



An  
Bord  
Pleanála

## Inspector's Report

**ABP-320288-24**

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### Development

Construction of 224 residential units in the form of 76 houses and 148 apartments and all associated site works. The application is accompanied with an NIS.

### Location

Port Road and Saint Margaret's Road, Coollegrean, Inch, Knockreer, Ardnamwelly and Derreen, Killarney, Co. Kerry

### Planning Authority

Kerry County Council

### Planning Authority Reg. Ref.

2460295

### Applicant

Portal Asset Holdings Limited

### Type of Application

Large-Scale Residential Development

### Planning Authority Decision

Grant Permission

### Type of Appeal

Third Party

### Appellant(s)

Brian O'Callaghan

Michael Casey

Michael & Mary Coyle

Irene Hartigan

Laune Salmon & Trout Angler's  
Association

**Observers**

Thomas Ward  
Grainne Stack  
Robert Patterson and Others  
The Millwood Residents and  
Concerned Neighbours C/O Gemma  
O'Callaghan  
Jimmy Browne  
Clare Brosnan

**Date of Site Inspection**

19<sup>th</sup> September 2024

**Inspector**

Paul O'Brien

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## 1.0 Site Location and Description

- 1.1. The subject site with a stated area of 6.1945 hectares, comprises an irregular shaped area of land located to the eastern side of the Port Road/ N71 to the north west of Killarney town centre, County Kerry. The centre of the site is approximately 650 m to the north west from the top/ northern end of High Street, Killarney. The proposed primary access is from the Port Road. The N71 connects with the N22 and N72 to the north at the Cleeny Roundabout providing connections to north, west and east Kerry. The N71 continues south along the eastern side of Lough Leane, through Killarney National Park and on to south Kerry, west Cork and eventually leads to Cork City.

Note: Google Maps indicates that this road is the R877 and the N71 is a road further to the east, along the Rock Road. Kerry County Council and Geohive mapping indicates that the Port Road is the N71.

- 1.2. The proposed development is located on a greenfield site, previously used for agriculture, and which is surrounded by existing urban development. The site was very overgrown on the day of the site visit and access through the site, from the Port Road was difficult. A number of low voltage powerlines cross the site.
- 1.3. The section that provides the connection to the Port Road is relatively narrow and most of the western side of the development will be behind a mix of terraced and detached houses, most of which are single-storey though there are a number of two-storey units along this section of the road. A number of these houses have been extensively extended to the rear/ eastern side.
- 1.4. To the north is Millwood, a residential development of mostly single-storey, semi-detached houses and to the north east is Killarney Community Hospital. To the east is Oakwood Retirement Village, which is a single storey building along its western side and to the south east is Killarney Nursing Home; these are accessed from the Rock Road. To the south of the site is the playing pitches associated with Killarney Community College, and which is located to the north of the New Road. Killarney National Park is located to the west of the Port Road and the subject site.
- 1.5. The Folly Stream flows along the southern and south western boundaries of the site and this watercourse is a tributary of the River Deenagh, which is located to the west beyond the public road/ Port Road. The site slopes towards the Folly Stream from north to south, though the site is uneven throughout its area, there is a steep climb from the west towards the centre of the site.

## 2.0 Proposed Development

- 2.1. The proposal, as per the submitted public notices, comprises the construction of 224 residential units in the form of 76 houses and 148 apartments, a creche, private, public, and communal open space, and all associated site works. A Natura Impact Statement is provided in support of the application.
- 2.2. The following tables set out some key elements of the proposed development on these lands:

<b>Site Area</b>	
<b>Gross Area</b>	6.19 hectares
<b>Net Developable Area</b>	4.75 hectares
<b>Plot Ratio</b>	0.35
<b>Developable Area</b>	0.46
<b>No. of Units</b>	
<b>Apartments</b>	148
<b>Houses</b>	76
<b>Total</b>	224
<b>Building Height</b>	
<b>Houses</b>	2 storey
<b>Apartments</b>	4 storey over basement/ undercroft
<b>Density:</b>	47.1 units per hectare
<b>Open Space Provision</b>	15%
<b>Car Parking –</b>	320
<b>Bicycle Parking – Total</b>	350
<b>Childcare Provision</b>	334 sq m – 46 child places 276 sq m of outdoor space

**Table 2: Unit Mix – Houses**

<b>Bedrooms/ Persons</b>	<b>Type</b>	<b>Total</b>
4 Bedroom/ 7 Person	Semi-Detached	<b>30</b>
3 Bedroom/ 5 - 6 Person	Semi-Detached	<b>10</b>
3 Bedroom/ 5 Person	Townhouse	<b>28</b>
2 Bedroom/ 4 Person	Townhouse	<b>8</b>
<b>Total</b>		<b>76</b>

**Table 3: Unit Mix – Apartments**

<b>Block</b>	<b>Type</b>	<b>1 Bed</b>	<b>2 Bed</b>	<b>3 Bed</b>	<b>Total</b>
01 – Duplex/ Apartment	Duplex			4	4
	Apartment		4		4

	Total		4	4	8
02 – Duplex/ Apartment	Duplex			2	2
	Apartment		2		2
	Total		2	2	4
03 – Duplex/ Apartment	Duplex		4	6	10
	Apartment	6	4		10
	Total	6	8	6	20
04 – Duplex/ Apartment	Duplex		10		10
	Apartment	10			10
	Total	10	10		20
Blocks J, K & L		16	80		96
<b>Total</b>		<b>32</b>	<b>104</b>	<b>12</b>	<b>148</b>

- 2.3. Vehicular and pedestrian access is from the Port Road to the west of the site. A pedestrian access is proposed to the north into Millwood Estate. The site layout plan also indicates the location of other pedestrian access to/ from the site.
- 2.4. The proposed development includes the undergrounding of overhead low voltage lines and all associated site works.

### 3.0 Planning Authority Pre-Application Opinion

- 3.1. A Section 247 pre-application consultation took place on the 4<sup>th</sup> of May 2023 and a Stage 2 – LRD Opinion Meeting took place on the 1<sup>st</sup> of November 2023, between representatives of the applicant and the Planning Authority, Kerry County Council. A range of issues were considered including the previous proposal for a SHD development which was refused permission.
- 3.2. The Planning Authority issued an opinion on the 17<sup>th</sup> of November 2023 and was of the opinion that ‘The Planning Authority recommends the draft proposed development constitutes a reasonable basis on which to make an application for planning permission for a large-scale residential development.’ A number of matters were raised that required further consideration/ additional information and these issues, summarised, were identified as follows:
- Ecology: Note that a supplemental Bat Impact Assessment and public lighting details have been provided and additional works to be undertaken on the Port Road. Requested to address the concerns of the NPWS in relation to the Badger survey report. Also review the submitted AA and give more precise findings/

conclusions and have regard to EU guidelines on AA. Also request that there be engagement between the ecological and landscaping teams.

- Provide details on waste management, water quality and provide an Environmental Management Plan.
- Demonstrate compliance with planning policy, climate action, connectivity and compact growth.
- Provide a plan for bicycle storage and advised to review the Traffic & Transport assessment.
- Provide a road safety audit.
- Details in relation to boundary treatment, signage and playground provision.
- Provide for EV charging and details in relation to a culvert on St Margarets Road.
- Part V provision details.
- Details in relation to archaeology.

3.3. The applicant has responded to each of these issues in the relevant reports submitted in support of the application. A summary response is provided in Chapter 02. 'Opinion Response and Pre-application Consultation' in the submitted Planning Statement.

## 4.0 **Planning Authority Decision**

### 4.1. **Decision**

The Planning Authority decided to grant permission subject to conditions. Conditions are generally standard, though I note the following in summary:

13. Provide for a suitable buffer zone in relation to recorded archaeological monument Ke066 066.

16. Comply in full with the recommendations and mitigation measures contained within the NIS and EclA.

19. A competent environmental consultant shall be employed to carry out freshwater biological (Q) monitoring prior to and after each phase of the construction of the proposed development. A proposed plan for the monitoring programme shall be submitted to the local authority for agreement prior to the commencement of any

works on-site and the results of all such monitoring shall be provided to Kerry County Council upon completion.

21. Provide for 30. No. recessed swift nesting blocks.

22. Employ a qualified Landscape Consultant during the life of the construction phase.

23. Provision of details in relation to landscaping and impact on Killarney National Park.

24. Employ a qualified arborist during the life of the construction phase.

25. Employ a qualified bat specialist during the life of the construction phase. Other measures in relation to bats to be undertaken.

33. Provision of suitable ducting for the undergrounding of ESB overhead lines along the N71 – Port Road.

44. & 45. Public lighting details.

## **4.2. Planning Authority Reports**

### **4.2.1. Planning Reports**

The Planning Report reflects the decision to grant permission for this development. The Kerry County Council Planner considered the proposal to be in accordance with the Kerry County Development Plan 2022 – 2028 and would not seriously injure the amenities of the area or of property in the vicinity of the proposed development. The proposal has addressed the reasons for refusal for the previous application for a SHD scheme on this site.

### **4.2.2. Other Technical Reports**

- Ecologist – Environmental Assessment Unit: No objection subject to recommended conditions.
- Housing Estates Unit: Conditions provided.
- County Archaeologist: No objection subject to recommended conditions.
- Flooding and Coastal Protection Unit: No objection subject to conditions.
- Environment Department: No objection subject to conditions.
- Killarney Municipal District Engineer: No objection subject to conditions.



- Operations, Capital Infrastructure & Safety Department: No objection subject to conditions including a special levy for the provision of active travel infrastructure.

#### 4.2.3. Prescribed Bodies

- Department of Housing, Local Government and Heritage: No objection in principle to the proposed development. Notes the proximity of the development to Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment Special Area of Conservation (SAC). Particular reference is made to the Lesser Horseshoe Bat, and which is susceptible to disturbance by lighting. Notes the commitments outlined in the NIS and has recommended conditions in the event that permission is granted for this development.
- Uisce Éireann: No objection to the proposed development subject to conditions.
- Department of Housing, Local Government and Heritage: No objection to the proposed development subject to conditions.
- Transport Infrastructure Ireland (TII): Concern about the access of a development onto a national route.

#### 4.2.4. Third Party Observations

Submissions were received from elected members of Kerry County Council, from the Killarney Environs Protection Group, the Laune Salmon & Trout Anglers' Association, from Killarney Community College, and from individual members of the public and which I have grouped under appropriate headings:

Principle of development:

- Acknowledge a need for additional housing.
- Support provided for the development of this site.
- Praise given for the proposed tree survey, landscape plan and selection of plant materials.
- Concern about the impact of the development on the existing community.
- An adjoining landowner has offered to make their land available to improve the access to the proposed development site.

Design Issues:

- Concern about the proposed layout and in particular how it interacts with Millwood to the north.
- Incorrect description of development, the apartment blocks should be described as five storeys in height (four storeys over basement).
- The undercroft space forms a large area, greater than that below the apartment blocks.
- There is a need for increase buffer areas to ensure that noise and nuisance is screened out.
- The proposed walkway connections would result in the loss of open space in Millwood.

#### Impact on Ecology and National Park:

- There is an active badger and badger sets on these lands.
- Presence of Lesser Horseshoe Bats in the area, which may be adversely impacted by the development.
- Concern about the impact of the development on existing bird nests in the area of the subject site.
- Survey results indicate where the bats may be found, and many were located in an area where no additional screening was proposed; the proposed mitigation measures would not be suitable for the protection of these bats.
- Concern about differences and the lack of clarity in the submitted/ different bat surveys.
- The development would have a negative impact on environmental designations in the area.
- The development would give rise to increased urbanisation and loss of habitat.
- Concern about the impact of the proposed development on the existing water table and which in turn may impact on existing trees.

#### Impact on Water Quality:

- Concern about the impact on the loading of the Killarney Waste Water Treatment Plant.
- Much of the sewerage network operates as a combined sewer and cannot cope at times of heavy rainfall.

- Reports that there are overflows of foul water from the public network into rivers etc. in Killarney.
- Works are required throughout Killarney to ensure that these issues do not continue.
- Concern about the impact of the development on the Folly Stream.
- The proposed development is to be assessed for compliance with the requirements of the Water Framework Directive.

#### Impact on Residential Amenity:

- New pedestrian access into Millwood Estate would negatively impact on existing residential amenity and safety.
- Concern about the scale/ height of the proposed creche.
- Impact on daylight/ sunlight due to the proposed creche.
- Excessive density of development proposed.
- Loss of views towards the Cathedral, National Park and mountains; these views have been available for some time.
- The proposed development may devalue existing property.
- Domestic extensions/ additions within the rear gardens of the proposed houses may negatively impact on existing properties.
- Nuisance from dogs etc that may be kept in the rear gardens of the proposed houses.
- Recommend that the development be revised through a reduced density and take account of existing properties in the area. Single storey houses may be more appropriate where they adjoin existing houses.
- Concern about anti-social behaviour generated by the proposed development and the opening of the access through to Millwood.

#### Traffic and Transport:

- The proposed creche and proximity to Millwood would result in additional traffic and on-street parking in the area.
- Concern about the submitted Traffic & Transport Assessment (TTA) and the method of junction and traffic assessment.

- Traffic was assessed on a weekday, however there is increased traffic at the weekends in Killarney.
- Cumulative impacts on traffic were not adequately considered.
- Details of construction traffic was not provided or considered in the submitted TTA.
- Insufficient car parking is provided for the creche.
- Traffic concerns due to tourist traffic and traffic associated with employment in the area.
- Concern about the potential future pedestrian connections crossing through school grounds – this issue was previously addressed in the report on the SHD development.

Other Issues:

- Concern that there will be overlooking from the apartments into the play areas of the adjoining schools.
- Concern about the ability of emergency services to reach Millwood due to the increase in traffic in the area and especially along the Port Road.
- Concern about the dumping of refuse into existing properties in the area.
- Need for the development to be considered in accordance with the Planning and Development Act 2000 as amended.
- Consideration of the environmental impacts of this development and the Planning Authority is the competent authority in terms of the Habitats Directive.

A number of the submissions were supported with photographs, plans and other supporting documentation.

## 5.0 Planning History

**ABP Ref. 312987-22** refers to an August 2022 decision to refuse permission for a Strategic Housing Development (SHD) consisting of 228 no. residential units (no. 76

houses, 152 no. apartments), creche and associated site works. A single reason for refusal was issued as follows:

Having regard to the proximity of the subject site to the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment candidate Special Area of Conservation (Site Code no. 000365) it is considered that:

The proposed development may result in increased artificial lighting generated at both the construction and operational phases of the development and that may impact on Lesser Horseshoe Bats that commute along routes to the west of the Port Road and Deenagh River. The submitted Appropriate Assessment Screening does not provide sufficient scientific reasoning to clearly eliminate the likelihood of significant adverse effects.

In view of the site's conservation objectives and qualifying interests, the applicant has failed through the submitted Appropriate Assessment Screening Report to demonstrate that the proposed development would not adversely affect the integrity of a European Site and it is considered that the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.'

## **6.0 Policy Context**

### **6.1. National Policy**

#### **6.1.1. Project Ireland 2040 – National Planning Framework (NPF)**

Chapter 4 of the National Planning Framework (NPF) is entitled 'Making Stronger Urban Places' and it sets out to enhance the experience of people who live, work and visit the urban places of Ireland.

A number of key policy objectives are noted as follows:

- National Policy Objective 4 seeks to 'Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being'.
- National Planning Objective 11 provides that 'In meeting urban development requirements, there be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth'.

- National Planning Objective 13 provides that “In urban areas, planning and related standards, including, in particular, height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected”.

**Chapter 6** of the NPF is entitled ‘People, Homes and Communities’ and it sets out that place is intrinsic to achieving a good quality of life.

A number of key policy objectives are noted as follows:

- National Policy Objective 27 seeks to ‘Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages’.

- National Policy Objective 33 seeks to ‘Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location’.

- National Policy Objective 35 seeks ‘To increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights’.

#### 6.1.2. **Section 28 Ministerial Guidelines**

The following is a list of Section 28 - Ministerial Guidelines considered 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 (DoHLGH, 2024)
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (DoHLGH, 2023).
- Urban Development and Building Heights - Guidelines for Planning Authorities – (DoHPLG, 2018).

- Quality Housing for Sustainable Communities (DoEHLG, 2007).
- The Planning System and Flood Risk Management including the associated Technical Appendices (DEHLG/ OPW, 2009).
- Childcare Facilities Guidelines for Planning Authorities (2001).

**Other Relevant Policy Documents include:**

- Design Manual for Urban Roads and Streets (DMURS) 2019
- Permeability Best Practice Guide – National Transport Authority.

## 6.2. Regional Policy

### 6.2.1. Regional Spatial and Economic Strategy for the Southern Region

The Regional Spatial and Economic Strategy (RSES) for the Southern Region provides for the development of nine counties (The Six Munster Counties plus Wexford, Carlow, and Kilkenny) including the Kerry County area, and supports the implementation of the National Development Plan (NDP). Killarney is listed as one of the Key Towns in the region providing for a ‘Significant sub regional role, key national tourism town’. The town is located on the national road and rail networks and is within 18 km of Kerry International Airport.

RPO18 includes the following:

‘a. To sustainably strengthen the role of Killarney as a strategically located urban centre of significant influence in a sub-regional context, a centre of excellence in tourism, recreation and amenity sectors, to promote its role as a leader in these sectors, in particular training and education, and strengthen its overall multi-sectoral dynamic as a key settlement in the Kerry Hub Knowledge Triangle accessible to regional airport, port, rail and road assets;

b. To seek investment to sustainably support its compact growth and regeneration, attributes and infrastructure, including key inter-regional connectivity (transport networks and digital) on the strategic road network between Cork and Limerick

Shannon Metropolitan Areas, the Atlantic Economic Corridor and the Kerry Hub Knowledge Triangle, subject to the outcome of the planning process and environmental assessments;

- c. To strengthen 'steady state' investment in existing rail infrastructure and seek investment for improved infrastructure and services to ensure its continued renewal and maintenance to a high level in order to provide quality levels of safety, service, accessibility and connectivity;
- d. To support infrastructure investment and the regeneration of opportunity sites including the Sara Lee, Aras Phadraig and St Finians;
- e. To seek investment in infrastructure that provides for both the resident population and extensive influx of visitors;
- f. To support investment in infrastructure and the development of lands to the north of the existing by-pass in accordance with proper planning and sustainable development objectives including the appropriate master plans in consultation with statutory stakeholders;
- g. Future growth of the town should be planned for on a phased basis in consultation with the local authority and Irish Water to ensure that sufficient wastewater capacity is accounted for and that further growth avoids negative impacts on the downstream freshwater ecosystem in the National Park (River Deenagh, Lough Leane)'.

### **6.3. Local/ County Policy**

#### **6.3.1. Kerry County Development Plan**

- The Kerry County Development Plan 2022 - 2028 is the current statutory plan for County Kerry, including Killarney/ the subject site. The 'Core & Settlement Strategy' is provided in Chapter 3, and this sets out population projections over the lifetime of the plan.
- Chapter 6 covers 'Sustainable Communities' and Chapter 7 details 'Housing for All'. 'Environment' is in Chapter 11. and 13 is 'Water and Waste Management'.
- The plan includes a number of appendices and Volume six includes '1 Development Management Standards & Guidelines', '2 Land-Use zoning', '3 Biodiversity Action Plan (BAP)' and '4 Housing Need and Demand Assessment (HNDA) & Housing Strategy'.
- Volume Two provides 'Town Development Plans' including Killarney and Volume 4 provides 'Maps' – Section 1 includes 'Tralee, Killarney & Listowel Zoning Maps'.



- The subject lands are zoned R1 – ‘New/ proposed Residential Phase 1’ with an objective to ‘Provide for new residential development in tandem with the provision of the necessary social and physical infrastructure’. Under description the plan states ‘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.’
- Volume Five provides the ‘Environmental Assessments’ including SEA, AA and Strategic Flood Risk Assessment.

#### 6.4. **Natural Heritage Designations**

The Killarney National Park SPA (Site Code 004038), Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (Site Code 000365) and Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment pNHA (Site Code 000365) are approximately 50 m to the west of the subject site, entrance to the Port Road.

Note reference is made in the submitted documents to various measurements between the site and the SPA/ SAC. It is approximately 50 m between the entrance to the Port Road and the designated sites and 190 m between the designated sites and the centre of the subject site.

### 7.0 **The Appeal**

7.1. Five separate third-Party appeals have been made, in addition to a first party appeal. The following issues raised in the third-party appeals are summarised and grouped under appropriate headings:

Principle of development:

- Support for development on these lands.
- The incorporation of the adjoining lands would allow for the provision of additional amenity space and a location for an estate naming stone.
- The proposed density at 47.1 units per hectare is at the upper end of the density band given in Section 28 guidelines.

- Concern that the proposed development has not had regard to the design guidelines in the Kerry County Development Plan 2022 – 2028, the Urban Design Manual and the Sustainable Residential Development and Compact Settlement Guidelines.
- Does not demonstrate compliance with the Kerry County Development Plan 2022 – 2028 in relation to the provision of private amenity space.
- No evidence provided that Uisce Éireann have adequate capacity to cater for this development.

Impact on Residential Amenity:

- The topography of the site has not been adequately considered in the design of this development. There is a 7 m slope from north to south on site.
- Concern about the layout of the development having regard to the site topography.
- Potential for overlooking leading to a loss of privacy of existing houses in the area.
- Noise and nuisance will impact on residential amenity during the construction phase of this development which may be undertaken over a number of years.
- Retaining structure to the rear of an appellant's property may be impacted by this development. This should be assessed by the applicant's engineers.
- Concern about the proximity of the creche in relation to the retaining structure to rear garden of an appellant's property. Construction works may impact on this retaining structure.
- Concern about the layout of the proposed development and impact on the Millwood Estate to the north of the site.
- Potential loss of sunlight especially during winter months.
- No agreement has been had with existing residents in relation to the provision of a 2 m high wall on the common boundary.
- The provision of a 2 m high wall will further reduce the private amenity space depth and area as a buffer of 1.5/ 2.0 m will be required between existing boundary/ hedges and the new wall.
- Inadequate separation distances are proposed especially in relation the subject site and Millwood Estate.
- The provision of sheds/ extensions to the rear of the proposed houses may have an adverse effect on existing residential amenity.

- The provision of the childcare facility in close proximity to Millwood, with a pedestrian link proposed, would adversely affect the residential amenity of Millwood.

#### Impact on Traffic:

- The proposed access to the Port Road is not appropriate and could be improved through the incorporation of adjoining lands, which are in the control of Michael Casey.
- The appellant had intended putting hoarding along his boundary, but this may impact on construction traffic for the proposed development.
- Increase in traffic issues in Millwood due to the location of the proposed creche and a pedestrian link to and from the site.
- The proposed development is at variance with TII policy in relation to development along National Routes.
- The proposed development will impact on the Ballydowney roundabout according to a submitted TTA, but no improvement works are proposed.
- The site access onto the Port Road is within a 60 kmh zone.

#### Impact on water quality:

- The proposed development will result in a significant increase in the daily load into the Killarney Town Sewage Treatment System/ network.
- Much of the existing Killarney drainage network consists of a combined foul and surface water drainage system.
- The proximity of the site to Killarney National Park, which is a World UNESCO Biosphere Reserve Site, needs to be carefully considered.
- Much of the negative impact to water quality comes from urban waste water.
- The submitted environmental assessment fail to provide details of the status of the Killarney Waste Water Treatment Plant.
- There is a need for improvements to the stormwater and foul water drainage systems in advance of the development of these lands for residential development.
- Insufficient details to demonstrate that the development is in accordance with the Water Framework Directive.

#### Impact on adjoining lands:

- The development of the subject site may impact on the development potential of adjoining lands, with specific reference to separation distances and potential for overlooking issues.

- The proposed development does not demonstrate how it will integrate with existing development in the area.
- The proposal is not able to demonstrate what permeability/ access to adjoining lands can actually be provided for.
- No evidence that the NTA's Permeability Best Practice Guide has been applied to this development.
- The inclusion of a condition to levy for the provision of permeability in the area is considered to be highly inappropriate. The public cannot comment on these proposals, and it is requested that An Bord Pleanála do not include a similar condition if permission is granted.

Impact on Biodiversity/ Environmental Issues:

- Concern about the quality of the submitted bat reports/ surveys. Raises concerns about the authorship/ wording in the reports.
- Considers that the submitted reports are not based on best available scientific evidence.
- Concern about changes to text and meaning within the reports.
- As there are no site-specific conservation objectives for the Killarney National Park SPA an Appropriate Assessment cannot be carried out in accordance with Article 6(3) of the Habitats Directive. Article 6(2) provides some guidance in cases where there are no identified conservation objectives, but these are for SACs and not for SPA's.
- There are shortfalls in the AA Screening and these are outlined in the appeal statement but includes incomplete data, data referenced that is not on file, full range of bird species is not listed, and their omission should not allow for potential adverse impacts to them just because they are not listed.
- Concern expressed about the submitted EIA Screening.
- EIA – there will be an impact on the road network, impact on water quality, cannot rule out impacts to the SPA due to the lack of site-specific conservation objectives, potential impact to badgers/ setts in the area, potential effects to listed SPAs and SACs in the area and potential impacts to bats, specifically the lesser horseshoe bat.

The third-party appeals have been supported with submitted plans, detailed drainage details, photographs, copies of submissions to the Planning Authority and other documentation.

#### First Party Appeal:

The first party appeal refers primarily to contribution conditions applied by Kerry County Council. Issues raised include the following in summary:

- Condition 3 – Contribution of €460,000 toward public infrastructure and facilities that would benefit the proposed development. The Planning Authority refer to the provision of shared space along New Road to provide for a cycleway along the Folly Stream and shared space along Rock Road to provide for a cycleway and traffic calming. Estimate that residents of the proposed development would make up 80% of the usage and contribution is levied accordingly. The first party appeal refers to their attempts to provide for linkages to the south of the site but have these proposals have not progressed as the Education Training Board (ETB) have not provided their support for such development. Alternatives have been proposed through this development.
- The works listed under Condition No.3 are not specific and do not give rise to exceptional costs that would not be covered under the General Contributions Scheme 2017.
- The proposed works are on lands that within the applicant's control and were not raised as a requirement by the Planning Authority to date. Considers the contribution condition to be speculative in nature and not specific to this development.
- The General Contribution Scheme can be used to make land acquisitions etc. required to improve infrastructure in the area.
- The levying of this contribution condition does not accord with the principles of reasonableness or proportionality. No breakdown of costs associated with the works have been provided.
- The appeal includes a number of sample precedents were An Bord Pleanála have omitted or amended special contribution that could be considered to be similar to this appeal.

Requests that the contribution condition be omitted as it would impact on the viability of the proposed development.

**7.2. Observations on the proposed development:**

A number of observations were received, including from Millwood Residents and Concerned Neighbours, and the following comments, summarised, are noted:

- Accepted that there is a need for housing in Killarney, but which should be of a scale/ type that is appropriate to the existing character of the town.
- Concern about the safety/ security of those living in Millwood due to the proposed development especially as a route is to be opened up into Millwood to/from the site.
- Concern that Millwood will be used for on-street car parking by people who don't live here, such as creche staff from the new development.
- On street parking will impact emergency services and refuse collection in Millwood.
- Provision of a new access may give rise to anti-social behaviour in the area.
- Lesser Horseshoe bats will be negatively impacted by the proposed development especially through the provision of additional street lighting in the area.
- The provision of a new link through Millwood will not be of much benefit considering where existing services are.
- Concern about the impact of the development on the structural integrity of the boundaries and gardens in Millwood where they adjoin the subject site.
- There is a lack of foul drainage capacity in the area. Sewerage outflows have occurred and given rise to significant nuisance in the area impacted and would impact on Killarney National Park.
- The proposed development is out of character with the existing area in terms of height of unit proposed and density.
- The site has been used as a public open space amenity for a number of years and is a significant habitat site.
- Concerns about the impact of the development on traffic in the area. There is already congestion at the Ballydowney Roundabout.

- The submitted Traffic & Transport Assessment includes a number of errors and omissions. Query over junction/ traffic surveys, when the survey was undertaken, and cumulative impacts not fully considered.
- The proposed development would have a negative impact on the character of Killarney National Park.
- The height/ scale of development would have a negative impact on the visual amenity of the area.
- A single access onto the Port Road is insufficient for the scale/ nature of development proposed here.

The observations have been supported with plans, photographs and other supporting documentation.

### 7.3. **Third Party Response to First Party Appeal**

Brian O'Callaghan has made a submission in response to the first party appeal and made the following comments:

- The provision of a connection between the site and south west corner has been ruled out through a planning decision under ABP Ref. 307560-20.
- Connectivity cannot be provided for and therefore the development materially contravenes KCDP 4-17 and 4-18 of the Kerry County Development Plan 2022 – 2028.
- Comments are made by Mr O'Callaghan regarding some of the other third-party appeals and generally supporting issues raised in them.

Uisce Éireann Annual Environmental Report 2023 for Killarney is attached to this submission.

### 7.4. **First Party Response to Third Party Appeals**

A detailed response to each of the five third party appeals has been provided and the applicant has responded based on relevant themes, summarised, as follows:

Residential Amenity:

- Overlooking is addressed by suitable separation distances.

- A Daylight and Sunlight Reception Analysis Report indicates that there will be no negative impacts to adjoining receptors.
- Links to/ from the site and Millwood will be for pedestrians only.
- The creche is designed to serve the subject development only.
- Impact during the construction phase will be controlled through the submitted CEMP.

#### Compliance with Ministerial Guidelines:

- The applicant outlines how relevant guidance has been complied with.
- The site is not served with high-capacity public transport but is within a 15-minute walk of the town centre and public transport stations.
- Details are provided as to how the scheme integrates with its surroundings and how the number of units has changed over time.

#### National Roads:

- Details provided indicating how the development will not impact on existing traffic in the area.
- Sets out how the development complies with the Kerry County Development Plan 2022 – 2028 in terms of traffic and transport.
- The decision to refuse permission for an SHD under ABP Ref. 312987-22 did not reference any traffic issues.

#### Wastewater and Network Capacity:

- The proposed development will provide for improvements to the stormwater network, which will provide for improvements to capacity.
- Uisce Éireann confirm that there is capacity in the Killarney WWTP.
- Works are underway to improve quality of water in the area in accordance with the Water Framework Directive (WFD).
- The Kerry County Council Ecologist raised no issues of concern in relation to impacts on water quality as a result of the proposed development.

#### Environmental Reporting:



- Full details are provided in relation to the submitted bat reports and any issues raised in relation to these are addressed here. Accepted that a draft report was uploaded in error, and this is explained.
- Engagement was had with the National Parks and Wildlife Service (NPWS) in relation to the impact on bats of public lighting on the site.
- Full mitigation measures in relation to public lighting are provided here, and supplementary planting is also to be provided here.
- Considers that the submitted AA Screening was sufficient having regard to the Conservation Objectives in place at the time.
- Concerns regarding water quality are further addressed here and a WFD Assessment has been provided in support of the application.
- The EIA Screening Report has been updated to have regard to the WFD Assessment provided in support of the application.
- Notes the report of the Inspector for an SHD under ABP Ref. 312987-22, and that there was no requirement for an EIAR; the subject development is similar to that SHD proposal.
- It is estimated that that would be a 4% increase in peak traffic as a result of this development.
- The submitted NIS and WFD Assessment have considered the potential impact of the development on water quality. Appropriate mitigation measures will ensure that there are no water quality impacts.
- The AA has demonstrated that there will be no impacts on the SPA.
- The badger sett was identified in the EclA and relevant guidance will be followed in this regard.
- The application was submitted in accordance with relevant requirements.
- The development provides sustainability and permeability in accordance with relevant guidance.
- The incorporation of third-party lands into a development, and appealed on that basis, is unusual and appears to be promoting the sale of lands on which permission was refused. The subject site meets all requirements in relation to sightlines etc.

Requests that permission be granted for the development as submitted. The response is supported with a number of appendices, including a Water Framework Directive Assessment, Outline Construction Environmental Management Plan, and a revised Environmental Impact Assessment Screening.

#### **7.5. Planning Authority Response**

No further comment to make, all issues have been covered in the CE report.

### **8.0 Assessment**

8.1. The main issues that arise for consideration in relation to this appeal can be addressed under the following headings:

- Principle of Development
- Impact on the Character of the Area
- Impact on Residential Amenity
- Traffic, Transport and Car Parking
- Water Infrastructure and Flood Risk
- Other Matters
- Appropriate Assessment (AA)
- Environmental Impact Assessment (EIA)

#### **8.2. Principle of Development**

8.2.1. The Planning Authority had no issue in relation to the proposed residential development on this site. The site is located within the Killarney 'Development Boundary' and is located on lands zoned R1 – New Residential and which allows for residential development. A number of the appellants/ observers noted the need for housing in Killarney and that the lands here were suitable for residential development, their concerns related to impact on residential amenity, traffic, public safety and impact on biodiversity in the area.

8.2.2. As reported, the lands are zoned for residential development. Killarney does not have a town bus service, and the existing bus network is focused on regional and national services rather than urban routes. However, this site is located within easy walking

distance of the town centre, at less than 1.5 km from its furthest distance to the junction of Main Street and High Street. The subject lands are surrounded by urban development on all sides and the impact of the development on these will be considered further in this report. The proposed development of 224 residential units provides for a density of 47.1 units per hectare and this is in accordance with Section 3.3.3 'Key Town and Large Towns (5,000+ population)' of the Sustainable and Compact Settlements Guidelines which set out a density of 30 dph to 50 dph in suburban and urban extension parts of Key Towns such as Killarney. The development of this site would aid urban consolidation and meet some of the housing need for Killarney into the future.

8.2.3. I am therefore satisfied that the nature of the development is acceptable in terms of the Kerry County Development Plan 2022 – 2028, and the overall density at 47.1 units per hectare is also acceptable in terms of the development plan and national guidance.

### **8.3. Impact on the Character of the Area**

8.3.1. The Planning Authority raised no specific concerns about the layout of the development and the nature of the units proposed. Concern was expressed in the appeals about the impact of the development on the established low-rise character of the area and the loss of these lands which provide for an amenity function for the local community. Comment was also made that the development did not have regard to the topography of the site, the site slopes downwards from north to south.

8.3.2. An Architectural Design Statement and Photomontages have been provided to demonstrate how the development will integrate into its setting. The character of the area is clearly indicated in these reports, including the topography and the existing adjoining development. The development will provide for three-character areas, broken down as houses to the north, apartment/ duplex units to the south/ centre and apartments to the south east. Details provided indicate that the character areas are further defined by the mix of materials proposed and that there will be a variation in this finish throughout the scheme. The Architectural Design Statement also demonstrates how the development will relate to the distant views of St Mary's Cathedral and the Torc Mountain to the south.

8.3.3. The proposed development is for a mix of houses and apartment/ duplex units. The houses are two storey units and are located to the northern half of the site within Character Area 1. There is a variation in the house design, and this extends to a variety in height with Type D units 9.05 m in height and Type A rising to 9.61 m. I consider it

appropriate and indicative of good design that the houses are located to the northern side of the site. To the north of these units are single storey houses, the Kerry Cheshire residential unit and the Killarney Community Hospital, which are also single-storey structures. The impact of the development in terms of residential amenity is considered later in this report.

8.3.4. The four storey apartment blocks are located to the south east corner of the site and adjoin the Killarney Nursing Home which is located to the east of the site, and which rises to four storeys. The three-storey apartment/ duplex units adjoin playing fields associated with Killarney Community College. The proposed layout/ type of unit demonstrates that the development has regard to the topography and the existing built character of the area. The taller buildings are located closer to the town centre and where there are already taller buildings. In addition, the proposed landscaping of the site provides for amenity lands/ green buffers to the west/ south and east which will aid the integration with the existing development in the area.

8.3.5. I am therefore satisfied that the proposed development will provide for an appropriate scale and layout that will ensure integration with the existing form of development in the area as well as having regard to the topography of the site. There is an appropriate mix of heights and building types throughout the site and which informs the defined character areas.

#### **8.4. Impact on Residential Amenity:**

8.4.1. **Impact on third party residential amenity:** The Planning Authority raised no issues of concern in relation to impact from the development on existing residential amenity. Consideration was given to the provision of appropriate setbacks and protection of existing residential amenity. The third-party appeals include a number of concerns including loss of privacy, insufficient setbacks, loss of sunlight, concerns about security/ safety and a general loss of residential amenity. Other concerns included potential negative impact on the structural integrity of property boundaries and loss of outlook/ views.

8.4.2. Adequate separation distances are proposed between the proposed and existing residential units on adjoining lands. The primary location of concern in this regard was for the residents of Millwood to the north of the site. Section 1.5.4.10 of the Kerry County Development Plan 2022 – 2028 provides the requirement for 'Minimum Separation Distance' and states 'Between directly opposing above ground floor

windows (first floor), a separation distance of 22 metres should generally be observed for new, reciprocal overlooking housing, although this will also be informed by considerations such as typography, design, and housing type and mix.'

- 8.4.3. The houses in Millwood are single storey, but the elevation that faces the subject site is to the front of these houses and the 22 m separation does not apply. I note that separation distances in excess of 22 m are indicated on the Site Layout Plan. I am therefore satisfied that privacy will be maintained. The proposed creche is located to the south of 36 Millwood and no issues of privacy loss arise. Adequate separation distances are provided between the remaining units and adjoining units.
- 8.4.4. The applicant has provided a 'Daylight and Sunlight Reception Analysis Report' in support of the application. In terms of daylight, all adjoining units tested receive adequate daylight in accordance with the recommendations of the 'BRE Report – Site Layout and Planning for Daylight and Sunlight BR209 2022' as is the sunlight received for existing amenity areas.
- 8.4.5. Concern was raised about the use of Millwood as a set down area, car parking area and also would be used by pedestrians due to the opening up of a pedestrian route from the site into Millwood. I will consider this further in this report under the Traffic, Transport and Car Parking section. I do consider the provision of this pedestrian link to be desirable as it provides for a more accessible link between Millwood and the Port Road, the existing link is narrow, steep and with poor accessibility, through a significant number of steps to reach Millwood/ The Port Road. The opening of this link would benefit the existing residents of Millwood.
- 8.4.6. I note the concerns regarding the impact of the development on No. 36 Millwood, specifically their boundary. There is no indication that the proposed development will directly impact on no. 36 and if there were any impacts on the structural integrity of the boundary, this would be a legal matter.
- 8.4.7. **Proposed residential amenity:** The proposed development will provide for a mix of house types, in addition to also providing for apartment and duplex units on this site. The proposed houses are two-storey units and provide for a mix of two-, three-, and four-bedroom units in the form of semi-detached, terrace and townhouse units. 76 houses or 34% of the entire development is to be in the form of houses. The apartment will be in the form of one- and two-bedroom units and the duplexes will provide for two- and three-bedroom units.

- 8.4.8. All housing and apartment units are provided with adequate floor areas. Each of the apartment units is provided with adequate storage, generally spread throughout each units. Suitable private amenity space is provided in the form of terraces for ground/ lower floor units and balconies for the upper floors, and again the areas of these amenity spaces are in accordance with the requirements of the apartment guidelines. A maximum of eight apartment units are served per lift per floor and this is in accordance with SPPR6 of the apartment guidelines. Apartment/ duplex units are all dual aspect with a number of triple aspect units proposed and is acceptable in terms of SPPR4 of the apartment guidelines.
- 8.4.9. The proposed houses are provided with adequate private amenity space in the form of rear gardens. The submitted Architectural Design Statement demonstrates how house can be adapted into the future, primarily through the conversion of the attic space for additional floor space or by extension to the rear of the house. I refer to these potential extensions as they were raised through the third-party appeals. Whilst it may be appropriate at times to limit works permissible under the exempted development regulations, I do not foresee a need to do so here. The proposed houses are provided with adequate rear garden sizes/ depths that would allow for extensions in the future.
- 8.4.10. The 'Daylight and Sunlight Reception Analysis Report' submitted in support of the application demonstrates that the proposed houses and apartments/ duplexes will receive adequate daylight and sunlight for amenity areas.
- 8.4.11. I am satisfied that the proposed development demonstrates compliance with the relevant SPPRs of the Apartment Guidelines, and the proposed houses are also considered to be acceptable and demonstrate a high quality of residential amenity.
- 8.4.12. **Public Open Space:** The Planning Authority did not raise any concerns regarding the provision of public open space. The proposed development provides for 15% of the site to be allocated for amenity space and this is in the form of a variety of spaces throughout the site as demonstrated on the 'Landscape Plan'. A triangular shaped area of open space is to be located to the north of the centre of the site, which includes a natural play area, and a second large area is to be located to the south western corner, and which will include natural play features. Details are provided of these natural play areas. Other areas of amenity space are provided throughout the site. These are suitably overlooked in terms of passive surveillance and are easily

accessible for the residents of the development. The site landscaping has had regard to biodiversity and also provides for a buffer zone around the edge of the site.

8.4.13. I am satisfied that the development will provide for adequate public open space to serve the residents of the proposed development.

8.4.14. **Childcare and Community Space Provision:** The proposed development includes the provision of a childcare facility with a stated area of 334 sq m/ room for 46 children. The applicant has provided a ‘Statement of Rationale for Childcare Provision’ in support of the application. This outlines the demographic profile, Housing Mix, and existing facilities in the area. A rationale for the childcare provision is provided in Section 3.1 of the applicant’s report. All one-bedroom units (30 in total) are excluded from consideration and all two-bedroom units are included. It is reported ‘that County Kerry has experienced a fall in its pre-school population in recent years.’

8.4.15. In the interest of clarity, I have summarised the requirements for childcare provision for this development.

	<b>2001 Childcare Guidelines</b>	<b>2020 Apartment Guidelines without 1 bed</b>	<b>2023 Apartment Guidelines – without 1 bed and only 50% of 2 beds</b>
Number of proposed Units	224	194	137
1 Facility with capacity for 20 children for every 75 units	60	52	37

8.4.16. The applicant proposes a facility that can accommodate 46 children. I am not certain as to how this figure was derived but I am satisfied that the proposed facility will be adequate to accommodate the needs of the residents of this development.

8.4.17. The applicant has provided a ‘School Needs Assessment’ dated May 2024, in support of their application, and this identifies the location of schools in the area. The assessment notes that there has been an 8% drop in primary school enrolments over the period 2015 to 2023. Secondary school enrolments have increased by 42% between the period 2015/16 to 2023. The applicant reports that there would be

adequate capacity in local schools to cater for children who may reside here in the future.

8.4.18. **Conclusion on Residential Amenity:** I am satisfied that the proposed development will provide for a suitably high-quality development to the northern side of Killarney. This will provide for the consolidation of the urban area and provide for houses that are not dependent on cars to get to/ from local services, retail and education. The proposed density is considered to be acceptable for such a development on the edge of the town centre, but which has demonstrated that it will not negatively impact on existing residential amenity.

## 8.5. **Traffic, Transport and Car Parking**

8.5.1. The Planning Authority reported no objection to this development in terms of layout, access and car parking. Their report was supported by the Killarney Municipal District Area Engineer report. I note that Transport Infrastructure Ireland (TII) reported concern that the development may negatively impact on a national road. Third party appeals referred to concerns about increased traffic, on street parking within Millwood and also concern about the opening of a pedestrian route from the subject site to Millwood.

8.5.2. **Parking:** I am satisfied that adequate car parking is provided to serve the residents of this development. Table 15 'Parking' of the applicant's 'Traffic and Transport Assessment' outlines the car parking provision for this development. The proposed houses are provided with parking to their front based on two spaces per three- and four-bedroom units and one space for the two-bedroom houses, an additional eight visitor parking spaces are provided. The duplex/ apartment units (Blocks 1 to 4) are provided with parking around their perimeter, and which is overlooked by these units. One space per unit is provided and additional EV and accessible parking is provided for these units. The submitted calculations are incorrect with four additional private parking spaces indicated, but the allocation is noted and is considered to be acceptable. The apartments in Blocks J, K and L are provided with 76 spaces, 16 EV parking and 5 accessible. The allocation is less than one per unit, but this is acceptable considering the nature of the units proposed. These spaces are provided under the apartments at undercroft level. Lift access from the apartments is available direct from each floor to this undercroft level.



- 8.5.3. A total of 350 bicycle parking spaces are proposed, primarily to serve the apartment/ duplex units, and this is adequate to serve this development. Provision is also made for bicycle parking for the proposed creche.
- 8.5.4. Access and Layout: A single vehicular access onto the Port Road is proposed. I note the comments of TII and Kerry County Council and I consider the provision of this access to be acceptable. The site access is within the 60 kmh zone and the site is zoned for residential development. As already reported the density is within the range for a development of this nature/ in such an urban location. The consolidation of suitable sites is to be encouraged especially where active travel can be promoted.
- 8.5.5. I note also the issues raised in one of the appeals regarding the potential inclusion of additional lands at the entrance to the site. This is somewhat unusual as it creates a hypothetical scenario, and these lands are not proposed for inclusion in the development site. There is no concern regarding the proposed vehicular access to the site and which incorporates a pedestrian path and suitable landscaping. There is no requirement for additional lands and whilst the inclusion of these lands may provide for additional housing, this is a matter for the applicant and appellant and does not have any impact on the assessment of the remaining appeals.
- 8.5.6. The overall road layout is acceptable, and I note that traffic calming is incorporated into the design. This allows for pedestrians to have a level of priority over vehicular traffic. The proposed creche incorporates a drop off area and this is acceptable. The creche is located in close proximity to the houses, where it is expected that most of its business will come from, though the apartment units are also within easy walking distance.
- 8.5.7. Access to adjoining lands: The issue of access to adjoining lands was one of the primary issues raised in the appeal, with that to Millwood raising concern. As I have already reported, I foresee that this link would benefit many of the residents in Millwood as the new link would be far more accessible, especially for those with mobility issues, than the existing link to the Port Road which includes a significant number of steps. I do not consider this link to be a safety/ security issue. The provision of open space/ amenity lands to the east of the link will link to the existing open space in Millwood and provide for a greater area of open space. Whilst the additional lands may not provide for additional active open space, they will provide for increased passive and visual amenity here.

- 8.5.8. Four potential additional pedestrian connections are indicated on the site layout plans. Each of these has their merits, though I do note the comments opposing such links. I consider it appropriate that the applicant provides the relevant pathways to the boundary and where necessary a clear indication that the boundary may be opened for public use in the future, but subject to appropriate consents.
- 8.5.9. First Party Appeal: I note the issues raised in the first party appeal and I agree that the levying of a contribution should be through the standard contributions and not by way of a special contribution. The provision of 'certain infrastructure/ facilities' is not exception or specific to this development. The development can proceed without this infrastructure and although it would be desirable, much of the works would be on third party lands, over which the applicant/ appellant has no control over. I therefore consider that condition number 3 be removed. The provision of access points between the subject site and adjoining lands should be progressed and which would allow for the opening of these points in the future, subject to appropriate consents.
- 8.5.10. **Conclusion on Traffic and Car Parking:** I am satisfied that the proposed road layout and access points are acceptable. Adequate provision has been made for pedestrians and active travel such that car use need not dominate. An appropriate quantum of car parking and bicycle parking is provided. I also note the first party appeal, and I consider it appropriate to remove Condition no. 3 as to the levying of a contribution for the development of a link between the site and lands to the south of the site.

## 8.6. **Water Infrastructure and Flood Risk**

- 8.6.1. Water supply and foul drainage: The applicant has provided a detailed 'Engineering Report' in support of their application. Uisce Éireann reported no objection to the proposed foul drainage and water supply systems subject to conditions requiring the developer to enter into agreements with them. No infrastructure upgrades would be required by Uisce Éireann to enable suitable connections.
- 8.6.2. Concern was expressed in third party appeals about the impact of the development on the Killarney Waste Water Treatment Plant, and its available capacity. Uisce Éireann raised no concerns in this regard and the Kerry County Council Environmental Assessment Unit raised no issues of concern either about drainage. I am satisfied that the development can be connected to the public foul drainage and water supply systems.

8.6.3. Surface Water Drainage: The applicant has provided full details of their proposed surface water drainage system. As part of the development, it is proposed that there be removal of storm waters from the combined network through the provision of a new separate storm water system along St Margaret's Road, in agreement with Uisce Éireann. The proposal development also includes the separation of storm waters within the subject site as well as nature-based solutions to storm water management. I am satisfied that the proposed surface water drainage system as proposed is acceptable.

8.6.4. Flood Risk: The applicant has submitted a 'Site Specific Flood Risk Assessment' in support of this development. This is in accordance with 'The Planning System and Flood Risk Management Guidelines, 2009' and its technical appendices. Full regard is also had to the EU Floods Directive and National Flood Policy, as well as OPW flood maps.

8.6.5. A number of potential flooding sources were considered in the applicant's assessment as follows:

- Fluvial Flooding: Rivers, including the River Deenagh, are identified as the primary cause of flooding in the Killarney area.
- Coastal Flooding: Not applicable due to distance from the coast.
- Pluvial Flooding: Potential for this especially considering the occurrence of flash floods in recent times.
- Flooding from drainage systems and associated watercourses: Flooding from engineered drainage systems, may occur if there is an exceedance of capacity and water overflows into watercourses. The Folly Stream to the south of the site is noted in this regard.

8.6.6. The subject site is identified as located within Flood Zone C and there is a very low potential of flooding on this site and the site is therefore suitable for residential development of the nature proposed. The proposed development would not give rise to flood risk to adjoining lands. Suitable surface water drainage including SuDS measures are proposed as part of the development. Kerry County Council's Flooding and Coastal Protection Unit reported no objection to this development in relation to flooding.

8.6.7. I am satisfied that the submitted information indicates that the proposed development would not be at risk of flooding and would not give rise to the flooding of adjoining lands.

8.6.8. **Conclusion on Water Infrastructure and Flood Risk:** From the submitted information and the available information, I am satisfied that the risk of flooding on site is low and that that the proposed development will not adversely affect adjoining lands. The subject lands are located within Flood Zone C and Kerry County Council did not raise any issues of concern regarding flooding. The proposed development will provide for a comprehensive SUDs scheme ensuring that surface water run-off is at the greenfield rate.

## 8.7. Other Matters

8.7.1. Ecological Impact Assessment (EclA): An Ecological Impact Assessment has been undertaken and submitted in support of this application. The Methodology of this assessment is provided in Section 2 of the applicant's report. Details of field surveys are provided throughout the report. The assessment identifies rare and protected flora and fauna, which includes bats. The site is adjacent to the Killarney National Park pNHA and SAC.

8.7.2. Much of the site consists of improved agricultural grasslands (GA1), but also shrub (WS1), Wet grassland (GS4), March (GM1), hedgerows (WL1) and Treelines (WL2). The Folly Stream is located to the southern boundary and was on the day of the applicant's site survey described as 'dry or had extremely low flow'. Vegetation within the channel and embankments were terrestrial rather than aquatic. It is considered to not be a permanent watercourse and is not a tributary of any other natural watercourse. A list of identified Invasive Species is provided in Section 4.3.3 and control/ mitigation measures are outlined in Section 10.8.

8.7.3. Section 4.4.3 provides details on 'Bats' and a list of species recorded within 10 km square is provided including the Lesser Horseshoe Bat, Brown long-eared bat and Leisler's Bat. Due to the lack of buildings on site, the site would not be suitable as a bat roost and similarly the trees on site would have a low suitability for bats. Table 7 of the applicant's report outlines a summary of bat activity during the site survey; activity is reported to be low. I note the submitted information and low suitability of the site for bats and I agree with the findings.

- 8.7.4. Table 8 provides an 'Evaluation of habitats within the study area', and Table 9 an 'Evaluation of faunal species within the study area'. I note that evidence of badgers feeding and breeding were recorded here, and three species of bats were (Leisler's bat, soprano pipistrelle and common pipistrelle) recorded foraging/ commuting during the surveys.
- 8.7.5. Section 8 provides the 'Potential Impacts of the Project' for the construction and operational phases of the development, and these are outlined in Table 10 and Table 11 accordingly. The 'Assessment of Potentially Significant Effects' is outlined in Section 9 of the EclA and Table 12. outlines the 'Potential impacts on faunal species identified as KERs during the construction phase and the significance of the impact'. Impacts are generally short term, and either not significant or moderate negative impacts. During the operational phase the impacts would be long-term and moderate negative effects on the local scale. Human activity and the change in the local environment will impact on local badger and bat populations.
- 8.7.6. The report includes Mitigation measures in Section 10, which primarily relies on the development/ implementation of a Construction and Environment Management Plan (CEMP). Section 10.3 outlines the 'General Protection of Water Quality during Construction' and the appropriate measures to be undertaken. Section 10.4 specifically refers to the 'Protection of Bats' and there is a clear recognition of the need for suitable lighting of the site with specific details provided. Details are provided on the 'Management of Invasive Species, Site Biosecurity' in Section 10.8 and Cumulative Impacts in Section 11 of the EclA. Table 13. provides the 'Potential impacts on faunal species identified as KERs during the construction phase and the significance of the impact'. Section 13. outlines some 'Enhancement Opportunities' including landscaping details and that swift boxes can be provided throughout the site.
- 8.7.7. Conclusion on EclA: The EclA concludes that the development would not have a significant effect on KERs subject to the full implementation of appropriate best practice and mitigation measures and I would agree with this. The site is zoned for residential development and is located in an urbanised environment. In terms of proper planning, it is appropriate that sites such as this are developed to allow for the consolidation of towns and reduce urban sprawl. The EclA specifically notes the presence of bats in the area and appropriate measures are provided to ensure their protection. Further details are provided in the submitted AA/ NIS and the Supplementary Bat Survey.

- 8.7.8. **Archaeology:** The applicant has provided an Archaeological Impact Assessment in support of this development, and which revealed a possible barrow site (KE066-066) located in the south western corner of subject site. The site is located in an area with a rich archaeological landscape and the Table provided within Section 4.1 of the applicant's report lists monuments within 500 m of the subject site. Section 6 provides a 'Summary and Proposed Mitigation'. The Kerry County Archaeologist reports that the site was previously assessed, and the layout of the development will ensure that the monument is preserved in situ.
- 8.7.9. I note the submitted reports and I agree that the development can take place without adversely impacting on known archaeology subject to appropriate condition.
- 8.7.10. **Other Issues raised in the Appeal:** Some procedural issues were raised in the appeals about the date of documents. I am satisfied that adequate information has been provided by the applicant and the Planning Authority raised no issues during their validation of the application.

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

9.1 I have considered the proposed residential development of 224 units, childcare facility and associated site works in light of the requirements of S177U of the Planning and Development Act 2000 as amended. A Screening report has been prepared by the applicant and the objective information presented in this report informs this screening determination.

9.2 An Appropriate Assessment (AA) Screening exercise has been completed - see Appendix 1 of this report. In accordance with Section 177U(4) of the Planning and Development Act 2000 as amended, and on the basis of objective information, it has been determined that the likelihood of the proposed development having a significant effect 'alone' on the qualifying interests of Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (Site Code 000365) cannot be excluded. It is therefore determined that Appropriate Assessment – Stage 2 is required on the basis of the effects of the project 'alone'.

This determination is based on:

- Objective information presented in the applicant's reports;
- The zone of influence of potential impacts;
- The potential for habitat degradation as a result of hydrological impacts, impacts due to artificial lighting during the construction/ operational phases of the development
- The application of the precautionary approach;
- Proximity to European Sites and the potential for pathways to same; and
- The nature and extent of predicted impacts, which could affect the conservation objectives of the European Sites.

The possibility of significant effects on other European sites has been excluded on the basis of objective information. No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

9.3 A Stage Two Appropriate Assessment was required, and the applicant prepared/ submitted a Natura Impact Statement (NIS) in support of the development. Full details of my assessment are provided in Appendix 2 attached to this report.

9.4 **Appropriate Assessment Screening Conclusion:**

I have had full consideration of the information, assessment and conclusions contained within the Appropriate Assessment. I have also had full regard to National Guidance and the information available on the National Parks and Wildlife Service (NPWS) website in relation to the identified designated Natura 2000 sites. I consider it reasonable to conclude that on the basis of the information submitted in the AA Screening report, that it cannot be ruled out that the development would not not adversely affect the integrity of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC. Stage 2 Appropriate Assessment is required.

### **Stage 2 - Appropriate Assessment:**

- 9.5 Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (000365). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of the site in light of its conservation objectives.
- 9.6 Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (000365) subject to the implantation in full of appropriate mitigation measures.

This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures and monitoring in relation to the Conservation Objectives of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (000365).
- Detailed assessment of in combination effects with other plans and projects including historical projects, plans and current proposals.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (000365).



I have had full consideration of the information, assessment and conclusions contained within the NIS. I have also had full regard to National Guidance and the information available on the National Parks and Wildlife Service (NPWS) website in relation to the identified designated Natura 2000 sites, as well as a report from the Department of Housing, Local Government and Heritage. I consider it reasonable to conclude that on the basis of the information submitted in the NIS report, including the recommended mitigation measures, and submitted in support of this application, that the proposed development, individually or in combination with other plans or projects would not be likely to adversely affect the integrity of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (000365).

#### **9.7 Overall Conclusion- Screening Determination**

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of objective information,

I have had full consideration of the information, assessment and conclusions contained within the NIS. I have also had full regard to National Guidance and the information available on the National Parks and Wildlife Service (NPWS) website in relation to the identified designated Natura 2000 sites. I consider it reasonable to conclude that on the basis of the information submitted in the NIS report, including the recommended mitigation measures, and submitted in support of this application, that the proposed development, individually or in combination with other plans or projects would not be likely to adversely affect the integrity of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (Site Code 000365).

This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the Conservation Objectives of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC.
- Detailed assessment of in combination effects with other plans and projects including historical projects, current proposals and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC.

Full details of the Appropriate Assessment are provided in Appendix 2 attached to this report.

## 10.0 Environmental Impact Assessment (EIA)

10.1 The application addresses the issue of EIA within an Environmental Impact Assessment Screening Report that contains information to be provided in line with Schedule 7A of the Planning Regulations. I have had regard to same in this screening assessment. The EIA Screening Report identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

10.2 This proposed development is of a class of development included in Schedule 5 to the Planning Regulations. Schedule 5 to Part 2 of the Planning Regulations provides that mandatory EIA is required for the following classes of development:

- Class 10(b)(i) construction of more than 500 dwelling units,
- Class 10(b)(iv) urban development, which would involve an area greater than 2 ha in the case of a business district\*, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.
- Class 10 (dd): All private roads which would exceed 2000 metres in length.

\*a 'business district' means a district within a city or town in which the predominant land use is retail or commercial use.

- Class 15 of Schedule 5 relates to any project listed in Part 2 of Schedule 5 which does not exceed a quantity, area or other limit specified in Part 2 in respect of the relevant class of development, but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

10.2 **Submitted EIAR Screening Assessment:** The applicant has addressed the issue of Environmental Impact Assessment (EIA) within the submitted EIA Screening Report, including Schedule 7 details, and which has been prepared by HWP with the report dated May 2024, and I have had regard to same. The submitted report considers that the development is below the thresholds for mandatory EIAR having regard to Schedule 5 of the Planning and Development Regulations 2001, due to the site size at 6.19 hectares and the number of units, 224 individual residential units. Appendix A –

Schedule 7 provides a 'Screening Summary' for the Construction and Operational Phases.

- 10.3 The report concludes that 'Based on the information provided in accordance with Annex IIA and Annex III of the 2014 Directive, it is considered that a sub-threshold EIA is not required for the proposed development, as adequate measures are in place to avoid, reduce or mitigate likely impacts, such that neither the construction nor operational phase of the overall development will have a significant negative impact on the environment.'
- 10.4 The Planning Authority reported that the applicant had demonstrated that the development was sub-threshold in terms of Schedule 5 and the information provided in accordance with Schedule 7 demonstrated that the development 'would not be likely to have significant effects on the environment and that an environmental impact assessment is not required before a grant of permission is considered.'
- 10.5 **EIA Screening Assessment:** Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 as amended, and section 172(1)(a) of the Planning and Development Act 2000 as amended provides that an EIA is required for infrastructure developments comprising of urban development which would exceed:
- 500 dwellings
  - Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. A business district is defined as 'a district within a city or town in which the predominant land use is retail or commercial use'.
- 10.6 Item (15)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 as amended provides that an EIA is required for: "Any project listed in this part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7."
- 10.7 Environmental Impact Assessment is required for development proposals of a class specified in Part 1 or 2 of Schedule 5 that are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is

required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

- 10.8 The applicant submitted an EIA Screening Statement, and this document provides the information deemed necessary for the purposes of screening sub-threshold development for EIA. I note the report of Kerry County Council.
- 10.9 The proposed development does not meet the threshold for a mandatory EIA as per Schedule 5 of the regs. The various reports submitted with the application address a variety of environmental issues and assess the impact of the proposed development, in addition to cumulative impacts with regard to other permitted developments in proximity to the site, and demonstrate that, subject to the various construction and design related mitigation measures recommended, the proposed development will not have a significant impact on the environment. I have had regard to the characteristics of the site, location of the proposed development, and types and characteristics of potential impacts. I have examined the sub criteria having regard to the Schedule 7A information and all other submissions, and I have considered all information which accompanied the application.
- 10.10 I have completed an EIA screening assessment as set out in Appendix 3 and 4 of this report. I consider that the location of the proposed development and the environmental sensitivity of the geographical area would not justify a conclusion that it would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects the impact of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency or reversibility. The impact of the development in combination with other developments in the area has also been considered and no significant effects on the environment arise.
- 10.11 In these circumstances, the application of the criteria in Schedule 7 to the proposed sub-threshold development demonstrates that it would not be likely to have significant effects on the environment and that an environmental impact assessment is not required before a grant of permission is considered. This conclusion is consistent with the EIA Screening Statement submitted with the application.

A Screening Determination should be issued confirming that there is no requirement for an EIAR based on the above considerations.

## **12.0 Recommendation**

12.1 Having regard to the above assessment, I recommend that permission be Granted for the Large-Scale Residential Development (LRD) on a site to the east of the Port Road, North of St Margarets Road and south of Millwood, Killarney, Co. Kerry, for the conditions and reasons as follows.

## **13.0 Reasons and Considerations**

Having regard to the provisions of the Kerry County Development Plan 2022 - 2028, and the zoning for residential purposes, to the location of the site and to the nature, form, scale, and design of the proposed development, it is considered, that subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area. The proposed development also includes an upgrade of part of the local drainage system separating foul and stormwater, and also provides for an upgrading of public lighting along the Port Road.

The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area and would be in compliance with the statutory plans of the area.

## **14.0 Recommended Draft Order**

### **14.1 Application:**

For permission under the Planning and Development Act 2000 as amended, in accordance with plans and particulars, lodged with Kerry County Council on the 14<sup>th</sup> of May 2024 and appealed to An Bord Pleanála on the 26<sup>th</sup> of July 2024.

### **Proposed Large Scale Residential Development:**

- The provision of 224 residential units in the form of 76 houses, and 148 duplex/ apartment units. Also, the provision of a childcare facility, open space, a new vehicular access onto the Port Road and all associated site work.
- It is submitted that the proposed apartments have been designed to fully accord with the Sustainable Urban Housing: Design Standards for New Apartments 2023 and a Housing Quality Assessment is submitted which provides details on

compliance with all relevant standards including private open space, room sizes, storage, and residential amenity areas.

- An Appropriate Assessment Screening Report, Natura Impact Statement and an Environmental Impact Assessment Screening Report have been included with the application.

### **Appeal:**

Third Party appeal from Brian O’Callaghan, Michael Casey, Michael & Mary Coyle, Irene Hartigan and the Laune Salmon & Trout Anglers Association against the decision of Kerry County Council who decided to grant permission for the proposed development in accordance with recommended conditions. Also, a First Party Appeal against Condition no.3 as issued by Kerry County Council, requiring a contribution towards works in the area to support this development.

### **14.2 Decision:**

Grant permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

### **14.3 Matters Considered:**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any observations received by it in accordance with statutory provisions.

In coming to its decision, the Board had regard to the following:

- (i) the provisions and policies of the Kerry County Development Plan 2022 - 2028,
- (ii) The zoning objective R1 – ‘New/ proposed Residential Phase 1’ with an objective to ‘Provide for new residential development in tandem with the provision of the necessary social and physical infrastructure’ of the Kerry County Development Plan 2022 – 2028.

(iii) to Housing for All issued by the Department of Housing, Local Government and Heritage, 2021, and Rebuilding Ireland Action Plan for Housing and Homelessness 2016,

(iv) the Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities, issued by the Department of Housing, Local Government and Heritage, January 2024,

(v) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, issued by the Department of Housing and Planning and Local Government, December 2023,

(vi) The Climate Action Plan 2024,

(vii) the availability in the area of a wide range of social and transport infrastructure,

(viii) to the pattern of existing and permitted development in the area, and

(ix) Submissions received, and

(x) the Inspectors Report.

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area and comply with the statutory plan of the area.

#### **14.4 Appropriate Assessment (AA) – Stage 1:**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites, taking into account the nature, scale and location of the proposed development within an established town centre location and adequately serviced urban site, the Appropriate Assessment Screening Report submitted with the application, the Inspector's Report, and submissions on file.

In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, other than Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (Site Code: 000365).

#### **14.5 Appropriate Assessment - Stage 2**

The Board considered the Natura Impact Statement and all other relevant submissions including expert submissions received and carried out an appropriate assessment of the implications of the proposed development on Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC in view of the site's Conservation Objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the site's Conservation Objectives using the best available scientific knowledge in the field.

In completing the assessment, the Board considered, in particular, the following:

- (a) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (b) the mitigation measures which are included as part of the current proposal, and
- (c) the conservation objectives for the European sites.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Site in view of the conservation objectives of the site. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.



#### **14.6 Environmental Impact Assessment (EIA):**

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environment Impact Assessment Screening Report submitted by the applicant, which contains information set out in Schedule 7A to the Planning & Development Regulations, 2001 (as amended), identifies and describes adequately the effects of the proposed development on the environment.

Having regard to:

(a) the nature and scale of the proposed development, which is substantially below the thresholds in respect of Paragraphs 10 (b) (i) and (iv) of Part 2 of Schedule 5 of the Planning & Development Regulations, 2001 as amended,

(b) the existing use of the site and the pattern of development in the vicinity,

(c) the availability of public water and foul services to serve the proposed development,

(d) the criteria set out in Schedule 7 of the Planning & Development Regulations, 2001, as amended and the content of the applicant's EIA Screening Report, and,

(e) the measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction Environmental Management Plan,

it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and the submission of an Environmental Impact Assessment Report would not therefore be required.

#### **14.7 Conclusions on Proper Planning and Sustainable Development:**

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density at this location, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height, and quantum of development, as well as in terms of traffic and pedestrian safety and convenience. The proposal would, subject to conditions, provide an acceptable form of residential amenity for future occupants.

The Board considered that the proposed development is, compliant with the Kerry County Development Plan 2022 - 2028, and the proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

## 15.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, and revised by further information 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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

2. a) The Mitigation and monitoring measures outlined in the plans and particulars, including the Natura Impact Statement (NIS) and Ecological Impact Assessment (EclA) submitted with this application shall be carried out in full, except where otherwise required by conditions attached to this permission.

b) An Ecologist shall be appointed by the developer to oversee the site set-up and construction of the proposed development, and the Ecologist shall be present on-site during construction works, ensuring that the identified mitigation measures are fully implemented.

c) The developer shall retain the services of a competent environmental consultant to carry out freshwater biological (Q) monitoring prior to and after each phase of the construction of the proposed development. A proposed plan for the monitoring programme shall be submitted to the local authority for agreement prior to the commencement of any works on-site and the results of all such monitoring shall be submitted to the planning authorities upon completion.

d) The developer shall provide for a minimum of 30 swift boxes throughout the site.

**Reason:** In the interest of protecting the environment and to encourage greater levels of biodiversity.

3. The development shall be carried out on a phased basis, which shall be agreed in writing with the Planning Authority.

**Reason:** To ensure that adequate public open space, road and pedestrian/ cycle infrastructure be provided in accordance with the development of housing and in accordance with the plans of the Local Authority.

4. Each residential unit shall be used as a single dwelling unit only and shall not be sub-divided in any manner or used as two or more separate habitable units.

**Reason:** In the interests of sustainable development and proper planning.

5. Details of the materials, colours, and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise agreed in writing with, the Planning Authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of visual amenity.

6. Proposals for a development name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

**Reason:** In the interest of urban legibility.

7. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.

**Reason:** In the interest of public health and surface water management

8. The developer shall enter into water and wastewater connection agreement(s) with Uisce Éireann, prior to commencement of development.

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

9. The developer shall carry out the following in full:

(a) allow for a variation in the species planted to one or more non-invasive shrub species approved by the National Parks and Wildlife Service (NPWS), should suitable stock of *Elaeagnus X submacrophylla* be unavailable;

(b) include, if the planting is not sufficiently developed by the commencement of operation of the development lighting, and if in agreement with the Department, the erection of a temporary 0.8 - 1m high timber or brush light-barrier on the riverside of the planting while the latter develops to a suitable height and density, after which this barrier will be removed;

(c) require monitoring by an experienced bat-worker of the use of the identified Deenagh commuting corridor, using similar methods to that used for the baseline assessment, after the full lighting for the development is operational, to determine if the mitigation measures are effective or require modifications.

**Reason:** In the interest of protecting the environment and the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC

10. The site shall be landscaped, and earthworks carried out in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the Planning Authority prior to commencement of development.

**Reason:** In the interest of residential and visual amenity.

11. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through the communal open spaces, details of which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any residential unit and demonstrate that it is bat friendly.

**Reason:** In the interests of amenity and public safety, and to ensure the protection of bats.

12. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- (a) notify the Planning Authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

13. All service cables associated with the proposed development, such as electrical, telecommunications and communal television, shall be located underground. Ducting shall be provided along the Port Road to enable the undergrounding of electricity overhead powerlines.

**Reason:** In the interests of visual and residential amenity.

14. The road network serving the proposed development, including turning bays, junction with the public road, footpaths and kerbs, shall be in accordance with the detailed construction standards of the Planning Authority for such works. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

15. All footpaths and cycleways shown to adjoining lands shall be constructed up to the boundaries to provide access to adjoining lands with no obstruction including the erection of any structure which would otherwise constitute exempted development under the Planning and Development Regulations 2001, as amended. These areas shall be shown in a drawing which shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of permeability and proper planning and sustainable development.

16. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. All car parking spaces shall be assigned permanently for the residential development and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.

**Reason:** To ensure that adequate parking facilities are permanently available to serve the proposed residential units and the remaining development.

17. A minimum of 10% of all car parking spaces serving the apartments shall be provided with functioning EV charging stations/ points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

**Reason:** To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

18. (a) All areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.

(b) Details of the management company contract, and drawings/ particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

19. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the Planning Authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

(b) This plan shall provide for screened communal bin stores, the locations, and

designs of which shall be included in the details to be submitted.

(c) This plan shall provide for screened bin stores, which shall accommodate not less than three standard sized wheeled bins within the curtilage of each house plot.

**Reason:** In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

20. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

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

21. 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:

- a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- b) Location of areas for construction site offices and staff facilities;
- c) Details of site security fencing and hoardings;
- d) Details of on-site car parking facilities for site workers during the course of construction;
- e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- f) Measures to obviate queuing of construction traffic on the adjoining road network;



- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- m) A record of daily checks that the works are being undertaken in accordance with the Construction Environmental Management Plan shall be kept for inspection by the Planning Authority.

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

22. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, 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.

23. Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the Planning Authority (such agreement must specify the number and location of each housing unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all residential units permitted to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

**Reason:** To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

24. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the Planning Authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the Planning Authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and development Act 2000, as amended, and of the housing strategy in the development plan of the area.

25. Prior to commencement of development, the developer shall lodge with the Planning Authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the Planning Authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

26. 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.

**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.

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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Paul O'Brien  
Inspectorate  
15<sup>th</sup> October 2024

## **Appendix 1: Screening for Appropriate Assessment**

### **Description of the Project:**

- 14.1 I have considered the proposed Large Scale Residential Development, of 224 residential units in the form of 76 house and 148 apartment/ duplex units, in addition to a childcare unit, car parking, open space, utility provision all associated site works, in light of the requirements of S177U of the Planning and Development Act 2000 as amended. A Screening report has been prepared by MWP on behalf of the applicant and the objective information presented in that report informs this screening determination.
- 14.2 The subject site is located on lands located to the east of the Port Road, south of Millwood estate and to the north of St Margarets Road, to the north of Killarney town centre. The site with an area of 6.19 hectares has an irregular shape and was most recently in agricultural use, with much of the land under grass on the day of the site visit. Adjoining lands are in residential or mixed-use development. The Folly Stream flows along the southern boundary of the site on a north west to south east axis and the Deenagh River flows to the west of the Port Road on a north to south axis.
- 14.3 The Killarney National Park SPA (Site Code 004038), Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (Site Code 000365) and Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment pNHA (Site Code 000365) are located approximately 50 m to the west of the subject site, adjacent to the Port Road – as per the applicant's AA Screening and Natura Impact Statement.

Note: Reference is made in the submitted documents to various measurements between the site and the SPA/ SAC. It is approximately 50 m between the entrance to the Port Road and the designated sites, at the nearest point, and I will use this figure in the following section of my report.

### **Submissions and Observations:**

- 14.4 Concern was expressed in the appeals to impacts on bats and badgers that may be found in the area. The Department of Housing, Local Government and Heritage reported no objection in principle to the proposed development and they noted the proximity of the development to Killarney National Park, Macgillycuddy's Reeks and

Caragh River Catchment Special Area of Conservation (SAC). Particular reference is made to the Lesser Horseshoe Bat, and which is susceptible to disturbance by lighting.

- 14.5 Kerry County Council reported no concerns about the submitted AA/ NIS subject to conditions.
- 14.6 The local authority Planning Report concludes, in relation to AA, that the project either alone or in combination with other plans or projects, will not adversely affect the integrity of European sites.

### **Potential Impact Mechanisms from the Project**

- 14.7 The subject lands are not under any wildlife or conservation designation. The following sites are identified within the zone of influence, as detailed in Table 1 of the applicant's AA Screening Report:

- Killarney National Park, MacGillycuddy's Reeks and Caragh River Catchment SAC (Site Code 000365) – 100m to the west – Direct connection through proximity and indirect connection via the Folly Stream through the Killarney WWTP, to Lough Leane. – I note the distance of 100m and I have already commented that this distance is less at approximately 50m.
- Killarney National Park SPA (Site Code 004038) – 100m to the west - Direct connection through proximity and indirect connection via the Folly Stream through the Killarney WWTP, to Lough Leane. – I note the distance of 100m and I have already commented that this distance is less at approximately 50m.
- Sheheree (Ardagh) Bog SAC (Site Code 000382) – 3.7 km to the south east – No connection.
- Castlemaine Harbour SAC (Site Code 000343) – 5 km to the north - Indirect connection via the Folly Stream through the Killarney WWTP, to Lough Leane.
- Old Domestic Building, Curraglass Wood SAC (Site Code 002041) – 15 km to the south east – No connection.
- Erik Bog SPA (Site Code 004108) – 16.5 km to the south west – No connection.

As there is no connection/ pathway between the site and Sheheree Bog SAC, Old Domestic Building, Curraglass Wood SAC and Erik Bog SPA, they do not require further consideration.

14.8 The following impacts could occur because of this development:

- Potential for impact to water quality and resource – Effect 1
- Potential for Habitat Loss, Alteration, or Degradation – Effect 2
- Potential for Habitat or species fragmentation – Effect 3.
- Potential for Disturbance and/ or displacement of species – Effect 4.

**Likely significant effects on European Sites –**

14.9 The following table identifies European Sites that may be at risk of impact due to the proposed development, full details of the qualifying features at risk are provided in the applicant’s report:

<b>Table 1 – European Sites at risk of impacts from the proposed development</b>			
<b>Effect Mechanism</b>	<b>Impact Pathway/ Zone of Influence</b>	<b>European Site</b>	<b>Qualifying Interest features at risk</b>
<b>Potential for impact to water quality and resource</b>	The proposed development lies approx. 50m to the east of the European Site. Nearest point between the designed site and the development site.	<b>Killarney National Park, Macgillycuddy’s Reeks and Caragh River Catchment SAC (Site Code 000365)</b>	1024 Kerry Slug
<b>Potential for Habitat Loss, Alteration, or Degradation</b>			1029 Freshwater Pearl Mussel
<b>Potential for Habitat or species fragmentation</b>			1065 Marsh Fritillary
<b>Potential for Disturbance and/ or displacement of species</b>			1095 Sea Lamprey
			1096 Brook Lamprey
			1099 River Lamprey
			1106 Salmon
			1303 Lesser Horseshoe Bat
			1355 Otter
			1421 Killarney Fern
			1833 Slender Naiad

			<p>3110 Oligotrophic waters containing very few minerals of sandy plains</p> <p>3130 Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea</p> <p>3260 Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation</p> <p>4010 Northern Atlantic wet heaths with Erica tetralix</p> <p>4030 European dry heaths</p> <p>4060 Alpine and Boreal heaths</p> <p>5046 Killarney Shad</p> <p>5130 Juniperus communis formations on</p>
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			<p>heaths or calcareous grasslands</p> <p>6130 Calaminarian grasslands of the <i>Violetalia calaminariae</i></p> <p>6410 <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils</p> <p>7130 Blanket bogs (* if active bog)</p> <p>7150 Depressions on peat substrates of the <i>Rhynchosporion</i></p> <p>91A0 Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles</p> <p>91E0 Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>)*</p>
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			91J0 <i>Taxus baccata</i> woods of the British Isles*
<b>Potential for impact to water quality and resource</b>	The proposed development lies approx. 100m to the east of the European Site.	<b>Killarney National Park SPA (Site Code 004038)</b>	A098 – Merlin A395 – Greenland White-fronted Goose
<b>Potential for Habitat Loss, Alteration, or Degradation</b>			
<b>Potential for Habitat or species fragmentation</b>			
<b>Potential for Disturbance and/ or displacement of species</b>			
<b>Potential for impact to water quality and resource</b>	The proposed development lies approx. 5 km to the south of the European Site.	<b>Castlemaine Harbour SAC (Site Code 000343)</b>	<ul style="list-style-type: none"> <li>• Estuaries [1130]</li> <li>• Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>• Annual vegetation of drift lines [1210]</li> <li>• Perennial vegetation of stony banks [1220]</li> <li>• Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</li> <li>• Salicornia and other annuals colonising mud and sand [1310]</li> </ul>
<b>Potential for Habitat Loss, Alteration, or Degradation</b>			
<b>Potential for Habitat or species fragmentation</b>			
<b>Potential for Disturbance and/ or displacement of species</b>			

			<ul style="list-style-type: none"> <li>• Atlantic salt meadows [1330]</li> <li>• Mediterranean salt meadows [1410]</li> <li>• Embryonic shifting dunes [2110]</li> <li>• Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</li> <li>• Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</li> <li>• Dunes with <i>Salix repens</i> ssp. <i>argentea</i> [2170]</li> <li>• Humid dune slacks [2190]</li> <li>• Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> [91E0]</li> <li>• Sea Lamprey [1095]</li> <li>• River Lamprey [1099]</li> <li>• Salmon [1106]</li> <li>• Otter [1355]</li> <li>• Petalwort [1395]</li> </ul>
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All other European sites can be excluded from further assessment due to distance, nature of development and lack of ecological connection between the designated site and the subject lands.

**Likely significant effects on the European sites ‘alone’ –**

14.10 This section of the assessment considers if there are significant effects alone and whether it is possible that the conservation objects might be undermined from the effects of only this project.

14.11 The following table provides the relevant information:

<b>Table 2 – Could the project undermine the Conservation Objectives ‘alone’</b>					
<b>European Site and qualifying feature</b>	<b>Conservation Objective</b>	<b>Could the Conservation Objectives be undermined (Y/N)?</b>			
		<b>Effect 1</b>	<b>Effect 2</b>	<b>Effect 3</b>	<b>Effect 4</b>
Killarney National Park, MacGillycuddy’s Reeks and Caragh River Catchment SAC (Site Code 000365)	Restore all Conservation Objectives, except the following which are to be maintained: <ul style="list-style-type: none"> <li>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation</li> <li>Juniperus communis formations on heaths or</li> </ul>	Y	Y	Y	Y

	<ul style="list-style-type: none"> <li>calcareous grasslands</li> <li>• Calaminarian grasslands</li> <li>• Kerry Slug</li> <li>• Sea/ Brook/ River Lamprey</li> <li>• Atlantic Salmon</li> <li>• Lesser Horseshoe Bat</li> <li>• Otter</li> <li>• Killarney Fern</li> <li>• Slender Naiad</li> <li>• Killarney Shad</li> </ul>				
Reason:	It cannot be clearly demonstrated that the development would not impact on a QI - Lesser Horseshoe Bat.				
Killarney National Park SPA (Site Code 004038)	<ul style="list-style-type: none"> <li>• Maintain the favourable conservation Condition of Merlin</li> <li>• Restore the favourable conservation condition of the</li> </ul>	N	N	N	N

	Greenland White- Fronted Goose				
Reason:	No SCI species reliant on/ strongly associated with riparian habitats. There is no overlap with the SPA, any habitat loss is on the development site and the site is not suitable for breeding/ foraging of either bird types. Fragmentation effects are not likely due to construction/ operational phases.				
Castlemaine Harbour SAC (Site Code 000343)	<ul style="list-style-type: none"> <li>• Maintain the favourable conservation Condition of Conservation Objectives except the following which are to be restore the favourable conservation condition:</li> <li>• Otter</li> <li>• Fixed Coastal Dunes</li> <li>• Alluvial Forests</li> </ul>	N	N	N	N
Reason:	Due to the location of annexed habitat types and due to the dilution effect, impacts would only occur to an imperceptible level. Impacts to woodland habitats would be limited due to the nature/ location				

	of the development. Fragmentation effects are not likely due to construction/ operational phases.
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I conclude that the proposed development would have a likely significant effect 'alone' on QIs associated with the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC due to potential impact on water quality/ resource, habitat loss/ alteration/ degradation, habitat/ species fragmentation and disturbance and/ or displacement of species. An Appropriate Assessment is required on the basis of the effects of the project 'alone'. Further assessment in-combination with other plans and other projects is not required at this time.

## Appendix 2: Stage 2 – Appropriate Assessment

- 15.1 The applicant has provided a Natura Impact Statement (NIS), prepared by Kane Williams, in accordance with the requirements of the Stage 2 Appropriate Assessment process. A detailed list of supporting documentation is provided in the NIS.
- 14.12 I am satisfied that the submitted NIS is in accordance with current guidance/ legislation/ best practice and the information included within the report in relation to baseline conditions and potential impacts are clearly set out and supported with sound scientific information and knowledge. The NIS examines and assesses the potential adverse effects of the proposed development on the Killarney National Park, Macgillycuddy’s Reeks and Caragh River Catchment SAC, where it has been established that there is a possibility for significant effects on the European sites, in the absence of mitigation as a result of hydrological impacts, habitat degradation/ loss/ fragmentation. As reported in the AA Screening, all other European designated sites can be excluded from the need for further assessment. The Department noted the commitments that are outlined in the NIS and they have recommended conditions in the event that permission is granted for this development.
- 15.2 Section 5 of the NIS provides an ‘Identification of potentially significant effects to QI of the Killarney National Park SAC’. A description of the Conservation Objections of the European sites in the vicinity of the subject site, Killarney National Park, Macgillycuddy’s Reeks and Caragh River Catchment SAC, is provided in Table 1 of the NIS. The development may provide a potential for significant effects to the following qualifying features:

Qualifying Feature	Potential for Significant Effects	Cause of Effect
Freshwater pearl mussel	Yes	Changes to water quality
Sea lamprey	Yes	Changes to water quality
Brook lamprey	Yes	Changes to water quality
River lamprey	Yes	Changes to water quality
Salmon	Yes	Changes to water quality
Lesser Horseshoe Bat	Yes	Artificial light associated with the development.
Otter	Yes	Changes to water quality
Slender Naiad	Yes	Changes to water quality
Oligotrophic Waters	Yes	Changes to water quality
Killarney Shad	Yes	Changes to water quality

There is no potential for significant effects on the Conservation Objective attributes and targets of the other qualifying features within the SAC.

15.3 Table 2 to 11 provides an 'Assessment of effects of PA on the CO' of each of the listed qualifying features in table 1. I have summarised these tables as follows:

<b>Qualifying Feature (Table)</b>	<b>Assessment of potentially significant cumulative Effects</b>	<b>Potential of significant cumulative effects</b>
Freshwater pearl mussel (2)	Upstream of any negative effect from the development. Unlikely to impact on attributes and targets that define the CO.	Unlikely
Sea lamprey (3)	Will not provide barriers to movement, water quality will not be impacted due to location and dilution effect.	Unlikely
Brook lamprey (4)	Will not provide barriers to movement, water quality will not be impacted due to location and dilution effect.	Unlikely
River lamprey (5)	Will not provide barriers to movement, water quality will not be impacted due to location and dilution effect.	Unlikely
Salmon (6)	Will not provide barriers to movement, water quality will not be impacted due to location and dilution effect.	Unlikely
<b>Lesser Horseshoe Bat (7)</b>	<b>More detailed response below</b>	<b>Cannot be ruled out. Mitigation required.</b>
Otter (8)	The development is unlikely to impact on their habitat, no loss of riverbanks or shoreline habitat. The development site is not a suitable habitat for the otter.	Unlikely



<b>Slender Naiad (9)</b>	<b>Water Quality issues - More detailed response below</b>	<b>Cannot be ruled out. Mitigation required.</b>
<b>Oligotrophic Waters (10)</b>	<b>Water Quality issues - More detailed response below</b>	<b>Cannot be ruled out. Mitigation required.</b>
<b>Killarney Shad (11)</b>	<b>Water Quality issues - More detailed response below</b>	<b>Cannot be ruled out. Mitigation required.</b>

In terms of the assessment of the impact of the development on the integrity of the designated site, the applicant reports in 'conclusion, it is considered that in the absence of mitigation measures, the PD could adversely affect the integrity of Killarney National Park, MacGillycuddy's Reeks and Caragh River Catchment SAC.'

15.4 Section 8 provides details on 'Mitigation' and this includes details on invasive species and for the both the construction and operational phases of the development. A Construction Environmental Management Plan (CEMP) has been prepared for this development. The following mitigation measures are summarised.

<b>Impacts requiring mitigation</b>	<b>Mitigation measures:</b>
Water Quality for the Slender Naiad, Oligotrophic Waters, Killarney Shad and also Salmon (though not identified earlier in the Appropriate Assessment Screening, it was identified in the submitted Natura Impact Statement).	<p>Potential impact on water quality due to the loading on the Killarney WWTP. The sewer system is presently a combined system.</p> <ul style="list-style-type: none"> <li>The mitigation measure is the proposed separation of storm water from the foul drainage system for an area of 0.2 hectares. This will increase the capacity for foul drainage and reduce hydraulic loading on the system improving foul drainage treatment.</li> <li>Uisce Éireann have reported the proposal to be acceptable.</li> </ul>
Impact of artificial lighting on the Lesser Horseshoe Bat	Construction Phase of Proposed Development:

	<ul style="list-style-type: none"> <li>• Where required will be focused on the development site and will be cowed as appropriate.</li> <li>• Lighting use will be limited.</li> </ul> <p>Operational Phase:</p> <ul style="list-style-type: none"> <li>• Provision of landscaping plan which uses local species and which screens artificial lighting on site.</li> <li>• Planting to be undertaken as soon as possible.</li> <li>• Protection of root systems.</li> <li>• Additional planting along the Port Road/ Deenagh River in accordance with NPWS requirements and steered by an appointed Lesser Horseshoe Bat specialist/ NPWS staff.</li> <li>• Specific lighting scheme on site – details provided. Use of LED luminaires.</li> <li>• New streetlighting along the Port Road – Eastern side moved to Western side.</li> </ul>
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15.5 A summary of the significance of the residual effects of the proposed development on potentially impacted QIs is provided in Table 12. The NIS concludes: ‘Provided the mitigation measures are implemented in full, it can be objectively concluded that there is no likelihood of significant effects, either individually or cumulatively, arising from the proposed LRD that would undermine the conservation objectives of the Killarney National Park, MacGillycuddy’s Reeks and Caragh River Catchment SAC (000365), or affect the integrity of the site.’

**15.6 NIS Assessment:**

- 15.7 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); Managing Natura 2000 sites, The provisions of Article 6 of the Habitats Directive 92/43/EEC, EC (2018).
- 15.8 The Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (000365) are subject to appropriate assessment. A description of the sites and their Conservation Objectives and Qualifying Interests are set out in the submitted NIS and have already been outlined in this report as part of my assessment. I have also examined the Natura 2000 data forms as relevant and the Conservation Objectives supporting documents for these sites available through the NPWS website.
- 15.9 **Aspects of the Development that could adversely affect the designated sites:** The main aspects of the development that could impact the conservation objectives of the European sites are through habitat loss by deterioration of water quality, during the construction and operational phases of the development, and through the impact of artificial lighting on the Lesser Horseshoe Bat. The subject site is within 50 m of a designated site and therefore considerations of distance and dilution effect on any pollutants entering the surface water drainage system can be ruled out.
- 15.10 Mitigation: A range of mitigation measures are provided in the NIS, and these are noted. These refer to the construction and operational phases of the development as provided in the applicant's report. Water quality issues are addressed through the proposed separation of foul and stormwaters in the public system. I note again that Uisce Éireann are satisfied with the applicant's proposed drainage system. The introduction of a suitable SuDS plan will reduce potential surface water to greenfield rates.
- 15.11 The potential impact on the Lesser Horseshoe Bat comes from artificial lighting. In addition to the AA Screening/ NIS, a Supplementary Bat Survey has been prepared and provided in support of the development. I consider this survey to be detailed, thorough and supports the AA/ NIS. The Supplementary Bat Survey indicates that bat activity is primarily within the National Park, and I consider that this survey is comprehensive. The NIS has clearly outlined the measures to be taken in relation to the control of artificial lighting; I note these and consider the measures to be appropriate. They apply to lighting within the development site and along the Port Road. The Planning Authority

has reported these measures to be acceptable and I note the Department of Housing, Local Government and Heritage report no objection and have provided a suitable condition in the event that permission is granted for this development.

15.12 Overall, I consider that the proposed mitigation measures are clearly described, and precise, and definitive conclusions can be reached in terms of avoidance of adverse effects on the integrity of designated European sites based on the outlined mitigation measures. I consider that the mitigation measures are necessary having regard to the proximity of the site to the Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC (000365). Overall, the measures proposed are effective, reflecting current best practice, and can be secured over the short and medium term and the method of implementation will be through a detailed management plan and appropriate monitoring.

15.13 In Combination Effects: No issues of concern are raised subject to the full implementation of mitigation measures outlined in the NIS.

**15.14 Appropriate Assessment Conclusion:**

15.15 The proposed residential development at Port Road and St Margarets Road, Killarney, Co. Kerry has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.

15.16 Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on the Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC (000365). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of the site in light of its conservation objectives.

15.17 Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC (000365) subject to the implantation in full of appropriate mitigation measures.

15.18 This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures and monitoring in relation to the Conservation

Objectives of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (000365).

- Detailed assessment of in combination effects with other plans and projects including historical projects, plans and current proposals.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (000365).

15.19 I have had full consideration of the information, assessment and conclusions contained within the NIS. I have also had full regard to National Guidance and the information available on the National Parks and Wildlife Service (NPWS) website in relation to the identified designated Natura 2000 sites, as well as a report from the Department of Housing, Local Government and Heritage. I consider it reasonable to conclude that on the basis of the information submitted in the NIS report, including the recommended mitigation measures, and submitted in support of this application, that the proposed development, individually or in combination with other plans or projects would not be likely to adversely affect the integrity of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (000365).

### Appendix 3: Form 1 - EIA Pre-Screening

<b>An Bord Pleanála Case Reference</b>	ABP-320288-24		
<b>Proposed Development Summary</b>	LRD – Construction of 224 residential units in the form of 76 houses and 148 apartments and all associated site works. The application is accompanied with an NIS.		
<b>Development Address</b>	Port Road and St Margaret’s Road, Coollegrean, 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>	✓	
	<b>No</b>	No further action required	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>			
<b>No</b>	✓		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>		N/A	<b>Conclusion</b>  No EIAR or Preliminary Examination required
<b>Yes</b>	✓	Class 10(b)(i) – 500 dwelling units	Sub-threshold  Proceed to Q.4

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

**Inspector:** \_\_\_\_\_

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

## Appendix 4: EIA Screening Determination Form:

A. CASE DETAILS		
<b>An Bord Pleanála Case Reference</b>	320288-24	
<b>Development Summary</b>	LRD – Construction of 224 residential units in the form of 76 houses and 148 apartments and all associated site works. The application is accompanied with an NIS.	
	<b>Yes / No / N/A</b>	<b>Comment</b>
<b>1. Was a Screening Determination carried out by the PA?</b>	Yes	
<b>2. Has Schedule 7A information been submitted?</b>	Yes	
<b>3. Has an AA screening report or NIS been submitted?</b>	Yes	NIS has been submitted.
<b>4. Is an IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?</b>	No	



<p>5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA</p>	<p>Yes</p>	<p>Ecological Impact Assessment has been submitted.</p>			
<table border="1"> <tr> <td data-bbox="172 864 676 1570"> <p><b>B. EXAMINATION</b></p> </td> <td data-bbox="676 864 1043 1570"> <p><b>Where relevant, briefly describe the characteristics of impacts (ie the nature and extent) and any Mitigation Measures proposed to avoid or prevent a significant effect</b></p> <p>(having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)</p> </td> <td data-bbox="1043 864 1367 1570"> <p><b>Is this likely to result in significant effects on the environment?</b></p> <p><b>Yes/ No/ Uncertain</b></p> </td> </tr> </table>			<p><b>B. EXAMINATION</b></p>	<p><b>Where relevant, briefly describe the characteristics of impacts (ie the nature and extent) and any Mitigation Measures proposed to avoid or prevent a significant effect</b></p> <p>(having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)</p>	<p><b>Is this likely to result in significant effects on the environment?</b></p> <p><b>Yes/ No/ Uncertain</b></p>
<p><b>B. EXAMINATION</b></p>	<p><b>Where relevant, briefly describe the characteristics of impacts (ie the nature and extent) and any Mitigation Measures proposed to avoid or prevent a significant effect</b></p> <p>(having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)</p>	<p><b>Is this likely to result in significant effects on the environment?</b></p> <p><b>Yes/ No/ Uncertain</b></p>			
<p><b>1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)</b></p>					
<p>1.1 Is the project significantly different in character or scale to the existing surrounding or environment?</p>	<p>The development provides for houses and apartments on lands zoned for residential development and is</p>	<p><b>No.</b></p>			

	<p>located to the north of Killarney town centre.</p> <p>The surrounding area is urban in nature, primarily consisting of housing but also hospital, nursing home and educational use.</p> <p>The Killarney National Park is located to the west of the site.</p>	
<p><b>1.2</b> Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</p>	<p>The development will see a change from formerly agricultural fields to residential use.</p>	<p><b>No.</b></p>
<p><b>1.3</b> Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?</p>	<p>Construction materials will be typical of such an urban development.</p> <p>The loss of natural resources or local biodiversity as a result of the development of the site are not regarded as significant in nature.</p>	<p><b>No.</b></p>
<p><b>1.4</b> Will the project involve the use, storage, transport, handling or production of substance which would be</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels, hydraulic oils</p>	<p><b>No.</b></p>

<p>harmful to human health or the environment?</p>	<p>and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction Environmental Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p>	
<p><b>1.5</b> Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and implementation of a</p>	<p><b>No.</b></p>

	<p>Construction Environmental Management Plan will satisfactorily mitigate potential impacts. Significant operational impacts are not anticipated.</p>	
<p><b>1.6</b> Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>No significant risk identified subject to the implementation of appropriate mitigation measures. The operation of a Construction Environmental Management Plan will satisfactorily mitigate emissions from spillages during construction. The operational development will connect to mains services. Surface water drainage will be separate to foul services within the site. No significant emissions during operation are anticipated.</p>	<p><b>No.</b></p>

<p><b>1.7</b> Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</p>	<p>Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction Environmental Management Plan. Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.</p>	<p><b>No.</b></p>
<p><b>1.8</b> Will there be any risks to human health, for example due to water contamination or air pollution?</p>	<p>Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction Environmental Management Plan would satisfactorily address potential impacts on human health. No significant</p>	<p><b>No.</b></p>

	operational impacts are anticipated.	
<b>1.9</b> Will there be any risk of major accidents that could affect human health or the environment?	No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. The site is not at risk of flooding. There are no Seveso / COMAH sites in the vicinity of this location.	<b>No.</b>
<b>1.10</b> Will the project affect the social environment (population, employment)	The development of this site as proposed will result in a change of use and an increased population at this location. This is not regarded as significant given the urban location of the site and surrounding pattern of land uses, which are characterised by residential/ mixed use development.	<b>No.</b>
<b>1.11</b> Is the project part of a wider large scale change that could result in	The surrounding area consists of mature development, though	<b>No</b>

cumulative effects on the environment?	redevelopment has occurred in the wider Killarney area.	
<b>2. Location of proposed development</b>		
<p><b>2.1</b> Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <p>a) European site (SAC/ SPA/ pSAC/ pSPA)</p> <p>b) NHA/ pNHA</p> <p>c) Designated Nature Reserve</p> <p>d) Designated refuge for flora or fauna</p> <p>e) Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</p>	<p>The Killarney National Park SPA (Site Code 004038), Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (Site Code 000365) and Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment pNHA (Site Code 000365) is located approximately 50 m to the west of the subject site.</p> <p>No adverse impact is foreseen.</p>	<b>No.</b>
<p><b>2.2</b> Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting,</p>	<p>The submitted EclA and NIS did not raise any issues of concern.</p>	<b>No.</b>

over-wintering, or migration, be significantly affected by the project?		
<b>2.3</b> Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	There is an archaeological site to the south west corner, but appropriate measures are proposed to ensure its protection.  No direct impact on these.	<b>No.</b>
<b>2.4</b> Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?	There are no such features that arise in this location.	<b>No.</b>
<b>2.5</b> Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	None on site. A site-specific flood risk assessment was prepared, and no issues of concern were identified. The site is located within Flood Zone C.	<b>No.</b>
<b>2.6</b> Is the location susceptible to subsidence, landslides or erosion?	No such impacts are foreseen.	<b>No.</b>



<p><b>2.7</b> Are there any key transport routes (e.g. National primary Roads) on or around the location which are susceptible to congestion, or which cause environmental problems, which could be affected by the project?</p>	<p>The Port Road is a National Secondary route and traffic congestion is a feature on roads to the north of Killarney, though there is no indication that the development will add significantly to such traffic congestion.</p>	<p><b>No.</b></p>
<p><b>2.8</b> Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be significantly affected by the project?</p>	<p>There is a hospital and nursing home to the east of the site but no impacts are foreseen.</p>	<p><b>No.</b></p>
<p><b>3. Any other factors that should be considered which could lead to environmental impacts</b></p>		
<p><b>3.1 Cumulative Effects:</b> Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?</p>	<p>Some cumulative traffic impacts may arise during construction and operational stages. Construction traffic would be subject to a construction traffic management plan.</p>	<p><b>No.</b></p>
<p><b>3.2 Transboundary Effects:</b> Is the project likely to lead to transboundary effects?</p>	<p>No trans-boundary effects arise as a result of the proposed development.</p>	<p><b>No.</b></p>
<p><b>3.3</b> Are there any other relevant considerations?</p>	<p><b>No.</b></p>	<p><b>No.</b></p>

### C. CONCLUSION

<b>No real likelihood of significant effects on the environment.</b>	<input type="checkbox"/>	EIAR Not Required
<b>Real likelihood of significant effects on the environment.</b>	<input type="checkbox"/>	EIAR Required

### D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

- a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- b) Class 14 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- c) The existing use on the site and pattern of development in surrounding area,
- d) The availability of mains water and wastewater services, facilitated by a temporary wastewater treatment plant, to serve the proposed development,
- e) The location of the development outside of any sensitive site,
- f) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),
- g) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 as amended, and
- h) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Construction and Environmental Management Plan (CEMP),

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

**Inspector** \_\_\_\_\_

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

**ADP/ DOP** \_\_\_\_\_

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