



An
Bord
Pleanála

Inspector's Report

ABP-317440-23

Development	Development of Amenity Looped Paths
Location	Peninsula Point, Kenmare, Co. Kerry.
Local Authority	Kerry County Council
Type of Application	Appropriate Assessment (AA) Screening Determination under Article 250(3)(b) of the Planning and Development Regulations 2001, as amended.
Applicant	Martin Arthur
Date of Site Inspection	04/09/2023.
Inspector	Auriol Considine

Contents

1.0 Introduction	3
2.0 Background	3
3.0 Site and Location	4
4.0 Proposed Development.....	5
5.0 Planning History	5
6.0 Legislative and Policy Context.....	7
7.0 Request for Direction	9
8.0 Assessment.....	12
9.0 Recommendation.....	23

1.0 Introduction

- 1.1. The purpose of this report is to recommend to the Board on whether it should issue a direction to Kerry County Council that the proposed development, comprising amenity looped paths at Peninsula Park, Kenmare should be subject to Appropriate Assessment (AA), which would require the preparation and submission of a Natura Impact Statement (NIS).
- 1.2. Under the provisions of Article 250(3)(b) of the Planning and Development Regulations 2001 (as amended), Mr. Martin Arthur has sought direction from the Board as to whether or not a NIS is required for the proposed works. A concurrent and separate application for an Environmental Impact Assessment (EIA) Screening Determination is being considered under ABP-317444-23.
- 1.3. The proposed development comprises a local authority project, under the provisions of Part XI of the Planning and Development Act, as amended, and does not comprise a direct application to the Board. Kerry County Council is of the opinion that the proposed development would not likely have significant effects on a European site and an AA is not required. In support of this opinion, the Council prepared an AA Screening Report submitted to the Board. The applicants question this conclusion and contend the proposed development would likely have significant effects on a European site.

2.0 Background

- 2.1. The subject site, with an area of 2.03ha, forms part of a larger landholding, extending to 13.7 acres, were purchased by Kerry County Council in 2018 and the development of the site was included as an action in the Kenmare Socio-Economic Plan 2019-2023. In 2021, a Feasibility Analysis and Masterplan was prepared by Kenmare Chamber of Commerce and Tourism CLG, trading as Kenmare Marketing and Events Group for the potential development of the site, specifically to include facilities for water sports, walking and short cycling trails, along with all-weather sports facilities and possibly an adventure park.
- 2.2. The works proposed under the subject Part 8 project comprises solely the provision of looped walks at the Peninsula lands. The proposed trails will generally follow the

existing desire lines of recreational users, and for the most part, will follow the existing paths on the Peninsula lands. It is indicated that the route and finishes have been designed and located so as to provide a more comfortable and diverse range of experience for recreational users and for a broad range of people. The route of the proposed trail will require the removal of a small amount of scrub and will follow the natural desire line to the coast, avoiding the need for large scale cut/fill or engineering works.

- 2.3. The Council's AA Screening determined that, having regard to the nature and scale of the proposed development and the nature of the receiving environment, that no AA issues arise, and that the project would not have a significant effect on a European site and a Stage 2 AA is not required. The applicant in this instance does not agree with this determination.

3.0 Site and Location

- 3.1. The subject site is located approximately 650m to the south-west of the Main Street in Kenmare and in an area known as Peninsula Lands. The site lies to the end of Pier Road, where it becomes a walking trail and lies to the west of the existing trail which connects back into Kenmare via Pound Lane and Market Street. The Kenmare Wastewater treatment plant and a quarry are located circa 100 - 265m to the north of the site, and the walking trail becomes accessible by cars in the vicinity of the quarry and the WWTP.
- 3.2. The overall site area, the subject of this direction request, is noted to be 2.03ha and the subject development area comprises a pathway of approximately 1km in total. The site is already well used as a recreational walking trail and the desire lines of the trail are clearly evident on the site. The site comprises part of a wider holding which extends northwards and is included within the Kenmare Peninsula Land – Feasibility Analysis & Master Plan area. The site is bound by extensive trees and hedgerows, with some gaps which offer views over Kenmare Bay to the south.

4.0 Proposed Development

4.1. Description of the development:

The proposed development includes (as described in the public notices in compliance with Part XI of the Planning and Development Act 2000, as amended, as set down in Part 8 of the Planning and Development Regulations 2021, as amended:

- The construction of 643m of bituminous macadam paths 3m wide.
- Construction of 447m of grassed paths 3m wide
- All associated ancillary and accommodation works.

4.2. Accompanying documents:

Kerry County Council included the following documents following the application by Mr. Arthur under Article 250(3)(b) of the Regulations:

- Cover letter
- Public Notices – Part 8
- Relevant plans and maps
- AA Screening Report, dated April 2023
- PA Habitats Directive Assessment Screening Determination Statement, dated April 2023
- Observations / Supplemental information to AA Screening Exercise undertaken, dated July 2023
- Preliminary EIA Screening Examination Report, dated April 2023
- Preliminary EIA Screening Examination Conclusion Statement, dated April 2023
- Schedule 7A Report, dated July 2023.

5.0 Planning History

5.1. The following is the relevant planning history noted in relation to the subject site.

PA ref: 98/1020: Outline permission granted to construct 8 dwellings on the western area of the current site by Mr. Joseph Arthur.

PA ref: 06/2077: Permission refused for the construction of 300 residential units, 19 retail units, 10 office units, creche, bar/restaurant, treatment plant and 4 car public car parks.

- 5.2. The Board will note that the applicant for the Direction also referred to the following applications for permission in the vicinity of the site which were subject to EIA and AA requests by Kerry County Council:

ABP Ref: ABP-302796 (PA ref: 17/1050): Permission sought for the construction of a motorhome park with associated reception / facilities building, toilets, showers and laundry room, connections to public services and all other associated site works. This development site lies approximately 550m to the north east of the current site, with its western boundary following the banks of the Finnihy River, which forms part of the Kenmare River SAC. Kerry County Council granted permission for this development and the decision was overturned on appeal to the Board for 2 reasons relating the lack of capacity in the Kenmare WWTP and the absence of a NIS.

ABP ref: ABP-302604-18 (PA ref: 17/1242): Permission was sought for the demolition of a house and the construction of 50 houses on a site approximately 170m to the east of the subject site. Kerry County Council granted permission for the scheme, and this was overturned on appeal to the Board for 2 reasons relating the lack of capacity in the Kenmare WWTP and the inadequate density of development on serviced lands. It is noted that the Inspectors report advised that an NIS would be required for the development.

- 5.3. Two referral cases to the Board which relate to the lands to the north of the current proposed site are also cited:

ABP-307488-20: Whether the alleged unauthorised quarrying activity constitutes development or is or is not exempted development. The Board concluded that the information before it was not sufficient to enable a determination as to whether the development would require an Environmental Impact Assessment and/or an Appropriate Assessment which would exclude

it from any exemption by reference to Section 4(4) of the Planning and Development Act 2000 (as amended).

ABP-311192-21: Whether the stripping back and removal of all of the topsoil and trees to create an extension of 2.75 hectare to an existing quarry for storage in the existing quarry is or is not development and is or is not exempted development.

6.0 Legislative and Policy Context

6.1. The EU Habitats Directive (92/43/EEC):

6.1.1. This Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Articles 6(3) and 6(4) require an appropriate assessment of the likely significant effects of a proposed development on its own and in combination with other plans and projects which may have an effect on a European Site (SAC or SPA).

6.2. European Communities (Birds and Natural Habitats) Regulations 2011 (as amended):

6.2.1. These Regulations consolidate the European Communities (Natural Habitats) Regulations 1997 to 2005 and the European Communities (Birds and Natural Habitats) (Control of Recreational Activities) Regulations 2010, as well as addressing transposition failures identified in CJEU judgements. The Regulations in particular require in Reg 42(21) that where an appropriate assessment has already been carried out by a 'first' public authority for the same project (under a separate code of legislation) then a 'second' public authority considering that project for appropriate assessment under its own code of legislation is required to take account of the appropriate assessment of the first authority.

6.3. National Nature Conservation Designations:

6.3.1. The Department of Culture, Heritage and the Gaeltacht and the National Parks and Wildlife Service are responsible for the designation of conservation sites throughout the country. The three main types of designation are Natural Heritage Areas (NHA), Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) and the latter two form part of the European Natura 2000 Network.

6.3.2. 14 European sites are identified as being located within 15km of the subject site, which includes the Kenmare River SAC (Site Code: 002158) which lies immediately adjacent to the site. 3 further sites are identified within 5km of the site including:

- Mucksna Wood SAC (Site Code: 001371) – 680m to the south
- Killarney National Park, Macgillycuddy’s Reeks and Caragh River Catchment (Site Code: 000365)– 5km to the north
- Blackwater River (Kerry) (Site Code: 002173) – 5km to the west

6.4. Planning and Development Acts 2000 (as amended):

6.4.1. Part XAB of the Planning and Development Acts 2000-2017 sets out the requirements for the appropriate assessment of developments which could have an effect on a European site or its conservation objectives.

6.5. Planning and Development Regulations 2000 (as amended):

6.5.1. Article 250(1) states that in order to ascertain whether an appropriate assessment is required in respect of a development which it proposes to carry out, a local authority shall carry out a screening of the proposed development to assess, in view of best scientific knowledge, if the development, individually or in combination with other plans or projects, would be likely to have a significant effect on a European site.

6.5.2. If on the basis of a screening under Article 250(1), it cannot be excluded, on the basis of objective information, that the proposed development, individually or in combination with other plans or projects, would have a significant effect on a European site, the local authority shall determine that an appropriate assessment of the proposed development is required and prepare an NIS and submit the proposed development for approval to the Board under section 177AE of the Planning and Development Act, 2000, as amended.

6.5.3. Article 250(3)(b) of the PDR, provides that where any person considers that a development proposed to be carried out by a local authority under Part XIII would be likely to have a significant effect on a European site, he or she may apply to the Board for a determination as to whether the development would be likely to have such significant effect.

6.6. **National Planning Framework – Project Ireland 2040, DoHP&LG 2018**

- 6.6.1. The National Planning Framework – Project Ireland 2040 is a high-level strategic plan for shaping the future growth and development of Ireland to 2040. Key objectives of the Framework are to ensure the promotion of compact urban development, sustainable mobility and transition to a low carbon and climate resilient society. Embedded in these objectives is the promotion of recreational infrastructure, including investment in and enabling access to recreational facilities (Strategic Outcome 7). National Policy Objective 22 seeks to facilitate tourism development.

6.7. **County Development Plan**

- 6.7.1. The Kerry County Development Plan 2022-2028 is the relevant policy document pertaining to the subject site. The site lies within the settlement boundary of the regional town of Kenmare. The site lies to the western boundary of the zoned area and the Board will note that the Draft Kenmare MD LAP 2023-2029 includes site as Open Space / Park. I also note that the indicative walkway, as proposed in the current Part 8 project is also included on the relevant draft zoning map for the town. In terms of the Kenmare Functional Area Local Area Plan 2010-2018, I note that the development of a promenade/walkway along the seashore of the Peninsula lands was identified as an opportunity for the town.

7.0 **Request for Direction**

- 7.1. Mr. Martin Arthur, through his agent Cunnane Stratton Reynolds, made an application under the provisions of Article 250(3)(b) requesting the Board make an AA Screening determination. The submission sets out the detail of the site and location, as well as the detail of the proposal under assessment, including the construction works, and is summarised as follows:

- The applicant refers the scheme to the Board as there is significant ecology in the area, including bats, otters etc and many Natura 2000 sites in the vicinity.
- The proposed development involves a large scope of work and disturbance to the area.
- The spatial scope of the project is limited, but is general practice that when screening for AA, sites within 15km of the proposal are identified.

- There are 12 SACs and 2 SPAs included for preliminary assessment.
- It is believed that the sites in close proximity will be unduly impacted by the construction phase and the applicant has therefore requested a determination to identify if AA or EIA is required in order to implement or assess the need for mitigation measures at the site.
- Applications in the area have been subject to EIA previously.
- The AA Screening Report submitted by Kerry County Council identifies the following potential impacts:
 - Reduction in water quality from construction and or operational phases.
 - Disturbance of Otter and / or Lesser Horseshoe Bat
 - Loss / fragmentation of key habitat
 - No in-combination effects are identified.

It is considered that these impacts are high impacts.

- Lesser Horseshoe Bat are known to locate along the western and southern coast of Ireland and a bat survey is required to identify roosts, flight paths and any other impacts.
- The Lesser Horseshoe Bat is a QI of the Glengarriff Harbour and Woodlands SAC (located approximately 10.5km from the site).
- The applicant submitted the Kenmare Peninsula Land Feasibility Analysis & Master Plan 2021, which was prepared for the subject site, with extracts from same included.
- References are made to other applications in the area which were subject to EIS requests by way of FI from Kerry County Council, including references to 2 referrals to the Board.
- It is requested that the Board carry out an assessment and it is believed that the result will indicate that an AA Screening Stage 2, EIS and NIS should be completed.

- It is further considered that EIA Screening Determination will result in the project requiring EIA under Schedule 5, Part 2 Class 15, having regard to the criteria set out in Schedule 7.

7.2. Kerry County Council Response to request for Direction

- 7.2.1. Kerry County Council submitted a response to the NIS Direction request on the 14th of July 2023 which included observations on the issue. As part of the Part 8 development consent process, the PA undertook a Screening for AA which concluded that AA was not required for the proposed development. The Council is satisfied that, notwithstanding the proximity of the site to the Kenmare River SAC, the proposal is not one which is likely to have significant effects on a European Site and no mitigation measures are required.
- 7.2.2. The report notes the references to other developments in the vicinity in the Direction request and submits that they are of little relevance due to the differing nature and scale of the proposed developments. In terms of the Kenmare Peninsula Land Feasibility Analysis & Master Plan, it is noted that this is a non-statutory, community led plan. The works outlined in the plan (which include extensive trail network, water sports facilities, all-weather sports facilities / adventure park, viewing platforms, public toilets and a boat house) are fundamentally different to what is currently proposed and would have greater potential for environmental impacts. There are no current plans to undertake the developments outlined in the masterplan beyond those works as detailed in the Part 8 documentation. Any additional proposals will be considered further at a later date by the Council and will be subject to AA and SEA as appropriate.
- 7.2.3. In terms of impacts on the Lesser Horseshoe Bat (LHB), it is noted that the site lies within the 2.5km radius of a significant LHB population of the SAC, however, the proposal poses no risk to the species. No lighting is proposed or required at any stage of the project. A bat survey would serve no useful purpose and the likely presence of the species on the site is acknowledged. There are no potential roosting sites for the species on or adjacent to the site and the development will not cause a barrier to the LHB commuting or moving through the site. The removal of the scrub to as described at the western side of the site will not create a barrier to the LHB or make any appreciable alteration to the habitat.

- 7.2.4. In terms of impacts on Otter, as they are generally nocturnal, their peak activity is outside the general construction working hours. Due to the short construction period and lack of lighting, and while increased use of the path is envisaged, it is not considered likely that the development will result in disturbance to Otter and does not pose a risk to the species. The development will not form a barrier to Otter commuting or moving through the landscape.
- 7.2.5. There are no watercourses or active drainage ditches within the site and no instream works are proposed. The site does not include any qualifying interest habitats for the Kenmare River SAC and therefore the development will not result in adverse ex-situ effects on QI habitats.
- 7.2.6. No element of the proposed development is likely to cause or result in significant effects to European Sites and no in-combination effects arise. A Stage 2 AA is therefore, not required.

8.0 **Assessment**

8.1. **Introduction**

- 8.1.1. The proposed development includes (as described in the public notices in compliance with Part XI of the Planning and Development Act 2000, as amended, as set down in Part 8 of the Planning and Development Regulations 2021, as amended:
- The construction of 643m of bituminous macadam paths 3m wide.
 - Construction of 447m of grassed paths 3m wide
 - All associated ancillary and accommodation works.
- 8.1.2. The works seek essentially, to improve the existing finishes of the existing natural trail paths through the site at Peninsula Lands so as to increase accessibility and provide a more comfortable and diverse range of experience for recreational users and for a broad range of people.

8.2. **Appropriate Assessment Screening**

- 8.2.1. Kerry County Council prepared an Appropriate Assessment Screening report as part of the Part 8 application, dated April 2023. The Screening Report describes the proposed development, the assessment methodologies and receiving environment

as well as the relevant European Sites in the zone of influence of the development site. The report acknowledges that the project is not one which is necessary for the management of a Natura 2000 site and therefore AA Screening is required.

- 8.2.2. The baseline conditions on the site were established, based on preliminary impact assessment, using available information and data, and other environmental information, supplemented as necessary by local site information and site surveys. The report considers the characteristics of the project and presents the details in tabular form in the AA Screening Report.
- 8.2.3. Section 4 of the Report identifies the Natura 2000 sites potentially affected by the project and the preliminary screening exercise identifies 12 SACs and 2 SPAs within the theoretical zone of influence of 15km. The report concludes that the Kenmare River SAC (Site Code: 002158) has the potential to be impacted through a source-pathway-receptor link and required further consideration as part of the AA Screening Report.
- 8.2.4. Having regard to the information and submissions on file and to the nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the source-pathway-receptor principle and sensitivities of the ecological receptors, I consider that the European Sites, as detailed in the following table, are relevant to include for the purposes of initial screening for the requirement for Stage 2 appropriate assessment on the basis of likely significant effects.
- 8.2.5. The Board will note that the sites were also considered by the Planning Authority within the Appropriate Assessment Screening Report prepared for the Part 8 development and submitted to the Boards file.

European sites considered for Stage 1 screening:

European site (SAC/SPA)	Qualifying Interests	Source – Pathway - Receptor	Further Screening Required
<p>Kenmare River SAC (site code: 002158)</p> <p>Adjacent to site</p>	<p>1160 Large shallow inlets and bays</p> <p>1170 Reefs</p> <p>1220 Perennial vegetation of stony banks</p> <p>1230 Vegetated sea cliffs of the Atlantic and Baltic coasts</p> <p>1330 Atlantic salt meadows (Glaucopuccinellietalia maritimae)</p> <p>1410 Mediterranean salt meadows (Juncetalia maritimi)</p> <p>2120 Shifting dunes along the shoreline with Ammophila arenaria (white dunes)</p> <p>2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)*</p> <p>4030 European dry heaths</p> <p>5130 Juniperus communis formations on heaths or calcareous grasslands</p> <p>6130 Calaminarian grasslands of the Violetalia calaminariae</p> <p>8330 Submerged or partially submerged sea caves</p> <p>Species</p> <p>1303 Lesser Horseshoe Bat (Rhinolophus hipposideros)</p> <p>1014 Narrow-mouthed Whorl Snail (Vertigo angustior)</p> <p>1355 Otter (Lutra lutra)</p> <p>1365 Harbour Seal (Phoca vitulina)</p>	<p>Yes –</p> <p>site lies immediately adjacent to the SAC and the proposed works are within the same hydrological catchment</p>	<p>Yes –</p> <p>Given the proximity of the proposed development to this SAC, potential for significant effects will be considered in greater detail</p>
<p>Mucksna Wood SAC (Site Code: 001371)</p> <p>680m to the south</p>	<p>91A0 Old sessile oak woods with Ilex and Blechnum in the British Isles</p>	<p>No</p>	<p>No –</p> <p>Site at a remove from the proposed works.</p>

European site (SAC/SPA)	Qualifying Interests	Source – Pathway - Receptor	Further Screening Required
	<u>Mucksna Wood SAC National Parks & Wildlife Service (npws.ie)</u>		No associated QIs are found on the site.
Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (site code: 000365) 5km to the north	<u>Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC National Parks & Wildlife Service (npws.ie)</u>	No	No hydrological connectivity.
Blackwater River (Kerry) SAC, Site Code: 002173 5km to the west	<u>Blackwater River (Kerry) SAC National Parks & Wildlife Service (npws.ie)</u>	No	
Maulagowna Bog SAC, Site Code: 004235 5.9km to the south west	7130 Blanket bogs (* if active bog)	No	
Old Domestic Building, Dromore Wood SAC, Site Code: 000353 6.6km to the west	1303 Lesser Horseshoe Bat Rhinolophus hipposideros	No	
Kilgarvan Ice House SAC, Site Code: 000364 6.7km to the east	1303 Lesser Horseshoe Bat Rhinolophus hipposideros	No	
Caha Mountains SAC, Site Code: 000093 8.4km to the south	<u>Caha Mountains SAC National Parks & Wildlife Service (npws.ie)</u>	No	

European site (SAC/SPA)	Qualifying Interests	Source – Pathway - Receptor	Further Screening Required
<p>Cloonee and Inchiquin Loughs, Uragh Wood SAC, Site Code: 001342</p> <p>9km to the south west</p>	<p><u>Cloonee and Inchiquin Loughs, Uragh Wood SAC National Parks & Wildlife Service (npws.ie)</u></p>	<p>No</p>	<p>No –</p> <p>Site at a remove from the proposed works.</p> <p>No associated QIs are found on the site.</p> <p>No hydrological connectivity.</p>
<p>Glanlough Woods SAC, Site Code: 002315</p> <p>10km to the east</p>	<p>1303 Lesser Horseshoe Bat <i>Rhinolophus hipposideros</i></p>	<p>No</p>	
<p>Glengarriff Harbour and Woodland SAC, Site Code: 000090</p> <p>10.5km to the south</p>	<p><u>Glengarriff Harbour and Woodland SAC National Parks & Wildlife Service (npws.ie)</u></p>	<p>No</p>	
<p>Derryclogher (Knockboy) Bog SAC, Site Code: 001873</p> <p>12km to the south east</p>	<p>7130 Blanket bogs (* if active bog)</p>	<p>No</p>	
<p>Killarney National Park SPA, Site Code: 004038</p> <p>7.4km to the north</p>	<p>A098 Merlin <i>Falco columbarius</i></p> <p>A395 Greenland White-fronted Goose <i>Anser albifrons flavirostris</i></p>	<p>No</p>	<p>No –</p> <p>SPA at a remove from the proposed works.</p> <p>No associated QIs are found on the site.</p>
<p>Erik Bog SPA, Site Code: 004108</p> <p>9km to the north west</p>	<p>A395 Greenland White-fronted Goose <i>Anser albifrons flavirostris</i></p>	<p>No</p>	

Screening for Likely Significant Effects

- 8.2.6. The PAs Appropriate Assessment Screening report screens out all but one of the above-mentioned sites, Kenmare River SAC, on the grounds that they are removed from the development and in most instances, there is no physical or meaningful link to the proposed development site. I consider this approach to be reasonable and acceptable.
- 8.2.7. The results of the preliminary screening exercise conclude that only the Kenmare River SAC has a source-pathway-receptor link to the site and examined this site in more detail to establish whether there was a potential for impacts to arise. The screening report submitted concludes, beyond reasonable scientific doubt, that the proposed project, individually or in combination with other plans/projects is not likely to have a significant effect on a European site (Natura 2000 site), and that a Stage 2 Appropriate Assessment is not required.
- 8.2.8. Based on my examination of the AA Screening report and supporting information, the NPWS website, aerial and satellite imagery, nature and scale of the proposed project, and its confinement to a small footprint within the subject site and likely effects, separation distance and functional relationship between the proposed works and the European sites, their conservation objectives and taken in conjunction with my assessment of the subject site and the surrounding area, I would conclude that further consideration of the following Natura 2000 site only, is required for the purposes of Appropriate Assessment:
- Kenmare River SAC, Site Code: 002158
- 8.2.9. The Kenmare River SAC is located directly adjacent to the proposed works and a detailed examination of potential for impacts on this site is considered appropriate and reasonable. The remaining thirteen sites can be screened out from further assessment because of the nature and scale of the proposed project, the nature of the Conservation Objectives, Qualifying and Special Conservation Interests, the separation distances and the lack of a substantive linkage between the proposed works and the European sites. It is therefore 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 the proposed development, individually or in combination with other plans or projects would not be likely to have a significant

effect on European Site Nos 001371, 000365, 002173, 004235, 000353, 000364, 000093, 001342, 002315, 000090, 001873, 004038 and 004108 in view of the sites conservation objectives and a Stage 2 Appropriate Assessment is not therefore required for these sites.

8.2.10. **Relevant European site:** The Conservation Objectives and Qualifying Interests, including any relevant attributes and targets for this site, are set out below.

Site Name	Qualifying Interests	Distance
Kenmare River SAC (site code: 002158) Adjacent to site	1160 Large shallow inlets and bays 1170 Reefs 1220 Perennial vegetation of stony banks 1230 Vegetated sea cliffs of the Atlantic and Baltic coasts 1330 Atlantic salt meadows (GlaucoPuccinellietalia maritimae) 1410 Mediterranean salt meadows (Juncetalia maritimi) 2120 Shifting dunes along the shoreline with Ammophila arenaria (white dunes) 2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)* 4030 European dry heaths 5130 Juniperus communis formations on heaths or calcareous grasslands 6130 Calaminarian grasslands of the Violetalia calaminariae 8330 Submerged or partially submerged sea caves Species 1303 Lesser Horseshoe Bat (Rhinolophus hipposideros) 1014 Narrow-mouthed Whorl Snail (Vertigo angustior) 1355 Otter (Lutra lutra) 1365 Harbour Seal (Phoca vitulina)	Immediately adjacent

Description of site:

Kenmare River SAC, Site Code: 002158

8.2.11. Kenmare River SAC in Co. Kerry, is a long, narrow, south-west facing bay. It is a deep, drowned glacial valley and the bedrock is mainly Old Red Sandstone which forms reefs along the middle of the bay throughout its length. The site is a Special

Area of Conservation (SAC) selected for the habitats and/or species detailed above, and which are listed on Annex I / II of the E.U. Habitats Directive.

8.2.12. Kenmare River SAC has a wide range of marine communities from exposed coast to ultra-sheltered areas. The site contains three marine habitats listed on Annex I of the E.U. Habitats Directive, namely reefs, large shallow bay and marine caves. There is also a very high number of rare and notable marine species present and some uncommon communities. The SAC holds an important population of Common Seal and Otter also use the site, both listed on Annex II of the EU Habitats Directive. Two internationally important roosts for Lesser Horseshoe Bat, another Annex II species, are included in the site, with a suite of other rare species and protected plants noted within the site and is noted for the ornithological interest of the area. Kenmare River SAC contains an exceptional complement of marine and terrestrial habitats, and the conservation significance of the site is high.

8.2.13. Impacts arising from aquaculture, fishing, dumping of wastes and water pollution are the principal threats to the nature conservation interests of Kenmare River. There are several resorts for water sports and a number of popular beaches within this large coastal site and impacts associated with such recreational activities may also pose a threat. Bait digging is also a potential threat in some areas. Housing developments within the areas of dry heath present another possible threat to the integrity of the site. The seals and bats may be vulnerable to disturbance. Grazing at Derrynane is managed for the conservation of the dune habitats and the rare species they contain.

Conservation Objectives

8.2.14. Favourable conservation status of a habitat is achieved when:

- its natural range, and area it covers within that range, are stable or increasing, and
- the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and
- the conservation status of its typical species is favourable.

The favourable conservation status of a species is achieved when:

- population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and
- the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and
- there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.

8.2.15. The Conservation Objectives for the Kenmare River SAC, (Site Code: 002158), notes that the overall aim of the habitats directive is to maintain or restore the favourable conservation status of habitats and species of community interest. The site-specific conservation objective for the Kenmare River SAC is to maintain the favourable conservation condition of qualifying interests detailed above, and to restore the favourable conservation condition of Otter in Kenmare River SAC. The NPWS has prepared specific attributes and targets for the qualifying interests protection of habitats and species associated with the Kenmare River SAC.

Potential Significant Effects:

8.2.16. In terms of an assessment of Significance of Effects of the proposed development on qualifying features of Natura 2000 sites, having regard to the relevant conservation objectives, I would note that in order for an effect to occur, there must be a pathway between the source (the development site) and the receptor (designated sites). As the proposed development site lies outside the boundaries of any European Site, no direct effects are anticipated.

8.2.17. With regard to the consideration of a number of key indications to assess potential effects, the following is relevant:

- Habitat loss / alteration / fragmentation: The subject site lies outside the boundary of the adjacent designated site, the Kenmare River SAC. The site does not include any habitats identified as QIs for which the SAC is so designated. As such, there shall be no direct loss / alteration or fragmentation of protected habitats within any Natura 2000 site.
- Disturbance and / or displacement of species: The site lies within the settlement boundary of the town of Kenmare and is currently used for

recreational purposes. The proposed development seeks essentially, to improve the surface of the existing trails and no qualifying species or habitats of interest, for which the Kenmare River SAC is so designated, occur at the site.

While there may be an increase in noise / disturbance during the construction phase, I consider this to be for a very limited and short period of time and is unlikely to give rise to any significant impacts to the QI species associated with the SAC, and in particular Lesser Horseshoe Bat or Otter. The number of users of the trails on completion of the works may increase however, I do not consider that the general noise or disturbance to birds, bats, Otter and other species that may be present on the site, will be such as to significantly impact on the QI species associated with the SAC.

As the subject site is not located within any Natura 2000 site and having regard to the nominal nature and scale of the project and works proposed, there is little or no potential for disturbance or displacement impacts to species or habitats for which the identified Natura 2000 site has been designated.

- **Water Quality:** The proposed development relates to the construction of 643m of bituminous macadam paths 3m wide and a 447m of grassed paths 3m wide all within a site which is currently used for recreational purposes. The project will not give rise to any waste water being generated and the level of increase in potential surface water discharges is considered to be so small as to not have any impact on water quality within the SAC. Having regard to the nominal scale of the proposed project, and subject to best construction practices, I am generally satisfied that the development, if permitted, is unlikely to impact on the overall water quality of the Kenmare River SAC.

I am generally satisfied that the potential for likely significant effects on the qualifying interests of the Kenmare River SAC can be excluded given the nature and scale of the development and the lack of a direct hydrological connection.

8.2.18. Potential in-combination effects:

The PAs AA Screening Report concludes that no in-combination effects arise.

Given the nominal nature and scale of the proposed project as described above, I consider that any potential for in-combination effects on habitats, disturbance to species and water quality in the Kenmare River can be excluded.

8.3. Appropriate Assessment Screening Conclusions:

- 8.3.1. Having regard to the nature and scale of the development, the nature of the receiving environment and to the distances to the nearest European sites, I consider that it is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the project, either individually or in combination with other plans or projects would not be likely to have a significant effect on Kenmare River SAC, (Site Code: 002158), or any other European site, in view of the conservation objectives of these sites and that a Stage 2 Appropriate Assessment and the submission of a Natura Impact Statement for the development is not, therefore, required.
- 8.3.2. In reaching this conclusion, I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects of the development on any European Sites.

9.0 Recommendation

I recommend that the Board determine that the development would not be likely to have a significant effect on any European site and that the Local Authority be directed not to prepare a Natura Impact Statement in respect of the subject development for the reasons and considerations set out below.

Reasons and Considerations

Having regard to:

- (a) the planning and development regulations 2001-2021,
- (b) the nature and limited scale of the development,
- (c) the location of the development outside of any European designated sites,
- (d) the lack of in-combination effects arising from other proposed and permitted development in the vicinity,
- (e) the submissions made to the Board including the initial request and the Local Authority's response,
- (f) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter,

it is considered reasonable to conclude that, on the basis of the information available which is considered adequate to issue a screening determination, the development, either individually or in combination with other plans or projects would not be likely to have a significant effect on Kenmare River SAC, (Site Code: 002158), or any other European Site, in view of the sites' conservation objectives and, therefore, a Stage 2 Appropriate Assessment and the submission of a Natura Impact Statement for the development is not required.

A. Considine
Inspectorate
09th October 2023