

An
Coimisiún
Pleanála

Inspector's Addendum Report

ABP-321908A-25

Development

Construction of a raised platform walkway / cycleway from the Dinis car park to the Torc (Cardiac Hill) car park and all associated works. A Natura Impact Statement accompanies this application.

Location

Torc, Muckross, Killarney, Co. Kerry.

Planning Authority

Kerry County Council

Planning Authority Reg. Ref.

2460025

Applicant(s)

National Parks and Wildlife Service

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Peter Sweetman

Observer(s)

none

Inspector

Aisling MacNamara

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1.0 Section 132 Notice of 30/06/2025 and 21/07/2025

- 1.1. This addendum report is to be read in conjunction with the Inspector's report of 29th May 2026 which recommended refusal of permission for the proposed development that is the subject of the appeal.
- 1.2. The Commission decided on 23rd June 2025 to defer consideration of the case and to issue a section 132 notice to require the applicant to submit further information.
- 1.3. A letter was issued on 30th June 2025 to the applicant. The letter indicates that the Commission *"is not satisfied that it has received sufficient detailed information to show the precise impact of the proposed development on the woodland habitat including Annex 1 Old sessile oak woods with Ilex and Blechnum in British Isles (91AO), Kerry Slug, Lesser Horseshoe Bat and Killarney Fern"* and that the following information is to be submitted *"to enable a full and comprehensive assessment to be completed and to reach definitive conclusions in respect of Appropriate Assessment"*:
 1. *Clarification on the presence and location of any QI woodland habitat within the site boundary, having regard to best practice survey guidance and published research on Annex 1 woodland habitats.*
 2. *Detailed drawings (1:250 scale) showing the footprint of the works and confirmed Annex 1 and non-Annex 1 habitats within the site boundary.*
 3. *Detailed mapping overlaying the footprint of the works with the habitat to clearly show the impact of the works on ground habitat.*
 4. *Detailed drawings and a schedule (1:250 scale) showing the survey of existing trees, particularly those within Annex 1 woodland habitat (91AO), and the impact of the proposed development on trees, including which trees are to be removed, which are to be retained, and which trees may lose limbs etc. The Commission noted that the detailed information did not match between the drawing and the schedule submitted to the Planning Authority.*
 5. *Exact details on the measures proposed to amend the design and any specialist methodology to be used to avoid trees? The documentation submitted states that the design is to be 'possibly tweaked' to allow for tree retention where possible.*

6. *Detail the area(s) of the temporary and permanent habitat loss (if any) within Annex I woodland (91A0) habitat.*
7. *Justify, in terms of best available scientific information, why habitat loss will not result in adverse effects on site integrity of the SAC overall in view of the conservation objectives as defined by the specific attributes and targets.*
8. *What are the prospects for natural regeneration within the overall development site boundary?*

The Commission is precluded from deciding on the proposed development until a Derogation for the Kerry Slug has been issued and confirming documentation has been copied to the Commission.

- 1.4. The final date for submissions from the applicant was 21st July 2025.
- 1.5. On 14th July 2025 the applicant requested an extension of the time period for submission of the required information.
- 1.6. On 21st July 2025, ACP issued the same letter again to the applicant with final date for submission of 26th September 2025.
- 1.7. A response was received on 25th September 2025.

2.0 Consideration of the applicant's response to section 132 notice of 30/06/2025 and 21/07/2025

- 2.1. The applicants response contains drawings and report.

***Item 1:** Clarification on the presence and location of any QI woodland habitat within the site boundary, having regard to best practice survey guidance and published research on Annex 1 woodland habitats.*

Applicant's Response:

Baseline habitat mapping was conducted and followed national best practice methodologies outlined in 'Best Practice Guidance for Habitat Survey and Mapping' (Smith et al. 2011). Habitats were categorised to Level 3 with regard to 'A Guide to Habitats in Ireland' (Fossitt, 2000). The 'Interpretation Manual of European Union Habitats' (European Commission, 2013) and latest published research on Annex I

woodland habitats in Ireland, including Daly, et al. (2023) and O'Neill & Barron (2013) were consulted with regard to Annex I woodland on the site.

The only QI woodland habitat which occurs within the development site boundary is the Annex I woodland habitat 'old oak woodland (91A0)'. Parts of the footprint of works overlap with this qualifying habitat. Of total length of the proposed raised walkway/cycleway of 1.2km, approximately 570m (56%) of the route passes through this QI habitat.

The old oak woodland is now recovering from a degraded and disturbed state due to rhododendron prior to clearance c 9 years ago.

Qualifying old oak woodland habitat is located in the western and central sections of the site and extends eastwards from Dinis car park with cover almost continuous until towards the central section where it becomes fragmented intermixed with open scrub habitat.

Habitats along parts, particularly the central section have been previously disturbed due to works to the carriageway.

The full extent of the QI woodland habitat within the site boundary is detailed in the submitted Habitat Layout drawings.

2.2. *Item 2: Detailed drawings (1:250 scale) showing the footprint of the works and confirmed Annex 1 and non-Annex 1 habitats within the site boundary.*

Applicant's Response:

Confirmed Annex I habitat within the site boundary comprises 'old oak woodland (91A0)'. Confirmed non-Annex I habitats within the site boundary comprise 'scrub (WS1)', 'mixed broadleaved woodland (WD1)' and 'buildings and artificial surfaces (BL3)'. The full extent of all Annex I and non-Annex I habitats within the site boundary are detailed with the footprint of the works in the submitted Habitat Layout drawings.

2.3. *Item 3: Detailed mapping overlaying the footprint of the works with the habitat to clearly show the impact of the works on ground habitat.*

Applicant's Response:

Detailed mapping overlaying the footprint of works with the habitat to clearly show the impact of construction phase works on ground habitat is provided in the Habitat Layout drawings and the Proposed Site Layout drawings.

The drawings show the extent of construction works footprint within which the development will be constructed, the location of temporary construction compounds and the location of the proposed walkway support bases where vegetation will be temporarily cleared to facilitate excavation and construction of the platform supports.

Once constructed, the raised platform will traverse varying boundary levels (longitudinal section drawings submitted). In relation to operational phase impacts on ground habitat, namely through impacts on light penetration to the woodland floor, the walkway platform will be at <1m above ground level for only very minor sections of the walkway such as at both ends of the route. This is influenced by site topography and required slope for universal access. For the remainder of the route, comprising c 93.5% of the overall length of the walkway / cycleway, the platform will be >1m above ground level which will allow sufficient light penetration to ground flora and fauna.

- 2.4. ***Item 4: Detailed drawings and a schedule (1:250 scale) showing the survey of existing trees, particularly those within Annex I woodland habitat (91A0), and the impact of the proposed development on trees, including which trees are to be removed, which are to be retained, and which trees may lose limbs etc. The Commission noted that the detailed information did not match between the drawing and the schedule submitted to the Planning Authority.***

Applicant's Response:

A schedule is submitted showing all surveyed trees within the development site and impact – those to be retained, removed, and those which may lose limbs. Detailed drawings, which accompany the below schedule are submitted showing trees to be retained, removed and trimmed, particularly those within the Annex I woodland habitat.

A total of 129 trees were surveyed within and adjacent to the proposed works area during the MWP tree survey. Of these:

- 101 trees are to be retained with no interference required,
- 19 trees are to be retained but will require some degree of minor trimming, and
- 9 trees are proposed to be removed to facilitate works.

Removal of trees is limited to young and semi mature trees. There will be no removal of mature / significant trees to facilitate the development.

Tree removal is proposed for the following total number of semi-mature or young individuals of species: ash (4 no.), hazel (1 no.), silver birch (1 no.), pedunculate or hybrid oak (2 no.) and grey willow (1 no.).

Of the young / semi mature trees to be removed, 3 no. are located within Annex I old oak woodland habitat within the site (all young / semi mature ash).

Nineteen trees will require some degree of minor trimming (15 of which are located within Annex I woodland habitat 91A0). Trimming will be undertaken at the correct time of year and by a specialist tree surgeon. Loss of tree limbs is a natural process in Atlantic woodland due to wind damage. It can also be conservation practice, in woodlands lacking over mature trees, to remove or deliberately damage limbs to create saproxylic habitat.

- 2.5. ***Item 5: Exact details on the measures proposed to amend the design and any specialist methodology to be used to avoid trees? The documentation submitted states that the design is to be 'possibly tweaked' to allow for tree retention where possible.***

Applicant's Response:

To clarify, there is no proposal to amend or 'tweak' the design post any planning consent nor is any specialist methodology proposed to be used to avoid trees.

The raised walkway / cycleway is designed to avoid trees where possible and prioritise the retention of all significant mature trees, whilst taking account of constrained site in terms of physical and environmental characteristics.

Various preliminary design stage surveys were carried out to inform route option and design. The outcome minimises number of trees directly affected as much as is practicably possible and no removal of significant or mature trees is required to construct the walkway. The route alignment and design of the structure minimises impact on trees and ground habitat.

2.6. Item 6: Detail the area(s) of the temporary and permanent habitat loss (if any) within Annex I woodland (91A0) habitat.

Areas of temporary habitat loss within Annex I woodland (91A0) habitat will be associated with certain elements of the proposal.

Temporary construction compounds required.

Table 1 Description of proposed temporary sub-compounds for the development:

Temporary compound no.	Description	Location relative to Annex I woodland (91A0) habitat within the development site
1	Main compound (20m x 4m) will be located in Dinis car park at the western end of the route within the area proposed to accommodate revised parking spaces.	Outside
2	Road based sub compound (c 2.4m x 7.2m) located outside the site within the footprint of existing N71 carriageway.	Outside
3	Sub compound within site adjoining the N71. Area 2.4m x 7.2m . Open area, low growing vegetation of bracken and bramble. Materials to be dropped into position from the road, over the existing masonry wall at edge of N71 carriageway	Inside
4	Sub compound outside of site in existing layby on southern verge of N71. Area 2.5m x 10m	Outside
5	Sub compound located within the site adjoining N71. Area 2.4m x 7.2m. Open and relatively clear and level area of moss carpet with some bracken and heather.	Inside
6	Sub compound located within the site, adjoining the N71 towards the eastern extent of the route. Narrow (2.4m x 7.2m). Open and relatively level area with bramble and ivy.	Outside
7	This main compound (8.5m x 4m and 10m x 4m) will be located in Torc car park at the eastern end of the route.	Outside

Two approaches to set up of sub compounds, dependent on ground conditions. Where ground level, geotextile followed by layer of matting will form surface. Alternatively, low rise scaffold and deck surface – the only interaction with ground surface is via scaffold footings in ground.

Mitigation measures are set out in section 10.2 of the submitted NIS. These include CEMP, Environmental Manager, Project Ecologist / Ecological Clerk of Works, measures for runoff and sediment control, management of plant and chemicals, management of construction materials and waste, management of invasive species, demarcation of works area and use of ground protection, implementation of tree protection measures.

In addition, an alternative option is to establish a 'rolling' compound on the carriageway of the N7.

Compound locations shown on Proposed Site Layout drawings and Habitat Layout drawings.

An indicative extent of construction works footprint is detailed in the Proposed Site Layout drawings and Habitat Layout drawing. This extent of construction works footprint encompasses the proposed walkway and allows for a precautionary construction buffer either side. The total area encompassed within the extent of construction works footprint is 12475sqm (1.25ha). The total area encompassed within the construction works footprint which overlaps with Annex I woodland (91A0) habitat is 6845sqm (0.68ha).

Construction will commence from Dinis car park. First section of prefabricated frame will be craned into position including deck. Subsequent sections can be installed using deck as platform. Where terrain is challenging, section of prefabricated frame will be lifted into position using mobile crane on roadway. Materials will be aerial moved only where suitable openings in trees occur. Excavation for foundations is minimal and requires mini diggers, dumpers and hand held equipment. Ground protection will be used. There is requirement to temporarily remove ground vegetation around the base of each platform support column (c 1sqm per support column). These areas will be temporarily cleared to allow for excavations. Material removed is temporarily stockpiled adjacent to each location. Following installation of each support column the soil will be reinstated. These areas will recolonise with

vegetation. A total of 247 columns are required within Annex I woodland – detailed on Habitat Layout drawing. On this basis, the total area of temporary vegetation clearance within Annex I woodland (91A0) for platform support column bases is 247sqm. Based on a footprint of 0.03sqm required to construct the base of each support column, the total area of permanent loss of ground habitat within Annex I woodland (91A0) will be c 7.41sqm to construct the raised platform. A total of 3 no. young to semi mature ash trees will require removal within Annex I woodland (91A0) to allow for construction of raised walkway. There will be no removal of mature / significant trees.

2.7. *Item 7: Justify, in terms of best available scientific information, why habitat loss will not result in adverse effects on site integrity of the SAC overall in view of the conservation objectives as defined by the specific attributes and targets.*

The development will require minor (de minimus) permanent loss of ground habitat / land take within qualifying old oak woodland (91A0) habitat associated with the installation of the structural support columns in the ground. This will be main interaction with ground and surface vegetation. This aspect of the development will comprise the main mechanism through which the structure will interact with ground and surface vegetation. The works will require removal of three immature ash trees within qualifying old oak woodland. As the woodland is only recently recovering from removal of mature rhododendron cover this is not considered significant and regeneration is expected to occur under the walkway / cycleway.

The NIS assessment of the qualifying old oak woodland conservation objectives including attributes and targets was undertaken in the NIS, concluding minor habitat loss within old oak woodland will not result in adverse effects on site integrity of the SAC. The rationale is further outlined in Table 2 submitted with FI.

Table 2 Assessment of potentially significant effects on the specific Conservation Objective attributes and targets for 'old oak woodland' within the Killarney National Park, MacGillycuddy's Reeks and Caragh River Catchment SAC (NPWS 2017).

An assessment of the effects of the project on the specific habitat attributes and targets for qualifying 'old oak woodland (91A0)', which are defined in relation to the achievement of the conservation objectives of the SAC, has concluded that minor

(de minimus) habitat loss associated with the development does not have the potential to affect the achievement of the conservation objectives of the SAC and will not result in adverse effects on site integrity of the SAC overall in view of the conservation objectives, as defined by the attributes and targets.

2.8. *Item 8: What are the prospects for natural regeneration within the overall development site boundary?*

Where invasive rhododendron is controlled and browsing pressure reduced by deer, native woodland shows regeneration over decadal timescales. Natural regeneration is most successful pathway where seed sources and site conditions are suitable and threats managed. There is marked absence of strong signs of over grazing by deer within the development site. Rhododendron is on going issue exhibiting widespread distribution throughout site.

Natural regeneration of birch, sessile oak or its hybrid, holly, rowan and yew species of old oak woodland are likely to regenerate after disturbance around the walkway / cycleway support pile foundations as long as soil is not excessively compacted, eroded or dried.

Deer grazing is not excessive currently.

Rhododendron is to be controlled as part of national park management.

The high tree canopy above the walkway / cycleway will remain largely intact, and regeneration by the above mentioned species is likely to eventually regenerate into the canopy which will grow over top of walkway / cycleway.

The extent of regeneration under the walkway / cycleway depends on the height of the deck off the ground and extent of light and moisture penetration. The height of the deck along the cycleway is shown in MWP drawing with the application. It shows that c 93.5% of the cycleway length is >1m height and 68% is >2m height, however regeneration vegetation will restrict light beneath walkway. It is proposed to very slightly angle the surface of the cycleway to the south or towards the road. This will allow water runoff upslope of the soil underneath the platform maximising moisture in the soil (as opposed to draining to lakeside). This will increase rootzone regeneration under the platform.

The response is informed by examples of relevant research or examples of similar habitats. Example of light penetration / regeneration under raised walkway at Glengarriff Nature Reserve, west Cork.

- 2.9. ***Additional item:*** *The Commission is precluded from deciding on the proposed development until a Derogation for the Kerry Slug has been issued and confirming documentation has been copied to the Commission.*

In relation to Derogation Licence required for Kerry slug, this is forthcoming and confirming documentation will be copied to the commission before the end of the specified period.

On 26th September 2025, the applicant submitted a Regulation 54 'Derogation No. DER-Kerry Slug-2025-04' for works between Dinis Car Park and Torc (Cardiac Hill) car park and N71 Road, Torc dated 26th September 2025. The derogation license states that the actions which this derogation authorise shall be completed between the 26/09/2025 to 31/12/2025 inclusive.

On 8th October 2025 the further information response was circulated to Kerry County Council and Peter Sweetman (appellant) with final date for submissions of 28th October 2025.

3.0 **Report of Inspectorate Ecologist**

- 3.1. The further information response was considered by the Inspectorate Ecologist - see memorandum report dated 23rd January 2026.
- 3.2. Note that the Inspectorate Ecologist also prepared a Technical note dated 28th May 2025 which informed the first Inspectors report of 29th May 2025.
- 3.3. The report of 23rd January 2026 sets out a review of the further information response documentation. The report concludes that the further information documentation is adequate and that there is sufficient information for the Commission to reach complete, precise and definitive findings on the impacts of the proposed development on Annex I QI woodland habitats in view of the conservation objectives of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC. It is the view of the Inspectorate Ecologist that the proposed development will

not result in adverse effects on site integrity of the SAC in view of the conservation objectives. The Ecologist accepts that minor habitat loss within 91A0 habitat will not result in adverse effects on site integrity of the SAC overall in view of the conservation objectives as defined by the specific attributes and targets.

- 3.4. The report refers to the submitted Regulation 54 Derogation for Kerry Slug dated 26th September 2025 for the period 26/09/2025 to 31/12/2025. The Ecologist states that the expiry date for derogations is typically issued within the calendar year of when the application was submitted, the applicant is likely to acquire a revised derogation and that the responsibility lies with the applicant. The NPWS guidance on Applications for Regulation 54 Derogations for Annex IV species issued 2025 is noted.

4.0 Section 132 Notice of 11/02/2026

- 4.1. Further to memo dated 9th February 2026 from Planning Inspector to ADP in relation to the expired derogation licence, the Commission issued a Section 132 letter dated 11th February 2026 to the applicant stating that the applicant is required to submit the following: *An updated derogation licence that allows for actions within a current 'in date' time period.* The final date for submissions was 7th April 2026.
- 4.2. On 25th March 2026 the applicant submitted a response to the further information request. The applicant submitted an updated Regulation 54 'Derogation No. DER-Kerry Slug – 2026-09' for works between Dinis Car Park and Torc (Cardiac Hill) Car Park and N71 Road, Torc, for actions to be completed between 25th March 2026 to 31st December 2027 inclusive, dated 25th March 2026.

5.0 Assessment

I refer to Inspectors report on the application dated 29th May 2026. This report includes a recommendation to refuse permission for three reasons. I propose to consider the FI response having regard to each of the recommended refusal reasons.

5.1. **Recommended refusal reason no.1**

On the basis of the information provided with the application and appeal, including the Natura Impact Statement, and in light of the Stage 2 Appropriate Assessment undertaken, the Board cannot be satisfied that the proposed development alone would not be likely to have significant effects on the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment Special Area of Conservation in view of the site's conservation objectives, by reason of significant impact on trees and woodland habitat and the resulting impacts on the qualifying interests of the Special Area of Conservation (old oak woodland, Kerry slug, lesser horseshoe bat and Killarney Fern). The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

5.1.1. **Assessment of Further Information response:**

- 5.1.2. Updated information is submitted. This has informed an updated assessment of the effects of the development on QIs old oak woodland, Kerry slug, lesser horseshoe bat and killarney fern in light of the attributes and targets for the achievement of the conservation objectives of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC. An updated assessment has been undertaken of overall effects on the QIs of the SAC. An updated AA conclusion is undertaken. These are set out in the appendix attached to this report.
- 5.1.3. The further information submitted relates to '**old sessile oak woods with Ilex and Blechnum in British Isles**' QI woodland habitat 91A0. The Inspectorate Ecologist considered the FI response in report of 23rd January 2026 and I have had regard to this report in carrying out my assessment.
- 5.1.4. Baseline mapping and surveys have been submitted following national best practice methodologies and regard has been paid to latest published research and scientific information. I am satisfied that sufficient information has been submitted to reach complete, precise and definitive findings on the impact of the proposed development on Annex I QI woodland habitat 91A0 in view of the conservation objectives of the SAC. The total area encompassed with the construction works footprint which overlaps with 91A0 woodland is 6845sqm. The route passes through c 560m of the 91A0 habitat. A detailed methodology is set out for construction. An updated tree schedule and maps are provided. A total of 129 trees were surveyed within and

adjacent to the proposed works area. In order to construct the development, there will be removal of a total of 9 no. young semi mature trees of which 3 no. young semi mature ash are located within 91A0 habitat. A total of 19 trees are to be trimmed of which 15 are within 91A0. No mature trees are to be removed. Dead wood is to remain on site. In the context of the overall site and extent of overall QI woodland, tree loss is small and will have minimal impacts on overall woodland size or structure. It is noted that limb loss is a natural process. The construction will result in temporary impacts on vegetation arising from clearance for columns (247sqm) and due to construction of compounds and carrying out of ground works. Only two of the construction compounds are to be located within 91A0 habitat (occupying small area on open land). Compounds are to be set up to avoid or minimise impacts on ground vegetation. Mitigation measures set out in the NIS outline measures to minimise impacts on vegetation when carrying out works. Sections of platform are to be air lifted into place from road. There will be permanent loss of ground vegetation caused by installation of base columns (7.41qm) which will have an imperceptible impact on the overall QI habitat. The report provides detailed information to show that regeneration is feasible. For 93.5% of the route, the platform will be greater than 1 metre above ground level allowing sufficient light. The platform is to be slightly angled so that rain runs off upslope from the platform providing moisture to ground beneath platform. I am satisfied that the development will have a minor impact on the QI 91A0 habitat. The FI report and NIS set out mitigation measures to reduce or avoid adverse impacts on the 91A0 habitat. I have also proposed mitigation conditions to ensure that the platform is angled to allow run off upslope and the retention of dead wood on site. There will be no adverse impact on the 91A0 woodland habitat in light of the conservation objectives and attributes and targets for this QI.

- 5.1.5. The **Kerry slug**, **lesserhorseshoe bat** and **killarney fern** are all dependent on a woodland habitat. I am satisfied that I have sufficient information to allow for consideration of impacts on these QI. The updated tree impact schedule and updated maps provide clarity regarding the impact of the development on these QI. Of the 129 trees surveyed, 101 are retained, 9 young / semi mature removed and 19 trimmed. There will be 7 no. compounds (2 main compounds at Dinis and Torc car park, one road compound on N71 and 4 sub compounds within site. There will be

temporary loss of vegetation caused by clearing of vegetation for columns of platform (202 A and B = 404 columns x 1sqm per column) and there will be impacts on vegetation due to sub compounds and ground works. There will be permanent loss of vegetation due to installation of columns along the length of the platform (0.03sqm for each base). There will be small permanent loss of ground vegetation for improvement works to Dinis car park and facilities. Having regard to the small number of trees to be removed across the site including limb pruning, the limited area of works at Dinis car park, including temporary loss of vegetation at construction stage, there is to be a minor impact on overall woodland habitat. Due to limited tree loss and limb loss, there will be no significant impact on the extent of foraging habitat and features for the lesser horseshoe bat. There is no significant loss of habitat for Kerry slug. No Killarney fern was recorded on the site. The development will not impact on existing populations. Due to minor impacts on overall woodland habitat, there will be no significant impact on shade / humidity etc and no significant impacts on extent of suitable habitats. Detailed mitigation measures are set out in the NIS to reduce or avoid adverse impacts on these QI. There will be no adverse impact on these QI in light of the conservation objectives and attributes and targets for these QI.

- 5.1.6. My original report sets out a detailed consideration of all other relevant QI located within the Killarney National Park SPA and the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC.
- 5.1.7. The updated AA conclusion is as follows:
- 5.1.8. In screening the need for Appropriate Assessment it was determined that the proposed development could result in significant effects on the Killarney National Park SPA and Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of S177U was required.
- 5.1.9. Following an examination, analysis and evaluation of the NIS, associated material submitted including the submitted further information, I consider that:
 - Adverse effects on site integrity of Killarney National Park SPA can be excluded in the view of the conservation objectives of this site and no reasonable scientific doubt remains as to the absence of such effects.

- Adverse effects on the site integrity of Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC can be excluded in view of the conservation objectives of this site and no reasonable scientific doubt remains as to the absence of such effects.

5.1.10. This conclusion is based on the following:

- Detailed assessment of construction and operational impacts, having regard to information submitted with the application and at appeal stage,
- detailed consideration of the impacts of the proposed development on the conservation objectives of the European sites and the qualifying interests of these sites,
- the nature and scale of works including the design of the platform and the minor level of permanent and temporary tree loss and habitat loss impacting on the woodland habitat,
- effectiveness of mitigation measures proposed including application of planning conditions,
- the proposed development will not affect the attainment of conservation objectives for the qualifying interests.

5.2. **Recommended refusal reason no. 2**

The site contains Kerry slug which is included as Annex IV species of the European Union Habitats Directive of 1992. Annex IV species are strictly protected so that the species in question will reach and remain at favourable conservation status. There is an obligation to strictly protect Annex IV species and a derogation from this requirement is only in limited circumstances subject to certain conditions. The applicant has submitted a copy of an application for a derogation licence under European Communities (Birds and Natural Habitats) Regulations 2011-2021 for Kerry slug. No information is provided regarding the decision of this application. The Board is not satisfied that adequate information is provided to show that the proposed development can be carried out without compromising the objective to strictly protect this species. It is considered that the proposed development would therefore be contrary to objectives in the County Development Plan including

KCDP11-1 to ensure that the requirements of EU and national legislation are complied with including the requirements of the EU Birds and Habitats Directive. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

5.2.1. Assessment of Further Information response:

The applicant has submitted an updated Regulation 54 'Derogation No. DER-Kerry Slug – 2026-09' for works between Dinis Car Park and Torc (Cardiac Hill) Car Park and N71 Road, Torc, for actions to be completed between 25th March 2026 to 31st December 2027 inclusive, dated 25th March 2026.

I note the following updated guidance from Department of Housing, Local Government and Heritage – NPWS Applications for Regulation 54 Derogations for Annex IV species: Guidance for Applicants, June 2026. Section 5 'Timing of Application for Derogation' states the following:

"In July 2023, the Court of Justice of the European Union High Court issued a judgment¹⁴ relating to the relationship between the systems of development consent and the provision of derogations regarding the strict protection of species under the EU Habitats Directive. On the basis of this judgment, it is the Department's opinion that where a proposed activity requires consent from another statutory authority, and it appears that such an activity, if permitted, by that appropriate public authority, will also require a derogation from the Minister, then it is necessary that the derogation should be granted before the approval of the consent to the proposed activity.

.....Public authorities are advised that, when considering applications for development consent, they should ensure that such applications include copies of the derogation(s) that the applicant has considered it is necessary to acquire. The responsibility of avoiding disturbance or damage to Annex IV species, or of obtaining an appropriate derogation, rests with the applicant."

The applicant has included a copy of a granted derogation licence for works associated with the proposed development to be carried out up to 31st December 2027. Consent has been given for the works that will impact on protected Annex IV Kerry slug. This FI issue is addressed. EU Birds and Habitat Directive is complied with. The proposal is in accordance with KCDP11-1.

5.3. **Recommended refusal reason no. 3a**

It is considered that insufficient information has been submitted in relation to the proposed extent of tree removal within the site to assess the potential impacts of the development on trees which are of biodiversity value within the woodland habitat of the site which is a proposed Natural Heritage Area. As such, the proposed development would be contrary to objectives in the County Development Plan including KCDP11-27 to preserve and enhance broadleaf tree cover, KCDP11-3 to work with stakeholders to conserve natural heritage and KCDP11-2 to maintain the conservation value of sites including proposed Natural Heritage Areas. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

5.3.1. **Assessment of Further Information response:**

5.3.2. An updated tree survey is submitted. Updated drawings are submitted showing the location of all trees to be removed and trimmed. A total of 129 trees are surveyed. 101 trees are to be retained. 19 trees are to be trimmed. 9 trees are to be removed. Removed trees are young and semi mature trees ash (4 no.), hazel (1 no.), silver birch (1 no.), pedunculate or hybrid oak (2 no.) and grey willow (1 no.).

5.3.3. KCDP11-27 is to support the preservation and enhancement of the general level of broadleaf tree cover and to ensure that development proposals satisfactorily retain trees and or provide additional native planting. The number of trees to be removed is minor and no significant or mature trees will be removed. The proposed tree removal will not have a significant impact on the general level of broadleaf cover at the site. The proposal is in accordance with KCDP11-27.

5.3.4. KCDP11-3 is to work with all stakeholders to conserve, manage and enhance natural heritage including habitats, species and landscapes of conservation interest and promote increased awareness of heritage. The proposed development is designed to conserve the natural habitats and species at the site. The proposed walkway / cycleway and rest facilities, as a leisure recreation amenity, promote enjoyment and awareness of this significant heritage site. The proposal is in accordance with KCDP11-3.

- 5.3.5. KCDP11-2 is to maintain nature conservation value and integrity of SAC, SPA and pNHAs. The proposal will not adversely effect the conservation integrity of the SAC and SPA or the pNHA. The proposal is in accordance with KCDP11-2.

5.4. Other issues

5.4.1. Kerry County Development Plan updates

There is no change in development plan policy since the preparation of my first report dated 29th May 2025. The Kerry County Development Plan 2022-2028 is still in place. Note variation no. 1 of this CDP was adopted on 21st July 2025. This variation relates to a settlement plan for the Tralee MD area, replacing the Tralee Town Development Plan contained in volume 2 of the CDP and the Tralee MD LAP 2018.

Variation no.2 was adopted 19th January 2026 in relation to the Killarney Town plan. The site is outside of the settlement boundary of Killarney.

Variation no. 3 was adopted 15th June 2026 in relation to Castleisland and Dingle area. This does not relate to the proposed development.

Proposed variation no. 4 – material alterations on display from 30th July 2026 to 28th Aug 2026 in relation to Listowel MD Settlement Plan.

6.0 Recommendation

I recommend that planning permission is granted.

7.0 Reasons and considerations

Having regard to the provisions of the Kerry County Development Plan 2022-2028 and to the nature, scale and design of the proposed development and its location within a sensitive rural area, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the natural environment, ecological integrity and visual amenities of the area and would be acceptable in terms of traffic safety. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

8.0 Conditions

1	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on 7th November 2024 and further information received by An Coimisiun Pleanala on 25th September 2025, 26th September 2025 and 25th March 2025, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. Reason: In the interest of clarity.
2	(i) The mitigation measures contained in the submitted Natura Impact Statement (NIS) shall be implemented. (ii) The surface of the platform walkway / cycleway shall be angled south towards the road for surface water to runoff upslope of the platform. (iii) All dead wood / removed trees or limbs shall be retained on site. Reason: To protect the integrity of European Sites.
3	The mitigation measures contained in the submitted Ecological Impact Assessment (EclA), shall be implemented. Reason: To protect biodiversity and the environment.
4	All works shall be supervised by an on-site Ecological Clerk of Works who will report on compliance with the relevant mitigation measures. The Ecological Clerk of Works shall be empowered to halt works where they consider that the continuation of the works is likely to result in a significant pollution or siltation incident or impact on protected habitats or species, and on-site works will cease until authorised to continue by the planning authority. A compliance monitoring report shall be prepared by the

	Ecological Clerk of Works and shall be submitted to the planning authority at the end of the main construction period. Reason: To ensure compliance with mitigation measures and to protect biodiversity.
5	All trees within and on the boundaries of the site shall be retained and maintained with the exception of those shown for removal and trimming in the schedule and drawings submitted to An Coimisiun Pleanala on 25th September 2025. All works for the removal, trimming and protection of trees to be retained shall be in accordance with the submitted Tree Survey Report submitted 7th November 2024. All works shall be supervised by an on-site suitably qualified and experienced arborist or tree surgeon who will submit a report on compliance with the relevant measures. Reason: To protect trees and planting during the construction period.
6	Prior to the commencement of felling/works, trees with bat roosting potential shall be surveyed by a suitably qualified Ecologist who is appropriately qualified and experienced in undertaking bat surveys and in line with best practice at the appropriate time of year to confirm the absence of roosting bats. In the event that a previously undetected bat roost is identified and is likely to be disturbed, the applicant shall acquire a derogation under Regulation 54 of the European Communities (Bird and Natural Habitats) Regulations 2011 prior to the commencement of the relevant works. Prior to the removal of trees and/or works to building, the bat survey results, methodologies for felling/works and any derogations shall be submitted for the written agreement of the planning authority. Reason: For the protection of bats, a protected species.
7	Prior to the commencement of construction, a suitably qualified Ecologist who is appropriately qualified and experienced in undertaking invasive alien species (IAS) surveys and in line with best practice at the appropriate time of year shall carry out a survey of the site for invasive alien species

	(IAS)designated under the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations (2011). A verification report shall be submitted to the planning authority prior to commencement of construction. Should any IAS be found, an IAS Management Plan is also to be provided to the planning authority. Implementation of any IAS Management Plan shall be monitored and signed off by the project ecologist in agreement with the planning authority. No works are to take place until actions of an IAS Management Plan are completed. Depending on the IAS in question, post-construction monitoring may be required to ensure controls have been successfully carried out. Any records of IAS found on the site are to be submitted to the planning authority and the National Biodiversity Data Centre (NBDC) using the NBDC standard reporting form to inform future planning and ensure monitoring. Reason: To prevent the spread of alien invasive species and to protect the integrity of European Sites.
8	Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a detailed Construction Environmental Management Plan (CEMP) for the written agreement of the planning authority. The CEMP shall set out a detailed methodology for construction works in accordance with the details submitted with the application including for the location and set up of compounds, phasing of works and specific mitigation measures for construction stage as set out in the submitted NIS and EclA. The CEMP shall incorporate details for the following: collection and disposal of construction waste, surface water run-off from the site, on-site road construction, environmental management measures during construction including working hours, lighting, noise control, dust and vibration control and monitoring of such measures. A record of daily checks that the construction works are being undertaken in accordance with the CEMP shall be kept at the construction site office for inspection by the planning authority. The agreed CEMP shall be

	implemented in full in the carrying out of the development. Reason: In the interest of environmental protection and public health and safety.
9	A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site. Reason: In the interest of traffic safety and convenience.
10	Prior to commencement of development, the developer shall agree in writing with the planning authority details of biodiversity and enhancement measures which shall be implemented as part of the project. These measures shall be in accordance with section 12 Enhancement Opportunities of the submitted EclA. All agreed measures shall be completed within 18 months of the completion of this development under the supervision of an appropriately qualified and experienced specialist. Reason: To protect biodiversity.
11	(a) Prior to commencement of development, the developer shall submit a Stage 2 Road Safety Audit for the development, prepared in accordance with Transport Infrastructure Ireland (TII) Road Safety Audit Standards Publication and shall submit this for the written agreement of the planning authority. Where the audit identifies the need for design changes, revised designs shall be submitted to and agreed in writing with the planning authority. The developer shall carry out all necessary works in accordance with the agreed revised design. (b) Post construction, the developer shall submit a Stage 3 Road Safety Audit for the development prepared in accordance with TII Road Safety Audit Standards Publication and shall submit this for the written agreement of the planning authority. Where the audit identifies the need for remedial

	works, design details shall be submitted to and agreed in writing with the planning authority. The developer shall carry out all necessary works in accordance with the agreed design. (c) The development shall not be brought into operational use until all works have been carried out to the written satisfaction of the planning authority. Reason: In the interest of traffic safety and orderly development.
12	Prior to commencement of development, the developer shall submit details of the location and design of signage to serve the proposed development, for the written agreement of the planning authority. The signage shall be in accordance with the Traffic Signs Manual and TII Specifications and to the specifications of Kerry County Council. Reason: In the interests of traffic and pedestrian safety.
13	All development shall be built in accordance with the Standards and Specifications of Universal Design at set out by the National Disability Councils Centre of Excellence in Universal Design. Reason: In the interest of traffic and pedestrian safety.
14	There shall be no lighting of the completed walkway / cycleway. Reason: In the interest of protection of biodiversity and to protect the integrity of European Sites.
15	Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public road. 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 Coimisiún Pleanála for determination.

	Reason: In the interest of traffic safety and the proper planning and sustainable development of the area.
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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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

Aisling Mac Namara

Planning Inspector

14th September 2026

Appendix 1: Appropriate Assessment

Note: The following is an updated assessment of the impact of the development on the following qualifying interests:

Old sessile oak woods with Ilex and Blechnum in the British Isles (91A0)

Kerry slug (1024)

Lesser horseshoe bat (1301)

Killarney Fern (1421)

For all other qualifying interests, refer to table in original report of 29/05/2025.

Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment Special Area of Conservation 000365			
Qualifying Interest features likely to be affected	Conservation Objectives Targets and attributes	Potential adverse effects	Mitigation measures
Old sessile oak woods with Ilex and Blechnum in the British Isles (91A0)	To restore the favourable conservation condition of Old sessile oak woods with Ilex and Blechnum in the British Isles in Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC, which is defined by the following list of attributes and targets:		
	Habitat area Hectares Area stable or increasing, subject to natural processes, with a minimum area of 1,254.4ha. See maps 5 and 6	New maps are submitted clearly showing the QI habitat and works. There will be total permanent loss of old oak woodland of 7.41sqm(base support colmns) associated with the development. This accounts for c 0.00005% of total area of this habitat. This is imperceptible impact. There will be temporary loss of ground habitat associated with construction compounds. Only two compounds are inside the habitat. Subcompound 3 is 2.4mx7.2m in open area with bracken and bramble. Subcompound 5 is 2.4mx7.2m in open clear area of moss, bracken and heather. Set up of compounds will minimise impacts on ground vegetation.	Proposed
	Habitat distribution Occurrence No decline, subject to natural processes. The mapped woodland locations are shown on maps 5 and 6		
	Woodland size Hectares Area stable or increasing. Where topographically possible, "large" woods at least 25ha in size and "small" woods at least 3ha in size		

		There will be temporary loss of ground habitat associated with excavation for columns (1sqm per column). Following installation of column, soil is to be reinstated and will recolonise. The scale of permanent habitat loss is minor and will not result in decline of the distribution of this QI and will not fragment the habitat and will not result in reduction of woodland size.	
	Woodland structure: cover and height Percentage and metres Diverse structure with a relatively closed canopy containing mature trees; subcanopy layer with semi mature trees and shrubs; and well-developed herb layer	No mature trees are to be removed. Three young / semi mature ash tree in the QI habitat are to be removed. 15 trees in the QI habitat are to be trimmed. Loss of limbs is natural process and can be conservation practice to remove limbs. There will be no removal of mature tree canopy. There will be minimal removal of semi mature trees, shrub and field layer. The impact is negligible in the extent of woodland habitat. The diversity and extent of woodland habitat will not be significantly impacted in terms of cover, height or community due to the minor scale of habitat loss.	
	Woodland structure: community diversity and extent Hectares Maintain diversity and extent of community types		
	Woodland structure: natural regeneration Seedling:sapling:pole ratio Seedlings, saplings and pole age-classes occur in adequate proportions to ensure survival of woodland canopy	For 93.5% of the route, the platform will be >1m above ground level allowing light penetration to ground habitat. The structure will be constructed to allow water from platform to runoff upslope of platform in order to maximise moisture of soil for rootzone regeneration. The development will not impact on natural regeneration. Natural regeneration is already naturally occurring.	Platform to be slightly angled so that storm water on platform runs off upslope of platform.
	Woodland structure: dead wood m ³ per hectare; number per hectare At least 30m ³ /ha of fallen timber greater than 10cm diameter; 30 snags/ha; both categories should include stems greater than 40cm diameter	There will be no removal / reduction in deadwood on the site. All trees and limbs to be removed will be retained within the site. This will positively impact on this attribute.	Dead wood to be retained on site.

	Woodland structure: veteran trees Number per hectare No decline	No veteran/ mature trees are to be removed. There will be no decline in veteran trees.	Not required
	Woodland structure: indicators of local distinctiveness Occurrence No decline	The scale of works on the habitat will have negligible habitat loss. There will be no significant decline in indicators of local distinctiveness.	Not required
	Vegetation composition: native tree cover Percentage No decline. Native tree cover not less than 95%	Given the scale and nature of the development, the design of the structure and negligible permanent habitat loss, temporary habitat alteration, avoidance of removal of mature trees, minimisation of semi mature and young tree removal and the prospects for natural regeneration, there will be no perceptible decline in native tree cover within the site and there will be no impact on vegetation composition in terms of the occurrence of native species.	Not required
	Vegetation composition: typical species Occurrence A variety of typical native species present, depending on woodland type, including oak (<i>Quercus petraea</i>) and birch (<i>Betula pubescens</i>)		
	Vegetation composition: negative indicator species Occurrence Negative indicator species, particularly non-native invasive species, absent or under control	The construction phase has the potential to result in introduction and/or spread of invasive plant species within old oak woodland habitat in particular rhododendron which has widespread distribution within the development site.	Proposed
Kerry slug (1024)	To maintain the favourable conservation condition of Kerry Slug in Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC, which is defined by the following list of attributes and targets:	Field surveys identified that habitats on site suitable for Kerry slug and individuals found on site.	
	Distribution: occupied 1km grid squares Number Number of occupied 1km grid squares at least stable, subject to natural processes. See map 7	Kerry slug occupies woodland habitat. There is potential for injury or loss of Kerry slug during construction.	Proposed
	Habitat extent: area of heath/bog with sandstone outcrops Hectares Stable or increasing, subject to natural processes	This is a woodland habitat .	Not required

	Habitat extent: woodland area Hectares Stable or increasing, subject to natural processes	Given the scale and nature of the development, the design of the structure and negligible permanent habitat loss, temporary habitat alteration and the prospects for natural regeneration, there will be no perceptible decline in habitat extent there will be no impact on extent of woodland area.	Not required
	Habitat quality: woodland Proportion of oak trees Proportion of sessile oak (<i>Quercus petraea</i>) in canopy at least stable	The updated tree survey indicates that no sessile oak (<i>quercus petraea</i>) are removed or trimmed.	Not required
	Habitat quality: non-native invasive species Occurrence <i>Rhododendron</i> (<i>Rhododendron ponticum</i>) in woodland and wet heath/blanket bog absent or under control	The construction phase has the potential to result in introduction and/or spread of invasive plant species within old oak woodland habitat in particular <i>rhododendron</i> which has widespread distribution within the development site.	Proposed
Lesser horseshoe bat (1301)	To maintain the favourable conservation condition of Lesser Horseshoe Bat in Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC, which is defined by the following list of attributes and targets		
	Population per roost Number Minimum number of 182 bats in winter for Roost ID 623; minimum number of 127 in winter and 358 in summer for Roost ID 505; minimum number of 176 in winter and 315 in summer for Roost ID 296; minimum number of 218 in summer for Roost ID 615. See map 10		
	Winter roosts Condition No decline	No roosts have been identified on the site. There are three trees that are identified potential roosts and which are low to moderate roost potential. The site does not contain suitable roosting habitat for this species. No adverse effect.	Not required
	Summer roosts Condition No decline		
	Number of auxillary roosts Number and condition No decline		
	Extent of potential foraging habitat Hectares No significant decline	The site is within the foraging range of a roost 505. There is imperceptible removal of permanent ground vegetation within the site. There is removal of 9/129 trees surveyed in the	Not required

		works area (6.9%). Having regard to the extent of the overall range of 2.5km from roost, including the number of trees to be removed and imperceptible decline in vegetation, it is considered that the decline in the area of foraging habitat is not significant.	
	Linear features Kilometres No significant loss, within 2.5km of qualifying roosts. See map 10	Within the overall site there is removal of 9 trees out of 129 trees surveyed. Limb loss is not significant -19 trees are to be trimmed. There is no habitat fragmentation arising from tree loss or limb loss. Impacts on linear treeline connectivity is not significant.	Not required
	Light pollution Lux No significant increase in artificial light intensity adjacent to named roosts or along commuting routes within 2.5km of those roosts. See map 10	There is potential for light pollution within 2.5km of a roost. Potential adverse effect.	Proposed
Killarney Fern (1421)	To maintain the favourable conservation condition of Killarney Fern in Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC, which is defined by the following list of attributes and targets:		
	Distribution Occurrence No loss in geographical spread of populations, subject to natural processes	Killarney fern was not recorded on the site. No adverse effect.	Not required
	Number of populations Number No decline, subject to natural processes	The development will not impact on populations, colonies, life cycle or fronds. No adverse effect.	Not required
	Number of colonies Number No decline, subject to natural processes		
	Population: life cycle stage Type (sporophyte or gametophyte) Maintain life-cycle stage composition of populations, subject to natural processes		
	Population size: area of occupancy Square metres No decline, subject to natural processes		
	Population size: living sporophyte fronds Number No decline, subject to natural processes		
	Population structure: young and unfurling fronds Occurrence Young		

	(not fully expanded) and/or unfurling (crozier) fronds present in populations previously observed to have these, subject to natural processes		
	Population structure: fertile fronds Occurrence Fertile fronds present in populations previously observed to have these, subject to natural processes		
	Population structure: juvenile sporophyte fronds emerging from gametophytes Number No decline, subject to natural processes		
	Habitat extent Hectares No loss of suitable habitat, subject to natural processes	The species grows in deeply shaded, humid situations on soil banks in woodland and occasionally under fallen trees. There is minor permanent loss of ground vegetation habitat. There is minor temporary habitat loss due to construction. There is opportunity for regeneration. Dead wood is to be retained on site. No significant adverse impacts on extent of suitable habitats.	Proposed Dead wood to be retained on site
	Hydrological conditions: wet/damp microhabitats Occurrence Maintain hydrological conditions at the locations of known populations - visible water source, with dripping or seeping water present and/or substrate wet/damp to touch, subject to natural processes	No known populations on site.	Not required
	Hydrological conditions: relative humidity Percentage Maintain relative humidity levels at known colonies at not less than 80%, subject to natural processes		
	Hydrological conditions: desiccated fronds Number No increase, subject to natural processes		
	Light levels: shading Shade index score At least 4 for woodland sporophyte-only and mixed colonies; at least 5 for open upland sporophyte only and mixed colonies; at least 6 for gametophyte only colonies, subject to natural processes	No significant long term impacts on light levels. Furthermore, there are no known populations at the site.	Not required
	Woodland canopy cover Percentage No loss of woodland canopy at, or in the vicinity of, the locations of known populations	There are no known populations at the site. No significant long term impacts on canopy.	Not required

	and canopy cover here maintained at more than 33%, subject to natural processes		
	Invasive species Occurrence Maintain absence of invasive non-native and vigorous native plant species at the locations of known populations or, if present, maintain vegetation cover of these at less than 10%, taking into account the habitat requirements of T. speciosum	There is risk of the spread or introduction of invasive species.	Proposed

Note: The following is an updated assessment of issues that could rise to adverse effects on all qualifying interests. This table is updated from that presented in the original report of 29th May 2025.

Assessment of issues that could rise to adverse effects.
Permanent tree loss / limb loss / loss of woodland habitat Potential direct and indirect effects on the qualifying interests: Old sessile oak woods with Ilex and Blechnum in the British Isles Kerry slug Lesser horseshoe bat Killarney fern <i>Old sessile oak woods with Ilex and Blechnum in the British Isles:</i> I note the report and conclusions of the Inspectorate Ecologist dated 23rd January 2026 in relation to the impact of development on QI woodland habitat 91A0. This report has informed the following assessment. Baseline mapping and surveys are submitted following national best practice methodologies and regard has been paid to latest published research and scientific information. Sufficient information has been submitted to reach complete, precise and definitive findings on the impacts of the proposed development on Annex I QI woodland habitat 91A0 in view of the conservation objectives of the SAC. Having regard to the following: - 560m of the route passes through 91A0 habitat. The total area encompassed within the construction works footprint which overlaps with 91A0 woodland is 6845sqm. - At construction stage there will be temporary impacts on vegetation caused by vegetation clearance for columns (247sqm) and permanent impacts on vegetation caused by installation of base columns (7.41sqm). There will be temporary impacts on vegetation due to construction compounds and due to carrying out of the required ground works. - A detailed methodology is set out for the construction phase showing how impacts on trees and woodland vegetation is minimised / avoided. - Updated drawings and tree schedule showing survey of all trees – 9 no. young semi mature trees are proposed to be removed in total, of which 3 no. young semi mature ash are located within 91A0. 19 trees for trimming (15 within 91A0). - Details to show how design minimises impacts on woodland habitat. - Details to show that regeneration is feasible. - Note the works to Dinis car park are outside of the boundary of the 91A0 habitat. There will be a minor (de minimus) impact on 91A0.

Mitigation measures are set out to avoid or reduce any potential negative impacts on 91A0:

- Platform designed to allow light and water to ground to support natural regeneration of woodland (condition attached)
- All deadwood to be maintained on site to support woodland structure (condition attached)
- NIS contains detailed mitigation measures for protection of environment – set out below.

Kerry slug, Lesser horseshoe bat, Killarney fern:

The Kerry slug, lesserhorseshoe bat and killarney fern is dependent on a woodland habitat. Updated detailed habitat maps and tree survey is submitted showings proposed works and impacts across the overall site.

Of the 129 trees surveyed, 101 are retained, 9 young / semi mature removed and 19 trimmed. There will be 7 no. compounds (2 main compounds at Dinis and Torc car park, one road compound on N71 and 4 sub compounds within site. There will be temporary loss of vegetation caused by clearing of vegetation for columns of platform (202 A and B = 404 columns x 1sqm per column) and there will be impacts on vegetation due to sub compounds and ground works. There will be permanent loss of vegetation due to installation of columns along the length of the platform (0.03sqm for each base). There will be small permanent loss of ground vegetation for improvement works to Dinis car park and facilities.

Having regard to the small number of trees to be removed across the site including limb pruning, the limited area of works at Dinis car park, including temporary loss of vegetation at construction stage and there is to be a minor impact on overall woodland habitat.

Due to limited tree loss and limb loss, there will be no significant adverse impact on the extent of foraging habitat and features for the lesser horseshoe bat.

There is no significant loss of habitat for Kerry slug.

There is no significant loss of habitat for killarney fern.

I am satisfied that mitigation measures can be implemented, supervised, monitored and will be effective. I am satisfied that the measures will interrupt pathways that threaten the QIs so that these are avoided or reduced to non significant levels and adverse effects can be prevented.

Protection of the environment during construction

Potential impacts on all QIs

Potential direct and indirect habitat loss / alteration, water quality and species disturbance / displacement impacts. Construction works will take place within an ecologically sensitive area.

Mitigation measures/ conditions:

- Implementation Construction Environmental Management Plan (CEMP) addressing construction related impacts
- Appointment of Environmental Manager
- Appointment of Project Ecologist / Ecological Clerk of Works
- Trees to be retained to be protected (measures outlined in Tree Survey Report), including measures such as protective panelling, use of ground protection, use of handheld tools and appropriate machinery when working in root protection areas, appropriate siting of site offices, material storage, parking.
- Vegetation to be retained – Proposed mitigation measures include demarcation of extent of construction works area and use of ground protection, movement of construction personnel, plant and machinery restricted within a works footprint, ground protection in semi natural habitat (brash matting and / or geo textile grid).

- Temporary compound setup dependent on ground conditions – On level ground can use tarram geotextile and layer of matting to provide temporary surface. Alternatively, can install temporary low rise scaffold and deck so only interaction with ground surface is via scaffold footings.
- Measures for management of runoff, sediment control, fuel, chemicals, use of plant, storage of concrete, excavated material, management of waste

I am satisfied that the measures can be implemented, supervised, monitored and will be effective. I am satisfied that the measures will interrupt pathways that threaten the QIs so that these are avoided or reduced to non significant levels and adverse effects can be prevented.

Water quality degradation of water bodies (surface and ground) via pollution / sedimentation during construction

Potential impacts on:

Oligotrophic waters containing very few minerals of sandy plains (*Littorelletalia uniflorae*)

Oligotrophic to mesotrophic standing waters with vegetation of the *Littorelletea uniflorae* and/or of the *Isoëto-Nanojuncetea*

Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitricho-Batrachion* vegetation

Freshwater pearl mussel

Sea lamprey

Brook lamprey

River lamprey

Salmon

Otter

Slender naiad

Killarney shad

Potential effects include habitat alteration, fragmentation, disturbance and displacement of species.

Surface water runoff during construction has potential to degrade water quality in the SAC.

Mitigation measures/ conditions:

- Standard construction measures for runoff and sediment control, e.g. clean water runoff to be diverted away from site, excavation and clearing of ground to be minimised, silt fences to be installed, erosion controls.

The use of fuels and oils during construction poses risk of pollutants entering water bodies, potentially degrading water quality.

Mitigation measures/ conditions:

- Management of fuels, oils and other chemicals, e.g. storage in compounds, bunded and covered, refuelling at compounds away from watercourse, inspections / maintenance of machinery, emergency plan for spills.

The use of concrete during construction poses the risk of pollutants entering water bodies, potentially degrading water quality.

Mitigation measures/ conditions:

- Management of concrete, e.g. trained operator for concrete works, no pouring during rain, inspections, containment of wash within site compound.

Storage of excavated materials during construction could lead to pollutants entering water bodies potentially degrading water quality in the SAC.

Mitigation measures/ conditions:

- Management of excavated material, e.g. designated material deposition areas, siltation measures, stockpiles 20m back from water feature and inspected for invasive plant growth.

Storage of construction materials could lead to pollutants entering water bodies potentially degrading water quality in the SAC. Storage of construction materials in inappropriate locations could lead to impacts on qualifying habitats.

Mitigation measures/ conditions:

- Storage in designated areas, 20m from water features, stockpiles to minimal size on impermeable bases.

Generation of wastes during construction poses the risk of pollutants entering water bodies or terrestrial habitats, potentially degrading water quality or habitat quality within the SAC.

Mitigation measures / conditions:

- Management construction waste, e.g. storage of wastes, bunded storage containers in site compounds for hazardous wastes, use of licenced waste contractors.

I am satisfied that the measures can be implemented, supervised, monitored and will be effective. I am satisfied that the measures will interrupt pathways that threaten the QIs so that these are avoided or reduced to non significant levels and adverse effects can be prevented.

Spread / introduction of invasive species

Potential impacts on:

Oligotrophic waters containing very few minerals of sandy plains (*Littorelletalia uniflorae*)

Oligotrophic to mesotrophic standing waters with vegetation of the *Littorelletea uniflorae* and/or of the *Isoëto-Nanojuncetea*

Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitricho-Batrachion* vegetation

Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles

Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*)

Kerry Slug

Killarney Fern

Slender Naiad

Construction activity poses the risk of spread or introduction of invasive species. This may lead to alteration / fragmentation or disturbance / displacement impacts on qualifying habitats and species.

Mitigation measures/ conditions:

- Invasive Species Management Plan to prevent spread onto the site and to prevent spread around and off site including measures such as project specific invasive species Standard Operating Procedure document, use of clean pre washed vehicles, equipment, machinery, inspection of PPE, disinfection of work boots, certification from suppliers, training, schedule of site inspection, measures to prevent spread / management of control areas, recording and inspections, method statements

- Management of existing IAPS on site, including on site management of knotweed and rhododendron.

Note the planning authority attached a condition to the grant of permission for the establishment/ strengthening of native holly on the site in lieu of rhododendron to be removed and monitoring for two years post opening of the facility. I have attached a recommended condition to require final agreement of invasive species plan with planning authority prior to development.

I am satisfied that the measures can be implemented, supervised, monitored and will be effective. I am satisfied that the measures will interrupt pathways that threaten the QIs so that these are avoided or reduced to non significant levels and adverse effects can be prevented.

Disturbance of species

Lesser horseshoe bat / lighting:

Construction phase lighting has potential to directly / indirectly affect lesser horseshoe bat and their habitats.

Mitigation measures:

- No night working, lighting to conform to BCT guidelines during construction

Use of lighting for maintenance activities has the potential to directly / indirectly affect lesser horseshoe bat and their habitats.

Mitigation measures/ conditions:

- No maintenance works at night, any lighting used to conform to BCT guidelines.

Note that no lighting is proposed at operational stage. Recommend that condition be attached to any permission prohibiting artificial lighting at operational stage.

Kerry slug:

Construction activity has the potential to result in loss / injury or disturbance of Kerry slug or damage of Kerry slug breeding / resting habitat.

Mitigation measures/ conditions:

- pre commencement check and translocation by ECoW, derogation licence if required, movement of boulders or tree limbs to be minimised.

Otter:

During construction phase, otter may be subject to direct / indirect disturbance / displacement impacts via temporary noise, human activity, machinery.

Mitigation measures/ conditions:

- Pre construction survey, specific measures if holt found

I am satisfied that the measures can be implemented, supervised, monitored and will be effective. I am satisfied that the measures will interrupt pathways from these effects that threaten the QIs so that these are avoided or reduced to non significant levels and adverse effects can be prevented.

In-combination effects

In-combination effects have been assessed in the NIS. This is set out in section 9.8. The Kerry CDP 2022-2028 includes development objectives and the plan has been subject to appropriate assessment. The project in combination with EPA licenced / registered facilities would not give rise to adverse effect.

It is considered that there is no potential for significant in-combination effects.

Findings and conclusions

Based on the information provided, I am satisfied that following the implementation of mitigation measures the construction and operation of the proposed development alone or in combination with other plans and projects will not adversely affect the integrity of this European site.

Based on the information provided, I am satisfied that adverse effects arising from aspects of the proposed development can be excluded for the European sites. Direct and indirect impacts are considered. Permanent impacts are minor (de minimus). Temporary impacts are minor (de minimus). Mitigation measures are set out to reduce / avoid adverse impacts. Monitoring measures are proposed.

Reasonable scientific doubt

I am satisfied that no reasonable scientific doubt remains as to the absence of adverse effects.

Site integrity

The proposed development will not affect the attainment of conservation objectives of the Killarney National Park, MacGillycuddy's Reeks and Caragh River Catchment SAC. Adverse effects on site integrity can be excluded and there is no reasonable scientific doubt as to the absence of such effects.

Note: The following is an updated Appropriate Assessment Conclusion. This table is updated from that presented in the original report of 29th May 2025.

Appropriate Assessment Conclusion: Integrity Test

In screening the need for Appropriate Assessment it was determined that the proposed development could result in significant effects on the Killarney National Park SPA and Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of S177U was required.

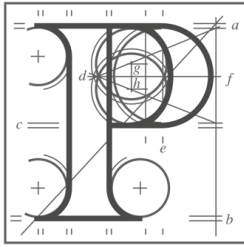
Following an examination, analysis and evaluation of the NIS, associated material submitted including the submitted further information, I consider that

- (i) Adverse effects on site integrity of Killarney National Park SPA can be excluded in the view of the conservation objectives of this site and no reasonable scientific doubt remains as to the absence of such effects.
- (ii) Adverse effects on the site integrity of Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC can be excluded in view of the conservation objectives of this site and no reasonable scientific doubt remains as to the absence of such effects.

This conclusion is based on the following:

- Detailed assessment of construction and operational impacts, having regard to information submitted with the application and at appeal stage,
- detailed consideration of the impacts of the proposed development on the conservation objectives of the European sites and the qualifying interests of these sites,
- the nature and scale of works including the design of the platform and the minor level of permanent and temporary tree loss and habitat loss impacting on the woodland habitat,
- effectiveness of mitigation measures proposed including application of planning conditions,
- the proposed development will not affect the attainment of conservation objectives for the qualifying interests.

Appendix 2: Memorandum, Inspectorate Ecologist dated 23rd January 2026



An
Coimisiún
Pleanála

Memorandum File no: 321908-25

To: Aisling MacNamara, Planning Inspector
From: Fiona Patterson, Inspectorate Ecologist
Re: Development consisting of the construction of a raised platform walkway / cycleway from the Dinis car park to the Torc (Cardiac Hill) car park and all associated works, Killarney Co Kerry.
Date: 23rd January 2026

On 30th June 2025, An Coimisiún Pleanála (ACP), in accordance with Section 132 of the Planning and Development Act, 2000, as amended, noted in its correspondence with the Applicant (National Parks and Wildlife Service (NPWS)) that the Commission was not satisfied that it had received sufficient detailed information to show the precise impact of the proposed development on the woodland habitat, including Annex I *Old sessile oak woods with Ilex and Blechnum in British Isles* (91A0), Kerry Slug, Lesser Horseshoe Bat and Killarney Fern. ACP requested that NPWS submit further information to enable a full and comprehensive assessment to be completed and to reach definitive conclusions in respect of Appropriate Assessment.

I have reviewed the further information documentation which was sent to ACP on 25th September 2025.

1. Based on the further information response provided, I am satisfied that the baseline habitat mapping has followed national best-practice methodologies

and that the identification of Annex I woodland habitat has had regard to latest published research. The presence and location of QI woodland habitat within the site boundary have been clarified. The only Annex I woodland habitat within the development site boundary is *Old sessile oak woods with Ilex and Blechnum in British Isles* (91A0). Mapping showing the footprint of the works and confirmed Annex I and non-Annex I habitats within the site boundary have been provided in MWP Drawing Nos: 23765-MWP-XX-XX-DR-C-5141-S2-P01 to 5145

2. Detailed mapping clearly shows the impact of the works on ground habitat. Refer to habitat maps in MWP Drawing Nos: 23765-MWP-XX-XX-DR-C-5141-S2-P01 to 5145 and site layout mapping 23765-MWP-XX-XX-DR-C-5121-S2-P01 to 5125.
3. The documentation clarifies that approximately 560m of the route passes through Annex I woodland habitat (91A0). The documentation provides detailed information on the construction works footprint including temporary construction compounds and locations of the proposed walkway support bases. Impacts on light penetration to the woodland floor (operational phase) have been considered in the documentation.
4. The documentation notes that dense rhododendron was cleared from the area c. 9 years ago and that the woodland is now recovering from a degraded and disturbed state.
5. Detailed drawings and a schedule showing the survey of existing trees, particularly those within Annex I woodland habitat (91A0) have been provided (mapping 23765-MWP-XX-XX-DR-C-5131-S2-P01 to 5135). 9 no. young-semi-mature trees are proposed to be removed in total, of which 3 no. (young-semi-mature ash) are located within Annex I woodland habitat (91A0). 19 no. trees will require minor trimming of which 15 no. are located within Annex I woodland habitat (91A0). I am satisfied that the number of trees proposed to be removed/trimmed have been clearly identified and methodology explained.
6. Clarification on tweaking the design and specialist methodology to avoid trees has been provided.

7. I am satisfied that the level of detail presented is adequate to determine the precise impact of the proposed development on Annex I woodland habitat (91A0).
8. The areas of temporary and permanent habitat loss within Annex I woodland habitat (91A0) have been clearly provided. I am satisfied that there is sufficient evidence on the precise area of habitat loss within 91A0 to inform the AA. I am satisfied that justification (in terms of best available scientific information) has been provided on why habitat loss within Annex I woodland (91A0) habitat will not result in adverse effects on site integrity of the SAC in view of the conservation objectives. Detail on prospects for natural regeneration of the Annex I woodland habitat (91A0) within the overall development site boundary has been provided. I accept that the minor habitat loss within 91A0 habitat will not result in adverse effects on site integrity of the SAC overall in view of the conservation objectives as defined by the specific attributes and targets (Refer to Table 2 of further information). I am satisfied that that there will be no likely significant impacts on woodland habitat from the walkway due to reduced light penetration.
9. An approved Regulation 54 derogation for Kerry slug was provided (DER-Kerry Slug-2025-04) dated 26th September 2025. I note that item 6 of the derogation states *"The actions which this derogation authorise shall be completed between the 26/09/2025 to 31/12/2025"*. My understanding is that the expiry date for derogations is typically issued within the calendar year of when the application was submitted, due to the requirement for annual reporting by the Minister to the EU Commission. I do not consider that there should be any difficulty with the Applicant acquiring a revised derogation given the current derogation was only granted late 2025. The responsibility of avoiding disturbance or damage to Annex IV species, or of obtaining an appropriate derogation, rests with the Applicant. I note that NPWS guidance¹ issued in 2025 states *"It is acknowledged that there may be certain scenarios whereby there is a delay between receiving a derogation and commencement of the relevant activity and a derogation may require*

¹ NPWS (2025) Applications for Regulation 54 Derogations for Annex IV species. Guidance for Applicants. Version 1.0 1 July 2025.

revision. In some cases, there may be a likelihood of changes in species presence or distribution e.g. usage of trees by bats or otters moving into an area. It may be appropriate to ensure, by means of a condition to a consent, that the applicant acquires a revised derogation prior to the commencement of the relevant works, if such time has elapsed"

I consider that the further information documentation provided is adequate in the context of supporting the findings of the NIS. I consider that there is now sufficient information available for the Commission to reach complete, precise and definitive findings on the impacts of the proposed development on Annex I QI woodland habitats in view of the conservation objectives of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC. It is my view that the proposed development will not result in adverse effects on site integrity of the SAC in view of the conservation objectives.

Signed:

Fiona Patterson,
Inspectorate Ecologist, BSc, MSc, MISEP CEnv
23rd January 2026