



An
Bord
Pleanála

Inspector's Report

ABP-317454-23

Development	Counselling centre and associated site works. An NIS accompanies the application.
Location	Reen, Ross Road, Killarney, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	22/920
Applicant(s)	Board of Directors- Kerry Rape and Sexual Abuse Centre CLG
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Board of Directors- Kerry Rape and Sexual Abuse Centre CLG
Observer(s)	None
Date of Site Inspection	March 26 th , 2024
Inspector	Lorraine Dockery

1.0 Site Location and Description

- 1.1. The site, which has a stated area of 0.327 hectares, is located in the townland of Reen, accessed from Ross Road, to the south-west of Killarney, Co. Kerry. The subject site is adjacent to Killarney National Park and there is no further development between the site and Ross Castle and Lough Leane to the south-west. It appears from a site visit (and information contained on file) that the levels on site have been raised by approximately 1.5m- 2.5m. It is stated in the documentation that this occurred in the 1980s and 1990's as a consequence of OPW remedial and restoration works carried out at Ross Castle, during that time. There is treeline woodland screening along the front of the site, bordering Ross Road, with the remainder of the site mainly comprised of scrub. A drainage ditch exists to the front of the site.

2.0 Proposed Development

- 2.1. The proposal comprises the construction of a two-storey counselling centre of stated floor area 270m², together with detached plant room, access road and all associated site services. Four counselling rooms are proposed, together with ancillary rooms.
- 2.2. The proposed access is by use of an existing land bridge over the roadside ditch, which links the Ross Road to the site.
- 2.3. The stated purpose of the centre is to provide help and support to survivors and their families of rape and sexual abuse. The applicants are stated to be a charitable, non-profit organisation.
- 2.4. The centre will operate during standard office hours.

3.0 Planning Authority Decision

3.1. Decision

Permission REFUSED for two reasons relating to:

- (i) Based on the information submitted with the planning application, the Planning Authority is not satisfied in relation to the adequacy of the

mitigation measures proposed to ensure the proposed development, in particular the proposed lighting scheme would not adversely affect the foraging and/or commuting routes of the Lesser Horseshoe Bat in the environs of the proposed development site. Therefore, as adverse effects on the integrity of a European Site, namely the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC cannot be excluded, the proposed development would be contrary to the proper planning and sustainable development of the area.

- (ii) The development site lies within the immediate flood plain of Lough Leane where the risk of serious and recurring flooding is well established. Given the objectives of the land use zoning and the overall limitations in this area with regards to the CFRAM flood levels and extents, the proposed development would be premature pending the progression of the Killarney Flood Relief Scheme and a more detailed assessment of the flood risk within the town and its environs. Therefore, the proposed development would be contrary to the proper planning and sustainable development of the area.

Further Information was requested by the planning authority in relation to (i) submission of NIS (ii) more detailed ecological assessment of nature of woodland that borders the application site and Ross Road and impacts of proposed development on same (iii) full detailed site-specific FRA and (iv) submission of a Pre-Connection Enquiry from Uisce Eireann.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Reflects decision of planning authority; recommends refusal of permission

3.2.2. Other Technical Reports

Flooding and Coastal Protection Unit- Proposed development site lies within the immediate floodplain of Lough Leane where the risk of serious and recurring flooding is well established. A precautionary approach should be applied when assessing flood risk to reflect the uncertainties in the current flooding datasets and the community based risk assessments and flood extent maps associated with the South

Western CFRAMS Study (UoM, 2022). Also raises concerns in relation to historical raising of ground levels through infilling and impacts on flood storage regime of the surrounding area in terms of its incremental impact on the catchment and a resulting incremental increase to the risk of flooding elsewhere. Development of this nature should only be permitted in areas at risk of flooding when there are no alternative, reasonable sites available in areas at lower risk that also meet the objectives of proper planning and sustainable development(26/05/2023)

Water Services- Highlights cost of carrying out to lay foul sewer for length of 380m along public roadway (04/04/2023)

Biodiversity Officer- On the basis of the information provided, including information contained in NIS and submission of NPWS, it is concluded that an adverse effect on the integrity of a European Site, namely the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC cannot be excluded. Additional, more detailed and specific mitigation is required (30/05/2023)

3.3. Prescribed Bodies

Uisce Eireann: Further Information required to determine the feasibility of connection to the public wastewater information. CoF must be submitted as a response to FI request. The proposed development site is located approximately 380m from the nearest manhole and would require a pumped connection along the public road (dated 14/10/2022). Further report (dated 17/02/2023) states that both water and wastewater connections are feasible without infrastructure upgrade by Uisce Eireann. In terms of wastewater connection, a pump station will be required on the applicant's property to pump wastewater to the network 250m away.

DAU: Further Information requested in relation to revised mitigation measures for impacts on commuting Lesser Horseshoe Bat colony (see detailed report of DAU which is expanded upon within my assessment below).

3.4. Third Party Observations

Observations were received by the planning authority in support of the proposed development, including from a large number of public representatives.

4.0 Planning History

None

Appeals on adjacent sites noted- [PL08.247468](#) and [PL08.247469](#). Both appeals related to construction of house and ancillary services. Reasons for refusal in both related to flooding and impacts on high scenic amenity value of area (dated 2017).

5.0 Policy Context

5.1. [National Planning Policy](#)

[Section 28 Ministerial Guidelines](#)

The following list of section 28 Ministerial Guidelines are considered to be of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities
- Urban Development and Building Heights, Guidelines for Planning Authorities
- Design Manual for Urban Roads and Streets
- The Planning System and Flood Risk Management (including the associated Technical Appendices)
- Childcare Facilities – Guidelines for Planning Authorities
- Architectural Heritage Protection, Guidelines for Planning Authorities
- Appropriate Assessment Guidelines for Planning Authorities
- Climate Action Plan

[Other policy documents of note:](#)

- National Planning Framework
- Regional Spatial & Economic Strategy for the Southern Region

5.2. Local Planning Policy

Development Plan

The Kerry County Development Plan 2022-2028 applies.

Volume 2 Town Development Plans.

Killarney is designated as a Key Town within the settlement hierarchy.

Zoning:

Objective G5- mixed/general 'green'/recreation/conservation which seeks to 'preserve and provide for a mix of open space and recreational amenities'. The zoning description seeks to:

'Provide for a mix of recreational and amenity resources for the community including parks, sporting and leisure facilities, amenity areas and natural areas. In some instances, these open spaces are located within or adjacent to environmental designations and sites of local biodiversity significance. Therefore, it is important to ensure the protection of the integrity of biodiversity and to recognise the importance of wildlife corridors and sites of nature conservation importance'.

Objective KA 21- Ensure developments in the plan area, particularly within brownfield sites, are informed by Lesser Horseshoe Bat surveys and impact assessments where appropriate, undertaken by a suitably qualified individual.

Objective KA 22- Ensure that there is no significant increase in artificial light intensity adjacent to Lesser Horseshoe Bat roosts named in the Conservation Objective Report for the Killarney National Park, Macgillicuddy's's Reeks and Caragh River Catchment SAC (Oct 2017) or along commuting routes within 2.5km of those roosts.

5.3. **Natural Heritage Designation**

The nearest designated site- Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC (Site Code 000365)- is adjacent to the subject site.

The pNHA Killarney National Park, Macgillicuddy's's Reeks and Caragh River Catchment is also noted.

5.4. **EIA Screening**

See completed Appendix 1, Form 1 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

5.5 **Appropriate Assessment Screening**

5.5.1 See Appendix 2, Form 2

5.5.2 I am basing this screening assessment on the information submitted as part of the FI response to the planning authority. The initial AA Screening Report, submitted with the original planning application documentation appears to have a number of inaccuracies, including that the site is not hydrologically connected to any designated site.

5.5.3 In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, I conclude that the proposed development is likely to have a significant effect on identified Qualifying Interests of the Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC (Site Code 000365) 'alone' in respect of effects on water quality associated with siltation and possible pollution during construction works impacting aquatic habitats and species in the catchment area; together with disturbance to Lesser Horseshoe Bat species (a Qualifying Interest) from increase in artificial light and noise. It is therefore determined that Appropriate Assessment (Stage 2), under Section 177V of the Planning and Development Act 2000, is required on the basis of the effects of the project 'alone'.

5.5.4 I highlight to the Board that the first reason for refusal in the planning authority decision related to impacts on the Lesser Horseshoe Bats, a Qualifying Interest for the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (Site Code 000365).

5.5.5 A Natura Impact Statement was submitted with the application. It is noted that an Ecological Impact Assessment of Woodland at Reen was also submitted with the application documentation, and I refer the Board to same.

Stage 2- Appropriate Assessment

Introduction

5.5.6 The application included a NIS as part of the Further Information response to the planning authority for the proposed development at Ross Road, Killarney, Co. Kerry. The NIS provides a description of the project and the existing environment. It also provides a background on the screening process and examines and assesses potential adverse effects of the proposed development on a number of European Sites (see Appendix 2). Potential impacts arising from the proposed development are outlined in section 4.4 and 4.6. The most likely impact on the integrity of the SAC was identified as from pollutants and silt/sediment entering the watercourses via surface water run-off during the construction phase of the development and the potential impact on the Lesser Horseshoe Bat during construction and operational phases of development. Details of mitigation measures are outlined in section 4.7. Cumulative or in-combination effects are examined within section 4.6.2 and it is concluded that significant in combination effects of the proposed project with other projects and plans are not likely.

5.5.7 The NIS concludes that with the implementation of the mitigation measures during the construction and operational phases, it is considered that the proposed development will not have significant impacts on the integrity and quality of the Killarney National Park, Macgillycuddy's Reeks and Caragh River SAC (Site Code: 000365).

5.5.8 On the basis of objective information, it is my opinion, that the designated site in closest proximity to the development site, requires further consideration only. Based on the above, I consider that it is not possible to exclude that the proposed

development, individually or in combination with other plans or projects, will have a likely significant effect on the following site:

Table 1:

Site Name	Site Code	Distance
Killarney National Park, Macgillicuddy's Reeks and Caragh River SAC	000365	Direct proximity on all sides

Appropriate Assessment of implications of the proposed development on each European Site

5.5.9 The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the Killarney National Park, Macgillicuddy's Reeks and Caragh River SAC using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

5.5.10 I have relied on the following guidance:

- Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities, DoEHLG (2009);
- Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC, EC (2002);
- Guidelines on the implementation of the Birds and Habitats Directives in Estuaries and coastal zones, EC (2011);
- Managing Natura 2000 sites, The provisions of Article 6 of the Habitats Directive 92/43/EEC, EC (2018).

5.5.11 A description of the designated site and its Conservation Objectives and Qualifying Interests, including any relevant attributes and targets, are set out in the NIS. 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).

Appropriate Assessment of implications of the proposed development on each European Site

Special Area of Conservation- Killarney National Park, Macgillicuddy's Reeks and Caragh River SAC

5.5.12 There will be no direct impacts on the SAC site as a result of the proposed development as the development is located wholly outside of any European site. Potential indirect impacts of the proposed development on key habitats and species have been set out in section 4.6 of the NIS and I refer the Board to same. I also refer the Board to Appendix 2 of this report.

Table 2:

Designated Site	Qualifying Interests (*QI most likely to be impacted highlighted in BOLD)	Conservation Objective (favourable status)
Killarney National Park, Macgillicuddy's Reeks and Caragh River SAC	<p>Oligotrophic waters containing very few minerals of sandy plains</p> <p>Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea</p> <p>Water courses of plain to montane levels with the Ranunculum fluitantis and Callitricho-Batrachion vegetation</p> <p>Northern Atlantic wet heaths with Erica tetralix</p> <p>European dry heaths</p> <p>Alpine and Boreal heaths</p> <p>Juniperus communis formations on heaths or calcareous grasslands</p> <p>Calaminarian grasslands of the Violetalia calaminariae</p> <p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils</p> <p>Blanket Bogs</p> <p>Depressions on peat substrates of the Rhynchosporion</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles</p>	Maintain/Restore the favourable conservation status of habitats and species of community interest

	<p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i></p> <p>Taxus baccata woods of the British Isles</p> <p>Kerry Slug</p> <p>Freshwater Pearl Mussel</p> <p>Marsh Fritillary</p> <p>Sea Lamprey</p> <p>Brook Lamprey</p> <p>River Lamprey</p> <p>Salmon</p> <p>Lesser Horseshoe Bat</p> <p>Otter</p> <p>Killarney Fern</p> <p>Slender Naiad</p> <p>Killarney Shad</p>	
--	---	--

5.5.13 There is a potential for indirect impacts due to the potential hydrological pathway between the development site and specified habitats/species of the SAC during the construction phase, in the absence of pollution control/water attenuation measures. Indirect habitat loss or deterioration of designated sites within the surrounding area could occur from the effects of run-off or discharge into the aquatic environment through impacts such as increased siltation, nutrient release and/or contamination. To the rear of the proposed development site, there is an area of wet woodland which drains to the Ross Island River (c. 0.2km E of the development site). The Ross Island River discharges directly to Lough Leane. There is therefore a direct hydrological connection between the development site and this designated site. No other pathways between the development site and designated sites exist.

5.5.14 Mitigation measures, which are primarily general protection measures that would be used by any competent developer in the construction of a similar type development are proposed, including SuDS measures. Mitigation measures have been outlined in section 4.7. A riparian buffer zone between the wetland area to the rear and the development area will be maintained. Silt traps/fences will be installed; materials will be properly stored on site; refuelling will be confined to designated areas. A suitably

experienced and qualified contractor will be appointed to ensure that the environmental control measures are fully and properly implemented.

- 5.5.15 Foul and surface water will only be discharged to the mains sewer under authorisation from Uisce Eireann and the local authority. All works will be undertaken in accordance with Uisce Eireann standard details and codes of practice. The planning authority have not raised concerns in this regard. I am satisfied that it is not likely that any pollution event at the development site could result in significant impacts on the SAC.
- 5.5.16 In terms of impacts on Lesser Horseshoe Bat species, it is highlighted that the subject development site is located within a Core Foraging Zone (2.5km). There is therefore potential for the proposed development to negatively impact upon this species. Issues of disturbance are those of greatest concerns- see Assessment below. There are no suitable structures on site nor its surroundings that the species would find suitable for maternity or hibernation roosts. I don't have concerns in relation to noise disturbance, these would be temporary in duration and mitigation measures are proposed in this regard. Given that bats generally tend to emerge between 30 mins and one hour after sunset and mainly forage all night before returning to roosts before dawn, construction activity will only take place during daylight hours and noise associated with construction activities will not overlap with bat foraging times and is therefore unlikely to have a significant impact on foraging or roosting LHB species. I am satisfied in this regard.
- 5.5.17 In terms of impacts from artificial lighting, the NIS acknowledges that this species are very sensitive to light pollution. Mitigation measures proposed, as previously mentioned, included that construction will only take place during daylight hours. In terms of operational impacts, the structure will be used as an office building with no overnight accommodation. If lighting is required, it will be low lighting, with minimal light spill. The requirement to have extensive exterior lighting will be very much reduced and the submitted NIS concludes that the proposal will not have significant impacts on LHB species.
- 5.5.18 The planning authority has raised concerns in this regard and this matter formed a reason for refusal which issued from the planning authority. The report of the NPWS also raises concerns in relation to impacts on this species from artificial lighting. In

the interests of brevity, I will not reiterate but refer the Board to the assessment below expect to say that the report of the Department of Housing, Local Government and Heritage notes that this part of Reen is therefore crucial in maintaining the integrity of the colony, as it facilitates the interconnection between the two roosts, including the chance to move to another roost with a suitable microclimate if and when necessary. The Department notes that it is absolutely vital that the quality and effectiveness of this edge of Reen as a commuting corridor and frequently used foraging area is not compromised. The potential introduction of artificial lighting as a result of the proposed development is of concern to the Department. They request Further Information in this regard. I also note the information contained in the first party appeal in this regard, in particular with regards the hibernation patterns of this species and the usage of the proposed building (primarily during daylight hours), together with their Lighting Mitigation Scheme. I accept many of the points made by the first party in this regard and am of the opinion that it may be possible to address the matter with a revised building design and layout, together with more detailed information in relation to bat friendly lighting. However, based on all of the information before me at this point, I am not satisfied in this regard and I am not able to ascertain with confidence that the project would not adversely affect the integrity of the Killarney National Park, Macgillycuddy's Reeks and Caragh River SAC in view of the Conservation Objectives of this site. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

- 5.5.19 The construction and operational phases will see localised increase in potential source of disturbance for example noise, vehicular movements and presence of people within the development site. However, given the locational context of the site, together with the size and nature of the proposed development, disturbance of any other key species of this SAC or other Natura 2000 sites is not expected.
- 5.5.20 It is not stated that there are invasive species, listed on the 3rd Schedule of S.I. 477/2011 recorded on site.

Appropriate Assessment Conclusion

- 5.5.21 The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.
- 5.5.22 Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on one European Site.
- 5.5.23 Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of that site in light of its conservation objectives.
- 5.5.24 Following an Appropriate Assessment, it has been not been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of this European Site (Killarney National Park, Macgillycuddy's Reeks and Caragh River SAC, in view of the site's Conservation Objectives, with particular reference to the Lesser Horseshoe Bat species.

This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures and ecological monitoring in relation to the Conservation Objectives of the aforementioned designated sites.
- Detailed assessment of in combination effects with other plans and projects including historical projects, current proposals and future plans.

6.0 Appeal

6.1. Grounds of Appeal

One first-party appeal submission was received, which may be broadly summarised as follows:

- No reference to Kerry County Development Plan (CDP) cited in reasons for refusal
- Lack of consistency with other developments granted in area
- Queries relating to decision-making process/procedural matters/contention of unfair bias

- Sets out need for proposed development and specific requirements of such a use. Proposal has vital importance at regional and national level for the benefit of the community
- 'Commentary of 1st Planners Report', 'Commentary of 2nd Planner's Report' and 'Commentary on the chronology and determination of flood risk Assessment' included with appeal submission

Reason No. 1

- Lack of understanding of bat behaviour during winter months, in context of lighting; not applicable to this small-scale project
- Bat mitigation measures are cited in NIS and any concerns could have easily been conditioned
- Bat specialist has been engaged and has complied report providing mitigation measures, with associated Lighting Mitigation Scheme and drawings, which are enclosed with appeal.

Reason No. 2

- Proposal considered to be in compliance with Kerry CDP, Killarney Municipal District LAP and the Planning System and Flood Risk Management (2009). Planning Authority did not consider these documents in reaching their decision
- Subject site has never flooded (affidavit of Matt Clarke enclosed) providing historical evidence of suitability
- Flood Risk Assessment Commentary included with appeal
- Contends that planning authority did not apply objectives of national planning policy, Kerry CDP and its own Strategic Flood Risk Assessment in reaching their decision
- To wait for implementation of Killarney Flood Relief Scheme would cause delays for the dire need and urgency of this project
- Notes previous decisions of planning authority for residential development in close proximity

6.2. **Applicant Response**

N/A

6.3. **Planning Authority Response**

None

6.4. **Observations**

None

6.5. **Further Responses**

None

7.0 **Assessment**

7.1. The proposed development comprises the construction of a two-storey counselling centre, detached pumphouse and all ancillary site development works.

7.2. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority and prescribed bodies, having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of proposed development/policy context
- Impacts on Lesser Horseshoe Bat species
- Flooding Issues
- Other matters

Principle of proposed development/policy context

7.3 I highlight to the Board that this may be considered a new issue. The zoning objective for the site is 'Objective G5- mixed/general 'green'/recreation/conservation'

which seeks to 'preserve and provide for a mix of open space and recreational amenities'. The zoning description, as set out in Volume 6, section 2.0 of the Plan seeks to 'Provide for a mix of recreational and amenity resources for the community including parks, sporting and leisure facilities, amenity areas and natural areas. In some instances, these open spaces are located within or adjacent to environmental designations and sites of local biodiversity significance. Therefore, it is important to ensure the protection of the integrity of biodiversity and to recognise the importance of wildlife corridors and sites of nature conservation importance'.

- 7.4 I highlight to the Board that 'counselling centre' is not listed in the indicative land-use matrix of the Development Plan. The first party in their application documentation state that the purpose of the centre is to provide help and support to survivors and their families of rape and sexual abuse. The applicants are stated to be a charitable, non-profit organisation and in terms of compliance with zoning objective, consider the proposal to be classed as a 'public' facility as it is for the benefit of the public who require these services. I note that in the land-use zoning matrix, 'public facilities and infrastructure' is 'open for consideration' within such zones. Given the use of the proposed centre, I query if it is better defined as a 'medical service', which if so, is 'not normally permitted' within such zones. 'Office' is also 'not normally permitted' within such zones. Given the zoning description, as set out in the Plan, I question whether the proposed use is in compliance with the zoning objective and whether the proposal could be accurately described as being a 'recreational and amenity resources for the community including parks, sporting and leisure facilities, amenity areas and natural areas'. I consider that this would not be an accurate description for the proposed use. I note that the report of the Biodiversity Officer of the planning authority in the Request for FI notes that the zoning at this location does not support the proposed development type. The Planner's Report (dated 25/10/2022) states that, in reference to the zoning objective, the proposed development is not an acceptable use in this landscape conservation zoning. This matter did not form a reason for refusal in the planning authority decision and was not explored further. I consider that the proposal, notwithstanding its charitable use, is not in compliance with the zoning objective for the site.

- 7.5 As stated above, this is a new issue and the Board may wish to seek the views of the parties. However, having regard to the other substantive reasons for refusal set out below, it may not be considered necessary to pursue the matter.

Impacts on Lesser Horseshoe Bat Species

- 7.6 The first reason for refusal which issued from the planning authority stated that based on the information submitted with the planning application, the planning authority is not satisfied in relation to the adequacy of the mitigation measures proposed to ensure the proposed development, in particular the proposed lighting scheme would not adversely affect the foraging and/or commuting routes of the Lesser Horseshoe Bat in the environs of the proposed development site. Therefore, as adverse effects on the integrity of a European Site, namely the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC cannot be excluded, the proposed development would be contrary to the proper planning and sustainable development of the area. Given that the Lesser Horseshoe Bat is a Qualifying Interest for the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC, I have dealt with this matter in the Appropriate Assessment section above (in addition to Appendix 2). I will not reiterate but refer the Board to this section of my report. To conclude however, I have had regard to, inter alia, the report of the planning authority and prescribed bodies, the documentation submitted by the first party including the first party appeal documentation, and I have visited the site. I note that Reen Wood, which is less than 20m north of the proposed development site forms part of the main commuting and foraging range of the Lesser Horseshoe Bat colony, which is stated to be of national importance, and its range extends from Ross Island through Reen to Ballydowney and includes two roost sites (Deenagh Lodge and a cave on Ross Island), both of which are used by Lesser Horseshoe Bats right through the year. Bats move regularly and frequently between the two roosts sites at all times of the year along the eastern and south-eastern edges of Reen including along a ditch opposite the proposed development site.
- 7.7 The report of the Department of Housing, Local Government and Heritage notes that this part of Reen is therefore crucial in maintaining the integrity of the colony, as it facilitates the interconnection between the two roosts, including the chance to move to another roost with a suitable microclimate if and when necessary. The Department notes that it is absolutely vital that the quality and effectiveness of this edge of Reen

as a commuting corridor and frequently used foraging area is not compromised. The potential introduction of artificial lighting as a result of the proposed development is of concern to the Department. They state that it must be ensured that, from a viewpoint at the edge of the ditch, there will be no light whatsoever visible from the proposed development. Specific areas of concern raised in their report include that in winter normal office hours (and use of the building) overlap with dusk and the immediate post-dusk period which is the main period of bat activity at this time of year. Secondly, in winter foliage cover is absent so light has the potential to affect the entire depth of this relatively narrow woodland along the edge of Reen through which the bats move. The number of upstairs windows on NW elevation facing Reen and potential for glare from these; the potential for lighting at road entrance and finally, the proposed layout of entrance which means headlights of exiting cars on winter evenings will be shining directly across into Reen and potentially cutting through the entire closed canopy woodland belt. While they acknowledge that although temporary and short in duration, the intensity of headlights has considerable potential for disturbance. Revised mitigation measures are therefore required. The Biodiversity Officer of the planning authority considers that, a more detailed Bat Impact Assessment is required to be undertaken by a suitably qualified expert that addresses the concerns raised by the NPWS in their report. On the basis of the information provided with the application, including the NIS and submission from NPWS, the Biodiversity Officer of the planning authority concluded that an adverse effect on the integrity of the Killarney National Park, MacGillycuddy's Reeks and Caragh River Catchment SAC cannot be excluded and that permission should be refused.

- 7.8 The first party appellant raise issue with the reports of both the planning authority and the NPWS in this regard and contend that there is a lack of understanding of bat behaviour during winter months, in the context of lighting, given that LHB species hibernate for the winter months. They further state that bat mitigation measures are cited in the NIS and any concerns could have easily been conditioned, given the relatively small-scale of the proposed development. A Bat Specialist has been engaged and has compiled a report providing a response to the DAU report in relation to winter activities of LHB (Southern Scientific Ltd), with associated Lighting Mitigation Scheme and drawings, both of which are enclosed with the appeal documentation.

7.9 I note all of the information before me in this regard. I have also had regard to information contained in the Bat Conservation Trust, UK website (www.bats.org.uk). I acknowledge that LHB species generally hibernate from September/October until April using caves, mines, tunnels and cellars. Lesser Horseshoe Bats are often active in hibernacula in autumn and spring, especially towards dusk in warm weather, when feeding is more likely to be successful. In the summer LHB emerge about half an hour after sunset. Although there are peaks of activity at dusk and dawn bats are active all night throughout the breeding season. While I accept the argument of the first party regarding hibernation of LHB during winter months, there is nothing to say that lighting would not be on in the premises outside of these months and that cars may not leave the site during the hours when lights are required. It would be extremely difficult to enforce a condition that states that there be no lighting within the building approaching dusk onwards; that no external lighting be operational from towards dusk onwards or that no vehicles with headlights leave the site after this time. I consider this to be pertinent given the scale of the proposed structure, of approximate floor area of 270m², together with the extent of fenestration proposed. Lesser Horseshoe Bats are sensitive to disturbance and their distribution is confined to six counties along the western counties. This is stated in the documentation to be an area of national importance and I am of the opinion that this matter cannot be appropriately dealt with by means of condition. LHB are particularly vulnerable to light pollution and habitat loss and fragmentation arising from same and this is noted in section 11.3.3.2 of the operative CDP. While I note the information contained with the Lighting Mitigation Scheme, and the proposed mitigation measures which include for timed shutters on first floor level windows and internal reflective glass on the front elevation, I continue to have concerns. A relocation of the entrance may be an option to explore to prevent glare from headlights onto the habitat opposite, together with a redesign of fenestration to reduce the number of windows facing Reen, particularly at first floor level. Having regard to all of the above, I would concur with the opinion of the planning authority, and the report of the NPWS, and I consider that the matter could not be adequately dealt with by means of condition and I recommend a refusal of permission in this regard.

- 7.10 I note Objective KA 22 of the operative County Development Plan which seeks to ensure that there is no significant increase in artificial light intensity adjacent to Lesser Horseshoe Bat roosts named in the Conservation Objective Report for the Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC (Oct 2017) or along commuting routes within 2.5km of those roosts. The subject site is located within a core foraging zone (Core Sustenance Zone), which is the area surrounding a communal bat roost within which habitat availability and quality will have a significant influence in the resilience and conservation status of the colony using the roost. A 2.5km zone is considered appropriate distance for foraging areas, therefore the site is within 2.5km of a LHB roost. I consider that the proposal is not in compliance with same.

Flooding Issues

- 7.11 The second reason for refusal which issued from the planning authority stated that the development site lies within the immediate flood plain of Lough Leane where the risk of serious and recurring flooding is well established. Given the objectives of the land use zoning and the overall limitations in this area with regards to the CFRAM flood levels and extents, the proposed development would be premature pending the progression of the Killarney Flood Relief Scheme and a more detailed assessment of the flood risk within the town and its environs. Therefore, the proposed development would be contrary to the proper planning and sustainable development of the area.
- 7.12 The decision of the planning authority was informed, in part, by a detailed report of their Flooding and Coastal Protection Unit, which notes that the proposed development site lies within the immediate floodplain of Lough Leane, where there is risk of serious and recurring flooding. This report states that a precautionary approach should be applied when assessing flood risk to reflect the uncertainties on current flooding datasets and the community-based risk assessments and flood extent maps associated with the South Western CFRAM Study (UoM 22). The report continues by stating that given the overall limitations in this area with regards to predicted CFRAM flood levels and extents, it is advised that any development on this site is premature pending the progression of the Killarney Flood Relief Scheme and a more detailed assessment of the flood risk within the town and environs.

- 7.13 I note that it is proposed to progress the development of the Killarney Flood Relief Scheme, which has been identified in the CFRAM programme, with proposed measures consisting of Fluvial Flood Defences comprising of walls and embankments (www.floodinfo.ie). The first party note that this scheme has not yet commenced and the reality is it may take a significant number of years to complete, and that the urgency of this proposed development does not permit this. I have examined available information and note that there does not appear to be any definitive timeframe for the implementation/completion of these works. In addition, the planning authority have not given any indication as to possible timeframe for the implementation of this Scheme and I accept the point made by the first party in relation to this matter.
- 7.14 The first party strongly refute this reason or refusal and have submitted a significant amount of information in support of their appeal. They note that the site has never flooded (as attested in an attached affidavit). They contend that the decision of the planning authority was based on unfounded opinions rather than evidence-based conclusions of the flooding reports/information available. They further note that the planning authority is obliged/has a duty to apply local, regional and national policy and objectives but have not done so in this instance. The first party note that the proposed development area of the site is not within a floodplain and is located on existing ground levels well in excess of floodplain levels. A 'Commentary on the chronology and determination of Flood Risk' has been submitted with the appeal documentation and I refer the Board to same. This details purported statements made in pre-planning meetings by planning authority officials, with which I am not going to engage.
- 7.15 I am basing my assessment on best scientific knowledge, including inter alia, the Kerry County Development Plan including associated Strategic Flood Risk Assessment, together with CFRAMS information including Flood Risk Management Plan for the Laune-Maine-Dingle Bay River Basin (UOM22)(2018) and national guidance including, inter alia, Department of Environment, Heritage and Local Government 'The Planning System and Flood Risk Management, Guidelines for Planning Authorities' (2009). In terms of accuracy of CFRAMS, I note that it is stated by the OPW that for understanding the CFRAMS flood maps, for fluvial flood levels, calibration and verification of the models make use of the best available data

including hydrometric records, photographs, videos, press articles and anecdotal information. Subject to the availability of suitable calibration data, models are verified in so far as possible to target vertical water level accuracies of approximately +/- 0.2m for areas within the AFAs, and approximately +/-0.4m along the MPWs. The South Western CFRAM Study states that for Killarney, there is reasonable confidence in the flood mapping.

- 7.16 It is noted in the first party appeal that some areas of the wider site fall within Flood Zone B (1 in 100 annual probability of flooding) and Flood Zone C (1 in 1000 annual probability of flooding), however the proposed building will be outside of all flood risk zones. In terms of mitigation measures, it is stated that the proposed finished floor levels have been increased as part of FI response to PA to 500mm above the 1% AEP flood risk level, increasing the proposed FFL to 21.75OD. Coverage levels of drainage infrastructure have been increased correspondingly. I acknowledge that affidavit submitted with the appeal documentation stating that the site has never flooded. Given the nature of the proposed use, it is considered to be a 'non-vulnerable' development as defined in 'The Planning System and Flood Risk Management, Guidelines for Planning Authorities'. The proposal provides for 300mm over the predicted 1:100 year flood level with a 200mm allowance for climate change increases. SuDs measures have been incorporated into the design. The applicants therefore conclude that based on the above, the flood risk to the proposed development is negligible and can easily be managed to an acceptable level with the incorporation of the design mitigation measures.
- 7.17 I note all of the above. Killarney town is identified as being vulnerable to fluvial flooding only. Fluvial flooding sources are the River Flesk (approx. 550m at nearest point to the east) and the River Deenagh (approximately 1km to the north of the site). No flooding has been reported that have directly affected the site or surrounding area. The site falls within the Laune-Maine-Dingle Bat Catchment (UoM22).
- 7.18 Of relevance, is the decision of An Bord Pleanála in relation to two cases on adjoining sites, namely PL08.247468 and PL08.247469, which were appeals for two dwelling houses (decision dates 2017). Permission was refused in both instances for reasons of flooding and visual amenity. The site zoning was 'Residential- Phase 2' as opposed to the amenity/recreation zoning applying to this current site. In those appeals, it was noted in the Inspector's Report that the reason for those sites being

within Flood Zone C was a direct result of the infilling of the subject site with a view to raising ground levels above the known floodplain, which was acknowledged in the submitted documentation. The sites were infilled with 'inert building material'. However, from a review of the planning history of the site there was no record of any grant of permission having been issued for any such works. Accordingly, in the absence of any applicable exemption for the infilling works carried out on site, it appeared that the said works materially changed the use of the land and thus constituted unauthorised development. Therefore, the Inspector at that time was not satisfied that it would be appropriate to permit the subject proposal given their concerns as regards the potential impact of the apparent infilling of the application site on the flood regime of the surrounding area and possibility that those works may have had wider environmental impacts downstream. The Board decided to refuse permission generally in accordance with the Inspector's recommendation in those cases.

- 7.19 I am of the opinion that the circumstances of this current appeal in terms of locational context and planning history (in terms of infilling) are similar, albeit I acknowledge that the current appeal is for a less vulnerable type of development than that previously refused on the adjoining sites (medical/office/consulting uses as opposed to residential use). The first party in the documentation for this appeal acknowledge that this is not a greenfield site, but rather a pre-developed site with inert ground imported (modified ground). Parts of the subject site are located within Flood Zone B (1 in 100 annual probability of flooding) and Flood Zone C (1 in 1000 annual probability of flooding). The proposed building will be outside of all flood risk zones, only due to the historical infilling that has taken place raising the site levels by a stated 1.5m- 2.5m approximately. It is stated in the documentation that this occurred in the 1980s and 1990's as a consequence of OPW remedial and restoration works that took place at Ross Castle, during that time. The report of the Flooding and Coastal Protection Unit notes that the natural ground level of this site has been raised significantly through recent historical infilling. This historical development has adversely affected the flood storage regime of the surrounding area in terms of its incremental impact on the catchment and a resulting incremental increase to the risk of flooding elsewhere. I am of the opinion that this matter has not been adequately addressed in the documentation and it is my opinion that it has not been adequately

demonstrated that the infilling development carried out to date has not adversely affected the flood storage regime of the surrounding area, which would give rise to the risk of exacerbation of flooding elsewhere, and that these works have not have a serious environmental adverse impacts elsewhere.

7.20 I note all of the information before me. The overall site and lands within the applicant's ownership are largely located within Flood Zones A and B. I acknowledge that the area on which the proposed counselling centre appears to be to be located is within Flood Zone C, primarily by virtue of the historical infilling of the site, which would appear to be unauthorised. I also acknowledge the proposed development to be a type best described as 'less vulnerable', as per the Planning System and Flood Risk Management, Guidelines for Planning Authorities (2009). I also acknowledge the relatively small-scale nature of the proposed development, in terms of impacts on flooding elsewhere. The CFRAMS mapping shows extensive areas of land surrounding the site to be all within flood zones A and B to varying extents, including the access road (Ross Road) to the proposed development- this is clearly an area currently under major threat from flooding. The Strategic Flood Risk Assessment, as contained in the Kerry County Development Plan 2022, states that areas within the generalised zoning 'G5' objective have been identified as being at risk of fluvial flooding and are generally within Flood Zone A and B. The planning authority state that the proposed development site lies within the immediate floodplain of Lough Leane, where there is risk of serious and recurring flooding. I noted some flooding during my site visit around Ross Castle. I note the precedent that has been set in relation to this matter by An Bord Pleanála on adjoining lands in terms of historical infilling and adverse affects on flood storage regime. I consider that there does not appear to have been a change in circumstances in relation to the infilled areas to warrant a differing recommendation and there is a lack of information in the documentation to comprehensively address this matter in relation to the impacts that this proposal may have on flood risk elsewhere. I again highlight that this current proposal is for a less vulnerable development than that previously refused on the adjoining lands. I am also cognisant of the precedent that a grant of permission for the proposed development may set for other developments in similar areas. The report of the planning authority (Flooding and Coastal Protection Unit) concludes by stating that development of this nature should only be permitted in

areas at risk of flooding when there are no alternative, reasonable sites available in areas at lower risk that also meet the objectives of proper planning and sustainable development. The first party in their documentation outline the site characteristics/location context that make this an appropriate site for the use proposed. I fully acknowledge the sensitive nature of the proposed development and the need for privacy/discretion which not all sites can offer. While the proposal may be suitable to meet those demands/requirements from an operational viewpoint, I consider that, based on the information before me, it may not be suitable from a planning perspective. I noted at the time of my site visit that there was, what appeared to be a vacant dwelling on the lands outlined in blue. The conversion of this existing dwelling to a counselling centre, with appropriate grants of permission, may (or may not) be a more appropriate option to explore.

- 7.21 Finally, in relation to this matter the report of the Flooding and Coastal Protection Unit states that the revised flood risk assessment (submitted as part of FI response to planning authority) does not constitute a site specific flood risk assessment. I note that Table A2: Hierarchy of flood risk assessment of 'The Planning System and Flood Risk Management Guidelines for Planning Authorities' (2009) sets out the purpose of Site- Specific Flood Risk Assessment as being to assess all types of flood risk for a new development. They identify the sources of flood risk, the effects of climate change on this, the impact of the development, the effectiveness of flood mitigation and management measures and the residual risks that remain after those measures are put in place and must be carried out in all areas where flood risk have been identified. I would concur with the planning authority that the level of detail contained within the submitted 'Site Specific Flood Risk Assessment' does not address all the above matters and is lacking in some regards.

Other Matters

- 7.22 I highlight to the Board that a significant proportion of the appeal relates to the decision-making process by the planning authority; a perceived unfairness/bias in the treatment of the application and an opinion that the decision is contrary to natural and constitutional justice. These matters are considered to be outside the remit of this appeal and I shall not make comment in relation to same.

- 7.23 I highlight to the Board that this may be considered a new issue. I am not satisfied with the pastiche design/elevational treatment/materiality and fenestration of the proposed development. Given the location of the site in a visually sensitive area along a key tourist route, and notwithstanding its setback from the Ross Road, it is considered that the proposed development would be detrimental to the high scenic amenity value of the area and would be unduly visually obtrusive thereby interfering with the character of the surrounding rural landscape. This is a new issue and the Board may wish to seek the views of the parties. However, having regard to the other substantive reasons for refusal set out below, it may not be considered necessary to pursue the matter.
- 7.24 Commentary in the appeal submission relating to a nearby permitted glamping site is noted (ABP-315088-22). I note the location of that site further removed from Reem with a different zoning, for which glamping was 'open for consideration'. The site was considered to be of low ecological value, a distance of 150m from the nearest SAC. Finally, the LHS bat species is associated with woodland habitats and linear features, of which there are none within or adjoining the site of that proposed development. Notwithstanding the proximity, I consider the site context to be different in that case and not relevant to this particular appeal.

Conclusion

- 7.25 To conclude, I acknowledge the case put forward by the first party for the need for such a service in the area. However, from a planning perspective I have some concerns. I have concerns regarding the possible impacts of the proposal on the Lesser Horseshoe Bat species, a Qualifying Interest of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC, in particular given that this part of Reem is considered crucial in maintaining the integrity of the colony, as it facilitates the interconnection between two roosts, including the chance to move to another roost with a suitable microclimate if and when necessary. These concerns relate primarily to disturbance from artificial light on this light sensitive species. While I acknowledge that the species largely hibernate during the winter months, it cannot be ruled out that artificial lighting would not be used at other times of the year in the proposed development. While it may be possible to overcome these concerns in a future application, by way of design and layout changes and more appropriate

bat friendly lighting, I consider that these alterations cannot be adequately made by way of condition.

- 7.26 I also have concerns regarding impacts of flooding and the precedent that a grant of permission may set for other similar developments within such flood-prone areas. I acknowledge the less vulnerable nature of the use and the available mapping which shows the site largely outside of Flood Zone A and B. However, I note the previous raising of levels using inert material (without the benefit of planning permission) would account for this. Almost all lands in the vicinity of the site are generally within these flood zones, including the access road to the proposed development site, and the planning authority have stated that the proposed development site lies within the immediate floodplain of Lough Leane, where there is risk of serious and recurring flooding. I would concur with the opinion of the planning authority that a precautionary approach should be taken in this instance.
- 7.27 Finally, I have concerns regarding compliance with the zoning objective and the overall design of the proposed structure and related visual impacts. However, I consider these to be new issues and the Board may wish to seek the views of the parties. However, having regard to the other substantive reasons for refusal set out below, it may not be considered necessary to pursue the matters.

8 Recommendation

- 8.1 I recommend that the decision of the planning authority be UPHELD and that permission be REFUSED, for the reasons and considerations set out below.

9 Reasons and Considerations

1. Based on the information submitted with the planning application, the Board is not satisfied in relation to the adequacy of the mitigation measures proposed to ensure the proposed development, in particular the proposed lighting scheme, would not adversely affect the foraging and/or commuting routes of the Lesser Horseshoe Bat in the environs of the proposed development site. Therefore, adverse effects on the integrity of a European Site, namely the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC cannot be

excluded. In addition, the proposal is considered not to be in compliance with Objective KA 22 of the operative County Development Plan which seeks to ensure that there is no significant increase in artificial light intensity adjacent to Lesser Horseshoe Bat roosts named in the Conservation Objective Report for the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (Oct 2017) or along commuting routes within 2.5km of those roosts. Having regard to the above, the proposed development is considered to be contrary to the proper planning and sustainable development of the area.

2. Having regard to the location of the site in an area which is prone to flooding, and on the basis of the submissions made in connection with the planning application and appeal, the Board is not satisfied that the proposed development would not give rise to an increased risk of flooding of the site or of property in the vicinity. Furthermore, arising from the historical raising of ground levels on site through the infilling of land, the Board is not satisfied that the development carried out to date has not adversely affected the flood storage regime of the surrounding area, which would give rise to the risk of exacerbation of flooding elsewhere. The proposed development would, therefore, be prejudicial to public health and would 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.

Lorraine Dockery
Senior Planning Inspector

14th May 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála	ABP-317454-23		
Case Reference			
Proposed Development Summary	Counselling centre and associated site works. An NIS accompanies the application		
Development Address	Reen, Ross Road, Killarney, Co. Kerry		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	x
		No	No further action required
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?			
Yes		Class.....	EIA Mandatory EIAR required
No	x		Proceed to Q.3
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]?			
		Threshold	Comment (if relevant)
Conclusion			
No	x	N/A	No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4

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

Inspector: Lorraine Dockery Date: 14th May 2024

Appendix 2

Screening for Appropriate Assessment

Screening Determination

Step 1: Description of the project

I have considered the proposed counselling centre and associated site works in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

The subject site is not located within any designated European site but is located in direct proximity to the Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC (Site Code 000365). This designated site borders the development site on all sides.

The Killarney National Park SPA (Site Code: 004038) occurs on the opposite side of Ross Road, approximately 0.1km from the proposed development site.

It is proposed to construct a two-storey counselling centre, plant room, access road and ancillary works on land that was infilled approximately 25 years ago with inert building material. The development site can be best described as Improved Grassland (GA1), Wet grassland (GA4), Scrub (WS1) and Treelines (WL2) as per Fossitt (2000).

There is a drainage ditch located between the site and Ross Road. It is stated that this drainage ditch is stagnant and water does not flow from it to any watercourse. There is a culvert over the drainage ditch which provides access to the site from Ross Road. However, to the rear of the proposed development site there is an area of wet woodland which drains to the Ross Island River (c. 0.2km E of the development site). The Ross Island River discharges directly to Lough Leane. Therefore, a source-pathway-receptor linkage is present.

The report of the NPWS is noted in which Further Information is requested in relation to revised mitigation measures for impacts on commuting Lesser Horseshoe bat colony (see detailed report of DAU which is expanded upon within my assessment above). They are not satisfied with the mitigation measures outlined in the submitted NIS.

I have provided a detailed description of the development in my report and detailed specifications of the proposal are provided in the AA Screening Report, NIS, Ecological Assessment of Woodland and other planning documents provided by the applicant.

Step 2: Potential impact mechanisms from the project [consider direct, indirect, temporary/permanent impacts that could occur during construction, operation and, if relevant, decommissioning]

The proposed development will not result in any habitat loss of any European Site.

Potential direct effects mechanisms include

- Species disturbance or mortality

Examples of Indirect impacts and effect mechanism include:

- Surface water pollution (silt/ hydrocarbon/ construction related) from construction works resulting in changes to environmental conditions such as water quality/ habitat degradation.
- Ground water pollution/ alteration of flows- effects on groundwater dependent habitats
- Human disturbance/ noise/ lighting - resulting in disturbance and displacement effects to QI species
- Indirect habitat alteration/fragmentation/disturbance impacts owing to hydrology changes due to construction activities

Step 3: European Sites at risk

With reference to the potential impact mechanisms from the proposal, identify the European site(s) and qualifying features potentially at risk. Examine Site specific conservation objectives and relevant and supporting documents.

Table 1 European Sites at risk from impacts of the proposed project [example]

Effect mechanism	Impact pathway/Zone of influence	European Site(s)	Qualifying interest features at risk

Disturbance to QI species Habitat or species fragmentation Reduction/fragmentation in species density	Development has potential to impact LHS bats from noise and light	Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC	LHB species
Generation of contaminated surface run-off during construction stage (silt/sediment/other pollutants)	Ross Island River (c. 0.2km E of the development site) discharges directly to Lough Leane	Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC	Annexed species are freshwater dependent. Potential for significant effects on water quality due to hydrological connectivity between development site and the SAC

I note that the applicant included a greater number of European sites in their initial screening consideration with sites within 15km of the development site considered. However the Killarney National Park, Macgillicuddy's's Reeks and Caragh River Catchment SAC (Site Code 000365) is the only Natura 2000 site considered to be potentially impacted by the development. All others have been screened out due to distance, lack of suitable habitat, lack of hydrological connections, together with nature and scale of development proposed.

Step 4: Likely significant effects on the European site(s) 'alone'

Table 2: Could the project undermine the conservation objectives 'alone'

European Site and qualifying feature	Conservation objective (summary)	Could the conservation objectives be undermined (Y/N)?			
		Siltation	Pollution	Light disturbance	Changes to Hydrology

Killarney National Park, Macgillicuddy's's Reeks and Caragh River Catchment SAC (Site Code 000365)	<u>Killarney National Park, Macgillicuddy's's Reeks and Caragh River Catchment SAC National Parks & Wildlife Service (npws.ie)</u>					
Oligotrophic waters containing very few minerals of sandy plains	<p>Restore FCS</p> <p>Habitat area stable or increasing; no decline in habitat distribution. Typical species present. All characteristic vegetation composition zones should be present. Maintain vegetation distribution, hydrological regime, lake substratum quality, acidification status, water colour, dissolved organic carbon, turbidity and fringing habitat: area and condition. Maintain/restore water quality transparency, nutrients, phytoplankton biomass, composition, attached algal biomass, macrophyte status</p>	Y	Y	N	Y	
Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea	<p>Restore FCS</p> <p>Habitat area stable or increasing; no decline in habitat distribution. Typical species present, in good condition, and demonstrating typical abundances and distribution. All characteristic vegetation composition zones should be present.</p> <p>Maintain vegetation distribution, hydrological regime, lake substratum quality, acidification status, water colour, dissolved organic carbon, turbidity and fringing habitat: area and condition.</p> <p>Maintain/restore water quality transparency, nutrients, phytoplankton biomass, composition, attached algal biomass, macrophyte status</p>	Y	Y	N	Y	
Water courses of plain to montane levels with the Ranunculion	<p>Maintain FCS</p> <p>Habitat area stable or increasing; no decline in habitat</p>	Y	Y	N	Y	

fluitantis and Callitricho-Batrachion vegetation	<p>distribution. Maintain/restore appropriate hydrological regimes. Maintain/restore substratum composition, water quality.</p> <p>Typical species should be present. Maintain floodplain connectivity and area/condition of riparian habitat</p>					
Northern Atlantic wet heaths with Erica tetralix	<p>Maintain FCS</p> <p>Habitat area stable or increasing; no decline in habitat distribution. Maintain/restore appropriate hydrological regimes. Maintain/restore substratum composition, water quality.</p> <p>Typical species should be present. Maintain floodplain connectivity and area/condition of riparian habitat</p>	N	N	N	N	
European dry heaths	<p>Restore FCS</p> <p>Habitat area stable or increasing; no decline in habitat distribution. Maintain soil nutrient status within natural range, community diversity. Vegetation composition and structure</p> <p>No decline in distribution or population sizes of rare, threatened or scarce species associated with the habitat and no decline in status of hepatic mats associated with this habitat</p>	N	N	N	N	
Alpine and Boreal heaths	<p>Restore FCS</p> <p>Habitat area stable or increasing; no decline in habitat distribution. Maintain soil nutrient status within natural range, community diversity.</p> <p>Vegetation composition and structure</p>	N	N	N	N	

	No decline in distribution or population sizes of rare, threatened or scarce species associated with the habitat and no decline in status of hepatic mats associated with this habitat					
Juniperus communis formations on heaths or calcareous grasslands	<p>Maintain FCS</p> <p>Habitat area stable or increasing; no decline in habitat distribution</p> <p>At least 50 plants per formation for Juniper population size</p> <p>Vegetation composition and structure</p>	N	N	N	N	
Calaminarian grasslands of the Violetalia calaminariae	<p>Maintain FCS</p> <p>No decline in habitat area/ distribution. Maintain adequate physical structure, high copper (Cu) levels in soil, low and open vegetation, diversity and populations of metallophyte bryophytes</p>	N	N	N	N	
Molinia meadows on calcareous, peaty or clayey-silt-laden soils	<p>Restore FCS</p> <p>Habitat area stable or increasing; no decline in habitat distribution</p> <p>Vegetation composition and structure.</p> <p>Not more than 10% bare ground in physical structure, area showing signs of serious grazing or other disturbance less than 20m²</p>	N	N	N	n	
Blanket bogs	<p>Restore FCS</p> <p>Habitat area stable or increasing; no decline in habitat distribution. Maintain soil nutrient status within natural range, community diversity, variety of vegetation communities.</p> <p>At least 99% of the total Annex I blanket bog area is active. Natural hydrology unaffected by drains and erosion.</p>	N	N	N	N	

	<p>Vegetation composition and structure</p> <p>Cover of disturbed bare ground less than 10%. Area showing signs of drainage from heavy trampling, tracking or ditches less than 10%. Less than 5% of the greater bog mosaic comprises erosion gullies and eroded areas.</p> <p>No decline in distribution or population sizes of rare, threatened or scarce species associated with the habitat</p>					
Depressions on peat substrates of the Rhynchosporion	<p>Restore FCS</p> <p>Habitat area stable or increasing; no decline in habitat distribution. Maintain soil nutrient status within natural range</p> <p>Vegetation composition and structure</p> <p>Cover of disturbed bare ground less than 10%. No signs of burning in sensitive areas.</p> <p>Area showing signs of drainage from heavy trampling, tracking or ditches less than 10%. Less than 5% of the greater bog mosaic comprises erosion gullies and eroded areas.</p> <p>No decline in distribution or population sizes of rare, threatened or scarce species associated with the habitat</p>	N	N	N	N	
Old sessile oak woods with Ilex and Blechnum in the British Isles	<p>Restore FCS</p> <p>Habitat area stable or increasing; no decline in habitat distribution. Woodland size stable or increasing. Diverse woodland structure.</p> <p>Maintain diversity and extent of community types</p> <p>Vegetation composition and structure; woodland structure</p>	N	N	N	N	

Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i>	<p>Restore FCS</p> <p>Habitat area stable or increasing; no decline in habitat distribution. Woodland size stable or increasing. Diverse woodland structure.</p> <p>Maintain diversity and extent of community types. Appropriate hydrological regime necessary for maintenance of alluvial vegetation</p> <p>Vegetation composition and woodland structure</p>	Y	Y	N	Y	
<i>Taxus baccata</i> woods of the British Isles	<p>Restore FCS</p> <p>Habitat area stable or increasing; no decline in habitat distribution. Woodland size stable or increasing. Diverse woodland structure.</p> <p>Maintain diversity and extent of community types.</p> <p>Vegetation composition and woodland structure</p>	N	N	N	N	
Kerry Slug	<p>Maintain FCS</p> <p>Number of occupied 1km grid squares at least stable. Habitat extent stable or increasing. Proportion of sessile oak in canopy at least stable. Rhododendron in woodland and wet heath/blanket bog absent or under control</p>	N	N	N	N	
Freshwater Pearl Mussel	<p>Restore FCS</p> <p>Maintain distribution and restore populations, suitable habitats, water quality, substratum quality, appropriate hydrological regime. No more than 5% decline from previous number of live adults counted.</p> <p>Maintain sufficient juvenile salmonids to host glochidial larvae, area and condition of</p>	N	N	N	N	

	fringing habitats necessary to support the population					
Marsh Fritillary	<p>Restore FCS</p> <p>No decline in distribution, subject to natural processes. Proof of breeding, confirmed by detection of webs. Area of potential habitat stable or increasing</p>	N	N	N	N	
Sea Lamprey	<p>Maintain FCS</p> <p>No decline in extent and distribution of spawning beds. No barriers to passage have been found. Greater than 75% of main stem length of rivers accessible from estuary. Population structure and density</p>	Y	Y	N	N	
Brook Lamprey	<p>Maintain FCS</p> <p>No decline in extent and distribution of spawning beds. Access to all water courses down to first order streams. Population structure and density, availability of habitat</p>	Y	Y	N	N	
River Lamprey	<p>Maintain FCS</p> <p>No decline in extent and distribution of spawning beds. Access to all water courses down to first order streams. Population structure and density, availability of habitat</p>	Y	Y	N	Y	
Salmon	<p>Maintain FCS</p> <p>100% of river channels down to second order accessible from estuary. Conservation limit (CL) for each system consistently exceeded for adult spawning fish.</p> <p>Maintain or exceed 0+ fry mean catchment-wide abundance threshold value. No significant decline in out-migrating smolt abundance. No decline in number and distribution of spawning redds due to anthropogenic causes. At least</p>	Y	Y	N	Y	

	Q4 at all sites sampled by EPA for water quality					
Lesser Horseshoe Bat	Maintain FCS No decline in winter, summer or number of auxiliary roosts. No significant decline in extent of potential foraging habitat. No significant loss of linear features, within 2.5km of qualifying roosts. No significant increase in artificial light intensity adjacent to named roosts or along commuting routes within 2.5km of those roosts	N	N	Y	N	
Otter	Maintain FCS No significant decline in extent of terrestrial habitat, freshwater habitat, couching sites and holts. Fish biomass available. No significant barriers to connectivity	Y	Y	N	Y	
Killarney Fern	Maintain FCS No loss in geographical spread of populations. No decline in number of populations, colonies, population size, population structure. No loss of suitable habitat. Maintain hydrological conditions, relative humidity levels at the locations of known populations. No loss of woodland canopy. Maintain absence of invasive non-native and vigorous native plant species. No increase in hydrological conditions, maintain light levels	N	N	N	N	
Slender Naiad	Maintain FCS No change to population extent, depth, abundance, viability, distribution, habitat extent. Maintain appropriate natural hydrological regime, substratum type water quality, acidification status, water colour, associated species and fringing habitat	Y	Y	N	Y	
Killarney Shad	Restore FCS	Y	Y	N	Y	

	<p>Widespread distribution. No decline in extent and distribution of spawning habitats. Full range of age classes present in population structure.</p> <p>Maintain stable gravel substrate. Oxygen levels in water quality no lower than 5mg/l</p>					
--	--	--	--	--	--	--

There is no direct habitat loss. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

I conclude that the proposed development would have a likely significant effect 'alone' on conservation objectives of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (Site Code 000365) from effects on water quality associated with siltation during construction works and construction pollution impacting aquatic habitats and species in the catchment area; disturbance to LHB from increase in artificial light. An appropriate assessment is required on the basis of the effects of the project 'alone'. Further assessment in-combination with other plans and projects is not required at this time.

Inspector: Lorraine Dockery

Date: 14th May 2024