. The report of the County Ecologist raised concern in relation to otter. It is detailed in the NIS that the stream may provide habitats for aquatic species including otter. It is considered that otter may occasionally occur and that the proposed works at the construction phase would result in a short-term disturbance during working hours. A potential disturbance during the operational phase could arise from artificial lighting if external lighting were erected on the premises.

### **Mitigation Measures**

- 7.4.19. Various mitigation measures are proposed to be introduced to avoid, reduce, or remedy the adverse effects on the integrity of the designated Sites. Section 7 of the NIS refers to Mitigation Measures and this includes the following during the construction and operational phases:
- To ensure an aquatic buffer is provided water from the proposed building roof will discharge into a soakaway. No new drains on site will discharge into the watercourse on site. No cleaning or washing of equipment will take place on the site. No oils, lubricants, fuels or chemicals will be stored or used on the site.
  - Silt/sediment traps or screens/fences/curtains shall be used to ensure that there is no run-off into the on-site stream.

- A temporary silt fence will be installed downstream of the proposed crossing for the duration of the bridge installation.
- A silt curtain shall be installed within 3m of the stream prior to and during the works, connecting with the bridge stream crossing. It is confirmed that these banks shall be left in place to intercept any potential run-off after the works during the operational phase.
- Soil disturbance will be minimised. If necessary brash mats will be used. Operations will not occur during periods of high rainfall.
- Material excavated including concrete, soil and subsoil will be removed off site and transferred to a licenced waste facility. There will be no stockpiling of this material on the site.
- The risk of pollution arising from construction shall be reduced by adopting the following preventative measures.
- Silt traps will be employed where necessary.
- There will be no chemicals applied within 2m of any watercourse.
- Used oils, diesel and other chemicals will be disposed of off-site. Temporary on-site storage will be restricted to bunded areas.
- Storage of construction materials and refuelling of vehicles will not occur within 20m of watercourses.
- Spill kit and absorbent material will be on hand on each machine for use should a spill occur.
- Bags and sacks of material are to be kept off the ground on pallets and covered where appropriate.
- No burning of waste will occur on site.
- The contractor on site will ensure plant and equipment is in good working order and stored away from the watercourse.
- All works will be in accordance with standard building (CIRIA) guidelines.

- All measures shall accord with recognised standard best practice notably CIRIA Guidance no. C532 – Control of Water Pollution from Construction Sites.
- All works will be in accordance with the EPA Code of Practice.
- Throughout the period of the works, in order to comply with national legislation that prohibits only ‘polluting matter’ to enter ‘waters’ e.g. Fisheries (Consolidation) Act 1959, Environmental Protection Agency Acts 1992 and 2003 and Local Government (Water Pollution) Acts 1977 and 1990, standard operational procedures, both published and unpublished will be adhered. The adherence to these environmental protection measures would be implemented on site irrespective of the presence of any designated European sites.
- In relation to the construction and operation phases no external lighting will be erected on the site. This will prevent any potential disturbance by the use of artificial light to species of qualifying interest and specifically otter.

### **In combination effects**

- 7.4.20. The NIS refers to in combination effects in the context of existing plans and projects. In relation to future plans and other projects a planning search was carried out for applications within the area, and it was determined that there were no other major developments was proposed within the vicinity of the appeal site. Regarding plans, the Cork County Development Plan 2022-2028 came into effect on the 6th of June 2022. The Plan includes a Natura Impact Report. The mitigation measures identified in the Stage 2 Appropriate Assessment (Natura Impact Statement) have been incorporated into the Plan. Accordingly, the implementation of this plan will not lead to any cumulative impacts when considered in-combination with the development proposed under this application.
- 7.4.21. The NIS concluded that with the mitigation measures carried out and incorporated into the design of the proposed development that there would be no in-combination effects from the proposed development.

7.4.22. Therefore, following the appropriate assessment and the consideration of mitigation measures, I am able to ascertain with confidence that the project would not adversely affect the integrity of Kenmare River SAC (Site Code 002158) in view of the Conservation Objectives of these sites. This conclusion has been based on a complete assessment of all implications of the proposed development and in combination with plans and projects.

### **Appropriate Assessment Conclusions**

7.4.23. I consider on the basis of the information on file that the applicant in this case has demonstrated in the submitted Natura Impact Statement that with the implementation of mitigation measures including robust construction management and also operational measures that are to the required standards, that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of the Kenmare River SAC (Site Code 002158) or any other such designated European, in view of the their Conservation Objectives.

## **8.0 Recommendation**

8.1.1. I recommend that permission is refused for the reasons and considerations set out below.

## **9.0 Reasons and Considerations**

1. The site of the proposed development is located in an area designated as High Value Landscape Area under the provisions of the Cork County Development Plan 2022-2028. Furthermore, the site is located within Scenic Route S116 – Road between Eyeries and Kilcatherine and Ardgroom which is located on the Wild Atlantic Way. The proposed development by virtue of the height and scale of the large commercial storage building and external storage area and siting on an unspoilt hillside would be visually disruptive to the immediate landscape setting would form a visually obtrusive feature within Scenic Route S116 and the Wild Atlantic Way. Notwithstanding the requirement for storage facilities in connection with the mussel farm

operations within the locality the subject site is remote from and not directly visually connected to Pallas pier. Accordingly, the Board is not satisfied that the appeal site represents the optimum site available. The proposed development would be contrary to Objective GI 14-9 which refers to Landscape, Objective GI 14-13 which refers to Scenic Routes and Objective GI 14-14 which refers to Development on Scenic Routes in the Cork County Development Plan 2022-2028 and accordingly, it would seriously injure the visual amenities of the area and would therefore be contrary to the proper planning and sustainable development of the area.

2. The proposed vehicular access is via a new entrance onto the L-4911-27 road at a location where sightlines are restricted. The Board is not satisfied that the proposed development would not endanger public safety by reason of traffic hazard and obstruction of road users and would therefore, be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Siobhan Carroll  
Planning Inspector

17<sup>th</sup> April 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	ABP 314381-22		
<b>Proposed Development Summary</b>	Storage area and shed for mussel farm & associated site development works.		
<b>Development Address</b>	Ardgroom Inward, Bear, Kilcatherine, Near Ardgroom Harbour, Co. Cork.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	✓
		<b>No</b>	No further action required
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>		Class 10(b), Schedule 5 Part 2	EIA Mandatory EIAR required
<b>No</b>	✓	Below Threshold	Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>		N/A	No EIAR or Preliminary Examination required
<b>Yes</b>		Class 10, (b) (iv)	Proceed to Q.4



4. Has Schedule 7A information been submitted?		
No	✓	Preliminary Examination required
Yes		Screening Determination required

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	ABP 314381-22	
<b>Proposed Development Summary</b>	Storage area and shed for mussel farm & associated site development works.	
<b>Development Address</b>	Ardgroom Inward, Bear, Kilcatherine, Near Ardgroom Harbour, Co. Cork.	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>

<p><b>Nature of the Development</b></p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The proposal comprises the construction of a 120sq m storage shed and storage area for an existing mussel farm operation. The development is proposed in conjunction with the existing mussel farm operation, therefore it is not exceptional in this context.</p> <p>No significant emissions resultant</p>	<p>No</p>
<p><b>Size of the Development</b></p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>No, the proposal entails the construction of 120sq m shed building.</p> <p>No significant emissions resultant of this project combined with any existing or permitted.</p>	<p>No</p>
<p><b>Location of the Development</b></p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>It is located circa 96m to the closest ecologically sensitive site. There is a stream located along the southern boundary of the site which enters the coast to the east.</p> <p>Having regard to the nature and scale of the proposal which comprises the construction of a 120sq m shed building to serve the existing mussel farm operation at Ardgroom Harbour it does not have the potential to significantly affect other significant environmental sensitivities in the area.</p>	<p>No</p> <p>No</p>
<p><b>Conclusion</b></p>		

<p><b>There is no real likelihood of significant effects on the environment.</b></p> <p>EIA not required</p>	<p><b>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</b></p> <p><del>Schedule 7A information required to enable Screening Determination to be carried out</del></p>	<p><b>There is a real likelihood of significant effects on the environment.</b></p> <p>EIA not required</p>
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**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**DP/ADP:** \_\_\_\_\_ **Date:** \_\_\_\_\_

(only where Schedule 7A information or EIAR required)