



An  
Bord  
Pleanála

## Inspector's Report ABP-317987-23

<b>Development</b>	Construction a dwellinghouse, ancillary services and area
<b>Location</b>	Cloverfield, Muckross Road, Killarney, Co. Kerry
<b>Planning Authority</b>	Kerry County Council
<b>Planning Authority Reg. Ref.</b>	22927
<b>Applicant(s)</b>	Breda Hickey
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Brian Looney & Stella Maloney;
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	10 <sup>th</sup> January 2024.
<b>Inspector</b>	Niall Sheehan

## **1.0 Site Location and Description**

- 1.1. The site is located in the townland of Poulnamuck, within the settlement boundary of Killarney, c.2km from the south of the town centre. The site is located at Cloverfield off a cul-de-sac roadway which is currently accessed via Elmwood which is in turn accessed off Mill Road. The immediate area is predominantly residential in character, with individual houses built on serviced sites which the residential estate of Elmwood to the north is the same. Both are served by the same access road off Mill Road. The Flesk Caravan Park is located south.
- 1.2. An access road gaining direct access to Cloverfield from Muckross Road was approved under planning permission 12/205333. The site itself is situated over an existing access road to Cloverfield from Elmwood.
- 1.3. The western part of the site is zoned R1 new/proposed residential the eastern part of the site zoned R2 existing residential.
- 1.4. The overall applicant landholding appears to extend north from the rear of an existing cottage which fronts the N71 Muckross Road between the Gleneagle Hotel and the Victoria Hotel towards the existing housing area known as Cloverfield and Elmwood and includes lands to the north and north west of the site which are currently in use for pasture for horses.

## **2.0 Proposed Development**

- 2.1. It is proposed to construct a two-storey dual pitch roof with single storey flat roof front porch dwellinghouse. The proposed dwellinghouse would measure 5.4m high at eaves and 9.2m high at ridge. Materials are to comprise of render to walls, zinc to porch, slate or tile to roof. The proposed finished floor level is 98.6m OD.
- 2.2. There are 2 no. parallel parking spaces proposed to the front of the property and a soakaway to rear of rear garden area.
- 2.3. As part of this development it is proposed to close off/decommission a section of roadway providing access to Cloverfield from Elmwood/Mill Road (which would be developed on), and, form an access onto Cloverfield from proposed new access road entering from Muckross Road (subject of p.p 22/1054 and p.p 22/883). This part of the development facilitates the maintenance of a pedestrian access from Elmwood to Cloverfield and the N71/Muckross Road.

- 2.4. The proposed front elevation is to the south western side which would correspond with the building line and front elevation of properties on Sites 2 and 3, adjacent Cloverfield House further east, and, address sites 14-17 (subject of future proposed development) directly across the laneway.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

By order dated 17<sup>th</sup> August 2023 Kerry County Council issued notification of the decision to grant permission with fifteen conditions attached following receipt and analysis of further information.

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

##### **3.2.1. Planning Reports**

The Planner's Further Information Assessment considered that following the receipt of further information comprising of the submission of contiguous elevations, clarification of development of surrounding landscape and associated access road, the proposed development was acceptable. The Senior Planner's Report concurred with the recommendations of the Executive Planner.

##### **3.2.2. Other Technical Reports**

- Kerry National Roads Office – No comments;
- Municipal District Roads Engineer - No comments;
- Water Services - No observations
- Archaeologist - No mitigation required.

#### **3.3. Prescribed Bodies**

TII – No observations

Irish Water – Conditions to be attached

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

Brian and Stella Maloney, Mill Road, Killarney, Co. Kerry.

Reflected in 'Grounds of Appeal'.

## 4.0 **Planning History**

### *Application Site and Surroundings*

Planning Reg. Ref.: 18/570 - Proposed dwellinghouse on part of current site. This application was refused by An Bord Pleanála (Ref. ABP-303815-19) who considered the proposed dwellinghouse which would continue a pattern of piecemeal development on the applicant's lands and would establish a precedent for continuation of an unsuitable pattern, in advance of submission and agreement of a masterplan for the wider landholding. It was noted to be very important that any further piecemeal development is avoided.

### *Access Road*

Planning Authority Reg. Ref. 22/971 – Extend existing access road from Elmwood granted permission under reg. ref. 12/205333 and provide new storm and foul sewers and all ancillary services and areas. Granted Conditional Permission (OIKOS Properties Limited).

Planning Authority Reg. Ref.: 22/883 – Extend existing access road from Elmwood granted permission under planning permission reg. ref. 12/205333 (from Elmwood) in order to connect up with access road granted permission under permission reg. ref. 20/1054 which will allow access onto Muckcross Road only instead of the current access route onto Mill Road, decommission realign part of existing access road granted permission under reg. ref. 12/205333, decommission existing storm and foul sewers and provide new storm and foul sewers and all ancillary services and areas and permission for the development of a pedestrian link from the proposed development onto Elm Wood and Mill Road and Planning Permission to construct 5 no. dwellinghouses on sites 13, 14, 15, 16, 17 and all associated site works. Granted Condition Permission, (OIKOS Properties Limited). Condition 9 of this consent stipulates the layout of the proposed walkway (2m wide path and 0.5m grass margin)

from Elm Wood to be modified for passive surveillance and requested a revised Site Layout Plan be submitted.

#### *Muckross Road*

Planning Authority Reg. Ref.: 22/1000 – Demolish existing dwellinghouse on Muckross Road and construct 6 no. 2 bedroom apartments and 1 no. 3 bedroom apartment, parking, ancillary services and areas. Granted Conditional Permission (Breda Hickey).

Planning Authority Reg. Ref.: 20/1054 - Proposed development for an apartment block of 8 no. apartments and an access road onto Muckross Road. A masterplan for the landholding was submitted as part of that application. It showed a road extending in from 20/1054: permission to provide access to the rest of the site. Granted Conditional Permission (OIKOS Properties Limited)

#### *Site No.2 to Cloverfield, adjoining appeal site to south east*

Planning Authority Reg. Ref.: 14/205494 - Construction of a dwellinghouse, ancillary services and areas on Site No.1 and Outline Permission to construct a dwellinghouse, ancillary services and areas on Site No.2. Granted Conditional Permission. (Conor Hickey & Breda Hickey)

#### *Site No.3 to Cloverfield, further to the south east*

Planning Authority Reg. Ref.: 17/426 - Construction of a dwellinghouse, ancillary services and area. Granted permission consequent on grant of outline. (Conor Hickey & Breda Hickey)

Planning Authority Reg. Ref.: 21/610 - Construction of a dwellinghouse and garage. Granted Conditional Permission. (Conor Hickey & Breda Hickey)

#### *House east of application site A*

Planning Authority Reg. Ref.: 12/205333 - (a) Construction of a dwellinghouse and

garage, and, (b) realign and upgrade existing service road along with ancillary services and areas. Granted Conditional Permission (Shaun Hickey).

*Cloverfield House*

Planning Authority Reg. Ref.: 99/1223 - Dwellinghouse granted planning permission – this site formed part of the curtilage of dwellinghouse. Granted Conditional Permission (Nellie Hickey).

Planning Authority Reg. Ref.: 98/25 - Construction of 11 no. two storey dwellinghouses and service road with ancillary services. Granted Conditional Permission.

*Land comprising of application site, Site No.2, Site No.3, Site A, sites directly west across Cloverfield Lane*

Planning Authority Reg. Ref.: 97/1366 - Construction of 11 no. dwellinghouses with ancillary services. Refused by An Bord Pleanála (reference number not available).

Reason: Unsuitable footpath network and visually obtrusive.

*Valinor, Elmwood (Appellants) to north east of appeal site*

Planning	Authority	Reg.	Ref.:	13/205366	-
Construction of a storey & half dwelling house with integrated garage and all associated site works. Granted Conditional Permission. (Appellants, Brian Looney and Stella Maloney).					

## **5.0 Policy Context**

### **5.1. National Policy and Guidance**

#### **5.1.1 National Planning Framework 2040**

National Policy Objective 3a Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.

#### **5.1.2 Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities.**

3.3.3 Key Towns and Large Towns (5,000+ population);

The key priorities for the growth of Key Towns and Large Towns in order of priority are to:

(d) Realise opportunities for adaptation and reuse of existing buildings and for incremental backland, brownfield and infill development,

## **5.2 Development Plan**

#### **5.2.1 The Kerry County Development Plan 2022-2028 refers:**

The above stated plan is applicable to the subject site and its setting. The relevant sections, sub-sections and policy objectives are detailed below:

KCDP 4-27 Prioritise the regeneration of underused town centre and brownfield / infill lands in order to achieve the sustainable delivery of new housing within the existing urban footprint of settlements in the County

Volume 6

1. Development Management Standards

## 2.3 Land-Use Zoning

### R1 New/Proposed Residential (surrounding area):

*Provide for new residential development in tandem with the provision of the necessary social and physical infrastructure For new residential areas/town extensions to ensure the provision of high quality new residential environments. Provide an appropriate mix of house sizes, types and tenures in order to meet household needs and to promote balanced communities. May also include a range of other ancillary uses for residential, particularly those that have the potential to foster the development of new residential communities.*

### R2 Existing Residential (application site):

*Provide for residential development and protect and improve residential amenity For existing predominately residential areas allowing for the protection of existing residential amenity balanced with new infill development. May also include a range of other ancillary uses for residential, particularly those that have the potential to foster the development of residential communities. These are uses that benefit from a close relationship to the immediate community, such as crèches, some schools and nursing homes. A limited range of other uses that support the overall residential function of the area may also be considered.*

### C5 Tourism and Related ( to the site entrance on entry from Muckcross Road)

*To allow for the development of tourist related uses.*

*Encourage the sustainable provision of an all year-round tourism and recreational facility at appropriate locations.*

## 5.3 Natural Heritage Designations

The appeal site is located c.300m from the Killarney National Park SAC, SPA, Site Code: 004038, and, the Macgillycuddy's Reeks and Caragh River Catchment SAC, Site Code: 000365.

For the purposes of clarity, the site is not visually sensitive, there are no protected views or designations on the site or in immediate proximity.



## **5.4 EIA Screening**

Having regard to the nature and scale of the proposed development and absence of connectivity to sensitive locations, I am satisfied that no real likelihood of significant effects on the environment arise from the proposed development and that the carrying out of an EIA can be excluded at preliminary examination and screening determination is not required.

## **6 The Appeal**

### **6.1 Grounds of Appeal**

The Third Party Appeal is submitted by Brian Looney & Stella Maloney who live at Valinor, Mill Road, to the north east of the appeal site. The main points can be summarised as follows:

- PA failed to consider observation made in response to further information due to an administrative error on their part;
- PA failed to address why proposed standalone development was considered when there have been multiple separate applications on adjoining sites (same landowner);
- This will continue piecemeal and unsuitable pattern of development;
- Prior determination by ABP, Reg. Ref. PL08.303815 (18/750) which piecemeal development was stated in grounds of refusal;
- Planning permissions reg. refs. 22/883, 22/888, 22/927 and 22/971 continue this unsustainable pattern of development. Another new application due to be made for 6 no. dwellinghouses;
- Size (two-storey) and position proposed dwellinghouse injurious to the sustainability and quality of life of appellant's property;
- Affects the appellant's natural light compromising 'right to light' and solar gain to living, dining and kitchen;

- Proposed development would result in increased heating costs and emissions and impact viability of future photovoltaic panels;
- Injures the appellant's visual amenity impairing views from living room and balcony;
- Ask that full footpath connection and associated lighting to Muckcross Road for Elmwood be an early deliverable in event of grant of planning permission;
- Conditions recommended which included creation of pedestrian and cycle access between the Elmwood/Mill Road and Muckcross Road, reduced maximum ridge height, management of noise and dust from aggregated development.

## 6.2 Applicant Response

Hickey Design Associates responded to the grounds of appeal. Their response is as follows:

- There is no basis to refuse permission on cited administrative error;
- Site and adjacent lands are zoned for residential development;
- Proposed development in this built up area is in accordance with proper planning;
- Adjoining roads and infrastructure either exist or have permission to be constructed;
- Appellants reference to PL08.303815 is now a historic application which sought to gain access from Mill Road not Muckcross Road;
- A masterplan for development of these lands was since agreed in principle (copy attached)
- Other planning permissions in masterplan (since granted) allows for co-ordinated approach for residentially zoned lands surrounding;
- Proposed development in keeping with existing and permitted development;
- Provision of lighting of the walkway adjacent subject of planning permission 22/883;

- Details in relation to lighting along the proposed footpath from Elmwood running past the site are being agreed with planning authority;
- Proposed conditions 3 of 4 are inappropriate.

### **6.3 Planning Authority Response**

The planning authority did not respond to the grounds of the appeal.

## **7 Assessment**

### **7.1 Introduction**

7.1.1 Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Technical Error
- Clarification
- Principle of Development
- Access
- Scale
- Residential Amenity
- Other

### **7.2 Technical Error**

7.1.1 With regard to a stated technical error on behalf of Kerry County Council relating to non-consideration of observations made at further information stage, in the interest of completeness, I have assessed and considered all documentation as part of this report.

## **7.2 Clarification**

- 7.2.1 Planning applications/proposed development including access roads on adjoining sites (22/883, 22/888, and 22/971) have been dealt with as part of separate planning applications and I do not consider it appropriate to deal with these as part of this appeal. This appeal will focus on the contents contained within the appeal only.

## **7.3 Principle of development**

- 7.3.1 Planning appeal PL08.303815 (planning application 18/570) was refused for a dwellinghouse on part of this current site. This application was refused as An Bord Pleanála considered the proposed development to provide a dwellinghouse which would continue piecemeal development on the applicant's lands and would establish a precedent for continuation of this unsuitable pattern, in advance of submission and agreement of a masterplan for the wider landholding.
- 7.3.2 Firstly, it is noteworthy that the above application was made under a previous iteration of the Kerry County Development Plan (2015-2021). Secondly, it is noted that other applications/planning permissions for the development of these wider lands including access from the N71 Muckross Road, and, the development of sites all within the applicant's landholding have since been approved, hence the situation is now such that the proposed development would not constitute piecemeal development within the immediate and wider surrounding areas. I note the masterplan for the lands with which this development is consistent.
- 7.3.3 The land zoning is R1 New/Proposed Residential which the purpose is 'provide for new residential development'. The proposed development is compatible with this land zoning, also National Policy Objective 3a, County Development Plan as it seeks to develop an infill site within the settlement boundary on zoned lands.
- 7.3.4 I therefore consider that the proposed development would effectively infill and consolidate development between Site No.2 and remainder of Cloverfield Lane to the south and Valinor (appellant's dwellinghouse) and remainder of Elmwood to the north.
- 7.3.5 Moreover, the surrounding area is characterised by singular detached dwellinghouses both to Cloverfield Lane, and, also to Elmwood with which the proposed development would be in keeping.

- 7.3.6 Since planning appeal PL08.303815 was refused, planning permission reg. ref. 20/1054 was granted for the development of an apartment block containing 8 no. units and access from Muckross Road through lands between the Gleneagle Hotel and Victoria House Hotel, thus opening up access from Muckross Road, and, lands in-between Muckross Road and the application site.
- 7.3.7 Planning permission 22/883 was also granted for extension of existing access road (originally granted permission under 12/205333) to connect with access road granted under planning permission 20/1054 facilitating access from and onto Muckross Road only, decommissioning part of existing access road from Mill Road (granted under planning permission 12/205333), and development of a pedestrian link from Mill Road and Elmwood through to Muckross Road, and all ancillary services.
- 7.3.8 It is also noteworthy that planning permission 22/888 included a detached dwellinghouse, the site immediately west/directly across existing access laneway.
- 7.3.9 Taking into consideration the approved developments in the area since planning appeal PL08.303815 (Planning Application 18/570) was refused, in conjunction with the adoption of the current County Development Plan in December 2022, I consider that the proposed development would now not constitute piecemeal development.
- 7.3.10 It is noted that 22/918 for the construction of 5 no. dwellinghouses and ancillary works/services was withdrawn following further information request (24/10/2022) as the planning authority had concerns regarding prematurity and piecemeal development as planning application 22/883 was live at the time. This has since been granted as detailed in Section 4.0 Planning History.
- 7.3.11 Overall I consider that the proposed development is consistent with both existing and proposed development in the locality and the principle of development at this time is considered acceptable.

## **7.4 Access**

- 7.4.1 The proposed access south of the Gleneagles Hotel and north of the Victoria House Hotel south of the entrance has been assessed and approved as part of planning

permissions 20/1054 and 22/883. I consider that the proposed access all the way through to residentially zoned lands at Cloverfield and to the rear of Mill Road is also not considered to significantly impact upon tourism zoned lands.

7.4.2 In light of the development of surrounding lands, I consider that the proposed access would offer a more direct access to both proposed and permitted developments resulting in a more orderly development of the site, host laneway and surrounding lands.

7.7.1 Taking this into consideration, I have therefore recommended a condition that the proposed development be subject to completion of access road from N71 Muckross Road and no development shall not commence until such a time as when the access road including footpath connection is complete. This will assist to ensure orderly, sequential and safe development.

7.7.2 I noted that the development facilitates the provision of a pedestrian route between Muckross Road and Elmwood the detailed design which is subject to Condition No.9 of planning permission 22/883. I do not therefore consider the condition recommended by the appellant to be necessary.

7.7.3 With regard to suggested conditions (by the appellant) regarding lighting provision to the aforementioned access road and footpath to ensure pedestrian and cycle safety coming from Mill Road/Elmwood, this issue will be dealt with by Kerry County Council as part of discharge of conditions of (Condition No.9) planning permission 22/883.

## **7.5 Scale**

7.5.1 As aforementioned, the proposed two-storey dual pitched roof dwellinghouse would measure 5.4m high at eaves and 9.2m high at ridge. The appellant's property at Valinor, Elmwood (planning permission reg. ref. 13/205366) forms part of a row of one and a half/two storey properties and it would measure c.4.5m high at the eaves and c.8.014m high at the ridge. There is a separation distance of c.16m between buildings (with nearest openings c.19m apart) however they are positioned at relatively oblique angles to one another. The proposed development is not excessively higher than the appellant's property to the north east and would not consequently overbear, dominate or undermine this property. I therefore consider that the height difference between the

proposed development and the appellant's property would not be overly significant and would not create adverse overbearing impacts (as further discussed below).

- 7.5.2 Moreover, I consider that the scale of the proposed development when assessed against the property immediately due south (planning permission 14/205494), proposed dwellinghouse further south (planning permission reg. ref. 21/610), Cloverfield House further south again subject of planning permission 99/1223 & 19/1052 (all along the same section of laneway) is generally in keeping with the surrounding pattern of development.
- 7.5.3 As part of the above, I note that the flat roof property immediately due south is higher at the parapet and Cloverfield House to the southern/opposite end of the host laneway is higher at both eaves and ridge level and larger in footprint and floorarea than the proposed dwellinghouse subject of appeal.
- 7.5.4 Overall I consider that the scale of the proposed dwellinghouse is acceptable given its surrounding context.

## **7.6 Residential Amenity**

- 7.7.4 As part of my assessment of residential amenity impacts, I will assess overlooking, loss of privacy, outlook, daylight, sunlight and overshadowing impacts.
- 7.7.5 On assessment of overlooking and loss of privacy impacts, the rear elevation of the proposed dwellinghouse is located c.16m from that of the appellant's (with nearest openings c.19m). Given the separation distance and the oblique angle of vision as aforementioned, I do not consider overlooking from first floor windows into the appellant's property namely openings to rear elevation and immediate garden area to be significantly greater than what normally exists on residential zoned lands in an urban setting and hence would not be regarded as unacceptable.
- 7.7.6 As part of an assessment of the surrounding area, I also note that Clover Lodge/Site A (south east of, planning permission 12205333) is located to the rear (west/south west) of Site No.2 (built out and occupied, planning permission 14205494) and Site No.3 (not built out, planning permission 17346, 21610) (both south of) for which the relevant separation distances (existing and proposed) are somewhat analogous.
- 7.7.7 With regard to outlook impacts, the proposed dwellinghouse is located to the south west of the appellants property. The proposed dwellinghouse is therefore not in the

direct line of vision of the 2 no. first floor openings to the appellant's property for which neither would not be significantly compromised. It is claimed that the appellant's outlook from their bedroom balcony would be adversely affected, however this opening is the northernmost of the two openings, hence would suffer the least effects which are minimal.

- 7.7.8 For the purposes of clarity, the predominant views from the appellants first floor rear elevation openings look west/south west towards the Macgillycuddy Reeks and not towards the rear or flank elevation of the appeal property. Furthermore, there no protected views on or over the site or in immediate proximity, and, there are no inherent legal rights to a view either.
- 7.7.9 On assessment of lighting and overshadowing impacts, with regard to the appellant's assertion stating the proposed development would compromise their right to light, the issue of determining right to light is a matter for the courts, I do not consider that the board is in a position to draw any conclusions in relation to the matters raised.
- 7.7.10 With regard to potential loss of daylight at the appellant's property, the most affected windows would be the rear western elevation ground floor which serve a living room and a dining room. The southern flank elevation openings serve a utility and a bathroom which do not demand light and a secondary window to a dining room for which the larger primary window is to the front western elevation and would remain unaffected.
- 7.7.11 Having studied the location, position and orientation of the proposed dwellinghouse south west of/relative to the appellant's property, any loss of light or overshadowing impacts resultant would be limited to later in the afternoon and evening time. I further note that there would be no little or no effects during morning, midday or early afternoon (i.e. the majority of the day).
- 7.7.12 With regard to effects to the appellant's rear garden area, again by way of the position of the proposed dwellinghouse to the south west of the appellant's dwellinghouse, the appellant's immediate rear garden area would not be adversely affected for the majority of the day. I also note that the rear and southern side boundaries to the appellant's property are c.2.3m high boundary walls, hence there are some effects existing to the rear garden area.



7.7.13 The impacts on daylight and overshadowing have been assessed as part of this appeal and are considered to be acceptable in this urban context, hence no significant effect on energy costs or future PV panel operations are anticipated.

## **7.8 Other**

- 7.8.1 With regard to the imposition of specific conditions, given the existing boundary treatment to Cloverfield to rear of the proposed dwelling) which comprises of stone wall to one side and concrete block wall to the other with shrubbery in-between footpaths and the laneway, I do not consider that a 1.8m high concrete fence is an appropriate design solution hence I consider it appropriate to recommend a condition that the applicant agree boundary treatment, planting and landscaping with the local authority prior to construction commencement.
- 7.8.2 I note that Kerry County Council did not attach such a condition requesting a Part V agreement, however having regard to the planning history and zoning objectives on these lands, a Part V condition is applicable. I have therefore recommended the attachment of such.
- 7.8.3 Given the site location in Killarney Town close to tourism amenities, I also consider necessary to recommend a condition that the use of the proposed dwellinghouse shall be restricted to a dwellinghouse, and, no part of the proposed dwellinghouse shall be used for the provision of overnight commercial guest accommodation.
- 7.8.4 Given the site location in a predominantly residential area I have also recommended a condition regarding the agreement of a construction management plan for which shall provide a mechanism to address issues raised such as potential noise and dust in addition other such matters.
- 7.8.5 I note the absence of Part V condition by the planning authority but I refer to the application cover letter which states the that applicant will enter into an agreement with the planning authority in relation to compliance with same prior to commencement of development. I therefore recommend the attachment of a condition requesting such. In the event of a decision to grant planning permission.

## 8.0 Recommendation

Having regard to the foregoing I recommend that retention be GRANTED subject to conditions.

## 9.0 Reasons and Considerations

Having regard to the Kerry County Development Plan 2022-2028, the site location in the settlement of Killarney, the planning history of the site, the scale and design of the proposed development, the surrounding pattern of existing and permitted development, subject to the conditions set out below, the proposed development would not give rise to unacceptable impacts on visual amenity or residential amenity of surrounding neighbouring properties/occupiers or give rise to the creation of a traffic hazard. The proposed development is in keeping with the existing and permitted pattern of development, and, would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further
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	<p>plans and particulars received by the planning authority on the 02/09/2022, as revised on 12/07/2023 and the 21/07/2023 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The proposed dwelling house shall be in accordance with the revised plans and particulars received on 12/07/2023. Roof shall be covered with slates or tiles which shall be either black, dark grey or blue black. The colour of the ridge tile shall match the colour of the roof. All external finishes shall be neutral in tone, colour and texture. The use of white uPVC shall be prohibited on all windows, doors, soffits and gutters.</p> <p>Reason: In the interest of architectural harmony and in order to integrate the structure into the surrounding area.</p>
3.	<p>Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the proposed development shall be restricted to a dwellinghouse, and, no part of the proposed dwellinghouse shall be used for the provision of overnight commercial guest accommodation, unless otherwise authorised by a prior grant of planning permission.</p> <p>Reason: To protect the amenities of property in the vicinity.</p>
4.	<p>The proposed development shall not commence until site development works including the access road and footpath connection and associated lighting from the N71 Muckross Road to the west of the site, the subject of planning permission granted under reg. ref. 22/883 number has been completed to the written satisfaction of the planning authority.</p> <p>Reason: In the interests of proper planning and orderly development</p>
5.	<p>The proposed front (western) boundary wall shall consist of local natural stone as per surrounding properties, the exact, location and material which shall be submitted to, and agreed in writing with, the planning authority prior</p>

	to commencement of development. Reason: In order to integrate effectively with development in surrounding area in the interest of visual amenity.
6.	The rear boundary wall and northern flank boundary shall consist of concrete block wall capped and rendered. The exact dimensions, location and material shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Reason: In order to integrate effectively with development in surrounding area in the interest of visual amenity.
7.	The site shall be landscaped in accordance with a comprehensive scheme of planting and landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.  Reason: In order to screen the development and assimilate it into the surrounding area, in the interest of visual amenity.
8.	The water supply and drainage arrangements, including the alleviation and disposal of surface water shall comply with the requirements of the planning authority for such works.  Reason: In the interests of public health.
9.	The development shall be connected to the public water and public foul sewerage system to the satisfaction of Uisce Eireann. No development shall commence until such time as the developer has obtained and signed a Connection Agreement with Uisce Eireann for the provision of water and sewerage services necessary to enable the proposed development. The developer shall adhere to the standards and conditions set out in that agreement.  Reason: In the interests of public health.
10.	The in-curtilage parking spaces serving the residential unit shall be provided with an electric connections to the exterior of the house to allow for the provision of future electric vehicle charging point. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of

	development. Reason: in the interest of sustainable transportation.
11.	All service lines to the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be laid underground. Reason: In the interests of visual amenity and orderly development.
12.	If, during the course of excavation works, any hazardous waste/material is encountered, the applicant shall immediately notify the Planning Authority of same. Any and all hazardous waste/material (e.g. asbestos, fluorescent tubes, etc.) encountered during the course of demolition or excavation works shall be disposed of in an environmentally safe and appropriate manner and in accordance with the requirements of the appropriate legislation. All construction and demolition waste shall be disposed of in an environmentally safe and appropriate manner. Burning of shrink wrapping, cut-off material or other waste building material is strictly prohibited.  Reason: In the interests of orderly development and environmental protection.
13.	The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste. Reason: In the interests of public safety and residential amenity.
14.	Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority. Reason: In order to safeguard the residential amenities of property in the vicinity.
15.	Prior to the commencement of the development, the Applicants/Developer and any other person with an interest in the land to which this Permission

	<p>relates, shall enter into an Agreement with the Planning Authority in accordance with Part V of the Planning and Development Acts, (as amended) (including amendments introduced in Part 6 of the Affordable Housing Act, 2021) providing for the transfer to the Planning Authority of the ownership of 20% of the land (or 10% if applicable) the subject of this permission for provision of housing referred to in Section 94(4)(a) of the Planning and Development Acts, (as amended). Nothing in this condition shall prevent the parties reaching alternative arrangements envisaged by the terms of the Part V of the Planning and Development Acts, (as amended).</p> <p>Reason: To comply with the requirements of Part V of the Planning and Development Acts, (as amended).</p>
16.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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



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Niall Sheehan  
Planning Inspector

22 January 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	ABP-317987-23			
<b>Proposed Development Summary</b>	Construction a dwellinghouse, ancillary services and area			
<b>Development Address</b>	Cloverfield, Muckross Road, Killarney, Co. Kerry			
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X	
		<b>No</b>		
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>				
<b>Yes</b>		Class.....	EIA Mandatory EIAR required	
<b>No</b>	X		Proceed to Q.3	
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>				
		<b>Threshold</b>	<b>Comment (if relevant)</b>	<b>Conclusion</b>
<b>No</b>		N/A		No EIAR or Preliminary Examination required
<b>Yes</b>	X	Class 10, (b) (i)	Sub-Threshold	Proceed to Q.4



**4. Has Schedule 7A information been submitted?**

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: *Nhall Buchanan*

Date: 22 January 2024

## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	317987-23	
<b>Proposed Development Summary</b>	Construction a dwellinghouse, ancillary services and area	
<b>Development Address</b>	Cloverfield, Muckross Road, Killarney, Co. Kerry	
<b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<b>Nature of the Development</b> Is the nature of the proposed development exceptional in the context of the existing environment?  Will the development result in the production of any significant waste, emissions or pollutants?	Single dwellinghouse within settlement boundary to be linked to public mains and public sewer.  No significant emissions resultant.	No  No
<b>Size of the Development</b> Is the size of the proposed development exceptional in the context of the existing environment?  Are there significant cumulative considerations having regard to other existing	Single dwellinghouse within settlement boundary to be linked to public mains and public sewer. No significant emissions resultant.  No significant emissions resultant of this project combined with any existing or permitted	No  No

and/or permitted projects?		
<b>Location of the Development</b> Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?  Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?	The appeal site is located c.300m from the Killarney National Park SAC, SPA, (Site Code: 004038), and, the Macgillycuddy's Reeks and Caragh River Catchment SAC, (Site Code: 000365) however there is clear separation and no direct pathways to these ecologically sensitive sites.  No direct pathways to any ecologically sensitive sites.	No
<b>Conclusion</b>		
<b>There is no real likelihood of significant effects on the environment.</b>  EIA not required.	<b>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</b>  <del>Schedule 7A Information required to enable a Screening Determination to be carried out.</del>	<b>There is a real likelihood of significant effects on the environment.</b>  <del>EIAR required.</del>

Inspector: 

Date: 22<sup>nd</sup> January 2024

DP/ADP: \_\_\_\_\_

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

(only where Schedule 7A information or EIAR required)