



An
Coimisiún
Pleanála

Inspector's Report

ABP-322493-25

Development	Construction of residential apartment building comprising 9 units, refuse store, storage structures, bicycle parking and all associated site, landscaping and services works.
Location	Gortamullin, Kenmare, Co. Kerry.
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	2560111
Applicant(s)	James O'Connor.
Type of Application	Permission.
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	James O'Connor.
Observer(s)	Christina Foley & Flor O'Sullivan. Maureen O'Shea. Grace Foley & Patrick Thompson.
Date of Site Inspection	15 th July 2025

Inspector

Jennifer McQuaid

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1.0 Site Location and Description

- 1.1. The subject site (Site area 0.094) is located within the development boundary of Kenmare town, Co. Kerry and is located along local road L-7556. There is an existing shed on the site and the site is a triangular shape which rises from the public road to the rear. The site is overgrown and underutilised. The site is adjacent a farm store to the west and residential detached dwellings to the east and north. There is a public car park directly opposite the subject site.

2.0 Proposed Development

- 2.1. The proposed development consists of:
- Demolition of the existing shed
 - Construction of a 3-storey building to comprise of three 2-bedroom residential developments on ground floor, three 1 bedroom on first floor and three 1-bedroom residential apartments on second floor.
 - Construction of refuse store, storage structure, bicycle parking and all associated site works.

3.0 Planning Authority Decision

3.1. Decision

Refused for the following reason:

1. It is considered that the proposed development would constitute over development of this urban site due to the non-provision of on-site car parking, inadequate vehicle set down and the lack of a continuous footpath across the frontage of the development. The proposed development would not comply with the minimum development standards as set out in Volume 6 of the Kerry County Development Plan 2022-2028, would be likely to lead to traffic congestion, would set an undesirable precedent similar sub-standard residential development and would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The site is in an urban area zoned as M4 Built Up Area in the Kenmare Municipal District Local Area Plan 2024-2030. The principle of development is considered acceptable.
- Refusal recommended from Roads Department, it is not acceptable for the applicant to propose to use the adjacent car park as there is a lack of car parking in Kenmare during the high summer season, the public car park opposite the site has the provision of about 36 cars and it is not reasonable that up to 33% of the spaces should be taken up by the residents of the proposed housing development.
- Upgrading works are being carried out for Kenmare Wastewater Treatment Plant as the plant is operating at capacity. The works are expected to be completed within the next year.
- The site is in a flood risk area, and it is recommended to increase the finished floor level by 0.75m, this could be accommodated having regard to the topography of the site, however the raising of the floor level would increase the visual impact of the proposed 3 storey apartment building and would increase the impacts on the existing houses on the adjoining lands to the north.
- There are concerns regarding the overall height and proposed raising of the finished floor level by more than 0.75 m to address flooding concerns would not integrate with the surrounding environment.
- The development of 3 storey block which consists of 9 no. apartments would constitute overdevelopment of the site, particularly in the regard to no car parking provision on-site. A lower density of 2 storey design may be considered.

3.2.2. Other Technical Reports

- **Roads:** the proposed development makes no provision for on-site car parking. The Creamery Road car park referred to in the cover letter is town

centre parking that could be subject to changes to car park byelaws in the future which could render it unsuitable in practice to serve this type of development. A minimum number of 12 car parking spaces would be required for a development of this scale i.e., 1 per bedroom. The proposed sole single set down space to serve the entire development is not acceptable. The proposed footpath is not continuous across the frontage of the development which is a requirement to enable footpath connectivity in the future. Considering that the above requirements are unlikely to be accommodated within the constraints of the site, the Road Departments is recommending a refusal of this planning application.

- **County Archaeologist:** No objection as no mitigation is required.
- **Environmental Assessment Unit:** It is considered that the building proposed to be demolished has low potential for bat usage given the urban location, extend to artificial lighting and the conditions prevailing. However, a pre-construction survey would be appropriate. Conditions recommended in the event of a grant of permission.
- **Flooding, Coastal and Marine Unit:** The flood risk designation in this area has been revised post CFRAM mapping, CFRAM flood risk maps are community based strategic assessments of flood risk in an area and do not constitute site-specific flood risk assessments in themselves, as per the revised flood risk assessments completed under the Kenmare FRS, the flood risk in this area has increased at this location, although the flood zone designations as detailed in the accompanying flood risk assessment remain similar for the site, the predicted flood depths have increased especially for the 0.1% AEP event, based on these revised models, the proposed FFE of the development (currently set at 6.0m) will need to be increased by at least 0.75m. The applicant is to liaise with the Council to determine the level applicable to the site, the revised FFE should be such that the necessity for floodgate barriers as a mitigation measure against future climate change is not needed.

3.3. Prescribed Bodies

- Uisce Eireann: Further information requested; the applicant shall engage with Uisce Eireann by submitting a pre-Connection Enquiry (PCE) to assess feasibility of connection to the public water/wastewater infrastructure. The outcome of the PCE shall be submitted to the Planning Authority as a response to further information request.
- Transport Infrastructure Ireland (TII): TII request that the Planning Authority has regard to the provisions of official policy for development proposals as follows: proposals impacting national roads, to the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities and relevant TII Publications and proposals impacting the existing light rail network, to TII's "Code of engineering practice for works on, near, or adjacent the Luas Light Rail System".

3.4. Third Party Observations

Observations were received from local residents. The concerns raised were:

- Lack of car parking on site
- Overdevelopment
- Flood risk
- The proposed development of three storey apartment block is not in keeping with the character of the area.
- Loss of light and overshadowing
- Loss of privacy from the proposed balconies and windows.

4.0 Planning History

None

5.0 Policy Context

5.1. Development Plan

Kerry County Development Plan 2022-2028 (CDP)

The site is zoned as M4 Built Up. The objective is for existing built areas of mixed use. Provides for a mix of land uses which may have existing buildings in place, brownfield lands and undeveloped greenfield lands within the development boundary. Residential is open for consideration in this area.

Volume 6, Development Management & Guidance:

Section 1.3.2 refers to Development in Existing Residential/Built Up Areas.

Section 1.5.11 refers to Design Statements

Section 1.5.2 refers to Density.

Section 1.20.2 refers to Parking.

In relation to infill sites and sites adjacent to public transport corridors or civic parking facility, a flexible application of standards will be considered.

The following should be taken into account as part of all development proposed.

- Age friendly car parking spaces should generally be provided, where possible, in all developments.
- Rapid EV charging points(s) should be provided, clearly marked and to the requirements of ESB Networks at buildings that operate in accordance with the new EU (Energy Performance of Buildings) Regulations 2021 for Electric Vehicle recharging infrastructure.

Section 1.20.6 relates to Parking in Residential Areas:

In general, residential layouts should not be dominated by car parking along access roads. New residential development should take account of the following criteria:

- The design standards and guidance set out in the Design Manual of Roads and Streets DMURS (as amended).
- Car parking for detached and semi-detached housing should generally be within the curtilage of the individual house site.

- Car parking for apartments should generally be at basement level. Where this is not possible, parking should be in small scale informal groups overlooked by residential units.

Section 1.20.7 relates to Car Parking Standards.

Table 4 of the CDP illustrates the car parking standards for different types of development. (It should be noted that a flexible approach to these standards may be applied where such a case is substantiated, there is no traffic safety issue, and it is clearly demonstrated to the Planning Authority in the interest of proper planning and development, that the standard should be adjusted to facilitate the site-specific context)

Apartment developments should provide 1 car parking space per bedroom and 1 bike space per bedroom.

EV Charging point

Residential multi-unit developments both new buildings and buildings undergoing major renovations (with private car spaces including visitor car parking spaces). A minimum of 1 EV charge point space per five car parking spaces (ducting for every parking space shall also be provided).

Section 1.20.8 refers to Accessible Car Parking.

Car parking provision shall be provided for the disabled and mobility impaired in all car-parking developments and should be located in the most convenient locations for ease of uses. The minimum criteria for such parking provisions are detailed in the National Disability Authority Guidelines Building for Everyone published in 2012 (including any updated/superseding document). Age Friendly car parking spaces should generally be provided, where possible, in all developments and in main towns, near strategic areas e.g., Post office, credit union, doctors' surgery, civic buildings, etc.

Section 1.20.11 refers to Visual Impact of Car Parking.

Large areas of extensive parking in public view should be avoided. Carparking should be located to the rear of buildings and services. The visual impact of large areas of parking should be reduced by the use of screen planting, low walls and the use of different textures or coloured paving for car parking bays.

Chapter 11, section 11.5 relates to Strategic Flood Risk Assessment

Kenmare Municipal District Area Plan 2024-2030

Kenmare is designated as a regional town. The town seeks to harness and develop the complementary strengths and synergies between the settlements and their functional hinterland, to create highly connected centres of scale, with the necessary critical mass, in terms of population and employment, to enable them to complete and grow to fulfil their potential and drive regional development in tandem with regional and national policy.

Section 2.9.2 relates to Land Use & Flood Risk Management. Any development areas within generalised zoning objectives identified as being at risk of fluvial and tidal flooding should be accompanied by a site-specific flood assessment in accordance with the Planning System and flood risk management guidelines (2009).

It is an objective of the Council to:

KENMD-47 (a-c): (Development not located within existing built-up areas located within Flood Zone A & B) (a) Ensure that highly vulnerable development is not permitted in areas identified in Flood Zone A and B, and not to permit less vulnerable development within Flood Zone A. (b) Ensure that only water compatible development is permitted within Flood Zone A and less vulnerable in Flood Zone B. (c) Ensure that less vulnerable development and water compatible development only is permitted with suitable mitigation measures.

KENMD-48: (Development within existing built-up areas located within Zone A & B). Ensure that development proposals avoid the identified flood risk area, or if not possible, ensure that proposals avoid the identified flood risk properties and consider flood resilient or flood resistant construction design methodologies.

KENMD-49: Ensure surface water runoff from completed developments are restricted to their greenfield rate and appropriate measures through design or Sustainable Urban Drainage Systems (SuDS) are implemented. Particular regard shall be had to the DoHLG&H best practice interim guidance document “Nature-based Solutions to the Management of Rainwater and Surface Water Runoff in Urban Areas – Water Sensitive Urban Design”.

KENMD-50: Ensure that development proposals which would be sensitive to the effects of flooding, or which would be located in flood prone or marginal areas are accompanied by a Flood Impact Assessments, detailed justification tests, and detailed mitigation measures within the context of the DoEHLG guidelines on Flood Risk Management. Development which in the opinion of the Council would have an unacceptable risk of flooding or which would result in an unacceptable risk of flooding elsewhere shall not be permitted.

KENMD-51: Ensure that development proposals in zoned lands located in proximity of a watercourse, that currently has no flood zone mapping or designated flood zones, that a site-specific flood risk assessment shall be completed to an appropriate level of detail so that Flood Zones can be defined, and the Sequential Approach/Justification Test can be applied where necessary.

KENMD-52: Ensure that any potential flood risk areas located within residential zoned areas are used for amenity open space use only and/or are left as “spaces for nature”.

KENMD-53: A site-specific assessment shall be undertaken in accordance with the “Planning System and Flood Risk Management” Guidelines, in order to ensure that.

- Existing flood defences are assessed, and the likelihood and consequence of an embankment breach is considered.
- Existing flow paths are maintained.
- Floodplain storage and conveyance areas should be protected, or appropriate compensation provided.
- Future flood risk should be considered in the design and land uses should be matched with flood risk.
- The development will not have an adverse impact on flood risk.

Flood hazard to users is mitigated to an acceptable level. Flood awareness, warning systems and evacuation procedures need to be put in place.

KENMD-54: Protect rivers, streams and other watercourses and where applicable ensure developments follow guidelines outlined in the Inland Fisheries Ireland’s

“Planning for Watercourses in the Urban Environment” (2020), particularly in relation to undeveloped lands on greenfield sites.

KENMD-55: Ensure that minor proposals for development, (e.g., small extensions to existing houses or changes of use), in areas at moderate to high risk of flooding should be assessed in accordance with Section 5.28 of the Guidelines, incorporating the additional guidance in Planning Circular PL2/2014.

Section 3.2.2 relates to Kenmare.

5.2. National and regional policy

- Design Manual for Urban Roads and Streets, May 2019 (DMURS)
- The Planning System and Flood Risk Management Guidelines for Planning Authorities, 2009.
- Sustainable Residential Development and Compact Settlement Guidelines for Local Authorities, 2024 (Compact Guidelines)
- Sustainable Urban Housing: Design Standards for New Apartments 2023 (Apartment Guidelines)

5.3. Natural Heritage Designations

The site is not within a designated area; the nearest sites are:

- Kenmare River SAC (site code: 002158) is located 100metres southwest of the subject site.
- Roughty River Estuary pNHA (site code: 002092) is located approximately 500metres south.
- Mucksna Wood SAC (site code: 001371) is located 1.2km south of the subject site.
- Killarney National Park, Macgillycuddy’s Reeks and Caragh River Catchment SAC (site code: 000365) is located approximately 4.5km north of the subject site.
- Blackwater River (Kerry) SAC is located approximately 5.8km northwest of the subject site.

- Kilgarvan Ice House SAC (site code: 000364) is located approximately 6km east of the subject site.
- Doughill Bog NHA (site code: 001948) is located 6km southeast.
- Killarney National Park SPA (site code: 004038) is located approximately 6.5km north of the subject site.
- Maulagowna Bog SAC (site code: 001881) is located approximately 7km southwest of the subject site.
- Old Domestic Building, Dromore Wood SAC (site code: 000353) is located approximately 7.5km west of the subject site.
- Eirk Bog SPA (site code: 004108) is located approximately 9 km north of the subject site.
- Caha Mountains SAC (site code: 000093) is located approximately 9.3km south of the subject site.
- Glanlough Woods SAC (site code: 002315) is located approximately 9.7km east of the subject site.
- Cloonee and Inchiquin Loughs, Uragh Wood SAC (site code: 001342) is located 10.2km southwest of the subject site.
- Slaheny River Bog NHA (site code: 000383) is located 11km southeast.
- Glengarriff Harbour and Woodland SAC (site code: 000090) is located appropriately 11.6km south of the subject site.
- Derryclogher (Knockboy) Bog SAC (site code: 001873) is located appropriately 12km southeast of the subject site.

5.4. EIA Screening

- 5.4.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2, in the Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of the potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

5.5. Water Framework Directive

The subject site is located in the urban area of Kenmare town, the nearest river (River Finnihy) is located approximately 50 metres south of the subject site. The proposed development comprises of 9 no. apartments with connection to public wastewater and water and surface water. No water deterioration concerns were raised in the planning appeal.

I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seeks to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively. The reason for this conclusion is as follows.

- Scale and size of the proposed development
- Distance to the nearest waterbody at 50 metres south
- Connection to public water and public wastewater.

Taking into account WFD screening report I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal have been received from the applicant. The concerns raised are:

- The site is zoned as “mixed use M4”. Draft Kenmare LAP states all M4 zoning potential land uses including residential are either permitted or open to consideration. Given the size of the scheme, the apartments would rely on the public parking facilities available adjacent to the site.
- Car parking: Sustainable Urban Housing: Design Standards for New Apartments 2023 states “the quantum of car parking or the requirement for any such provision for apartment developments will vary, having regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria. It also states that for building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, car parking provision may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality and location”. A blanket approach to car parking should not be applied. Similar type applications granted with no car parking for example planning reference 2360115 and no car parking levy applied.

Volume 6, section 1.20.7 of the CDP states “table 4 illustrates the car parking standards for different types of development. (It should be noted that a flexible approach to these standards may be applied where such a case is substantiated, there is no traffic safety issue, and it is clearly demonstrated to the Planning Authority in the interest of proper planning and development, that the standard should be adjusted to facilitate the site-specific context)”. No flexible approach was taken by the Planning Authority and no engagement to try and come to a solution. There are no traffic safety issues if there is no on-site car parking and the site is located directly adjacent to a public car park.

- Alternative Design: the applicant submitted revised plans removing one of the three story blocks and providing 6 apartments requiring 8 no. car parking spaces. The proposed buildings are pushed back further west and slightly closer to the houses at the rear in order to provide parking close to the entrance in the eastern portion of the site. The communal garden area is also reduced. Is it better to reduce apartment numbers to provide parking or increase apartment numbers and no car parking?

- Pre-planning: the planning authority accepted the proposal in principle and inferred flexibility in regard to car parking. It stated that the applicant should try to provide as much parking as possible. It was found to be impossible to provide onsite parking without seriously reducing apartment numbers.
- Applicant submitted unsolicited letter suggesting a willingness to engage with the planning authority. The planners mentioned a possible ground floor level increase and stated this may have a negative effect on the overall height of the building. The letter suggested how the overall height may be reduced by using flat roof construction instead of a pitched roof. Removing apartment 9 could also reduce the height of the building closest to the neighbour at the rear.

6.2. Applicant Response

- As Above.

6.3. Planning Authority Response

- None.

6.4. Observations

Observations were received from local residents. The concerns raised are:

- Overdevelopment & out of character for the area: 3 storeys is unsuitable for the establish character of Kenmare which consists of mainly two storey. The flat roof design is out of place for Kenmare.
- Parking: lacks adequate car parking and safe set down area, public car park is not intended for residential use. The proposal contravenes Kerry County Development Plan.
- Absence of continuous footpath: no continuous footpath along this road and serious concerns for all users.
- Inappropriate precedence: the reference to another site in Kenmare town is irrelevant and not similar.

- Pre-planning: preplanning is non-binding, and it was reasonable for Kerry County Council to refuse permission outright.
- Overshadowing/overlooking: the revised scheme pushes the building close to our boundary, directly impacting our amenity and privacy. No obvious material change has been made to address this concern in the revised proposal of 6 apartments. The height and proximity of the proposed buildings would significantly block natural light to nearby properties. The distance between block 3, apartments 6 & 9 was approximately 10 metres, meaning that depending on the time of year, these rooms could receive little to no sunlight, adversely impacting quality of life. If they are moved closer this would reduce natural light further and create negative impact on quality of life.
- Anti-social behaviour: potential for anti-social behaviour given the size and nature of the new development, particularly around the communal stair areas and large balconies which are adjacent to existing property.

6.5. Further Responses

- None

7.0 Assessment

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

- Traffic Safety & Car parking
- Design & Layout
- Residential Amenity
- Appropriate Assessment

7.2. Traffic Safety & Car Parking

- 7.3. The applicant is proposing 9 no. apartments over three no. three storey blocks on a site of 0.094ha set back over 9 metres from the public road. There is no car parking provided on site, a pedestrian/bicycle entrance/exit is located to the front of the site directly onto local road L7556. A single car set down area is located to the front boundary. A 2-metre-wide footpath will be provided to the remainder of the front site boundary. Double doors are proposed onto the footpath to allow access to the proposed walled bin store. Bicycle parking for 10 no. bikes is provided inside the site boundary. The Planning Authority refused permission as they considered that the proposed development would constitute over development of this urban site due to the non-provision of on-site car parking, inadequate vehicle set down and the lack of a continuous footpath across the frontage of the development. The proposed development would not comply with the minimum development standards as set out in Volume 6 of the Kerry County Development Plan 2022-2028, would be likely to lead to traffic congestion, would set an undesirable precedent for similar sub-standard residential development.
- 7.4. The grounds of appeal outline that the site is zoned as “mixed use M4” and given the size of the scheme, the apartments would rely on the public parking facilities available adjacent to the site. Sustainable Urban Housing: Design Standards for New Apartments 2023 allow for relaxed parking requirement having regard to the location and the size of the site. A blanket approach to car parking should not be applied. Volume 6, section 1.20.7 of the CDP allows a flexible approach to these standards may be applied where such a case is substantiated, there is no traffic safety issue, and it is clearly demonstrated to the Planning Authority in the interest of proper planning and development, that the standard should be adjusted to facilitate the site-specific context. No flexible approach was taken by the Planning Authority and no engagement to try and come to a solution. There are no traffic safety issues if there is no on-site car parking and the site is located directly adjacent to a public car park. Preplanning meeting inferred a flexible approach to car parking.
- 7.5. An alternative design has been offered by the applicant whereby one of the three storey blocks is removed, and 8 no. car parking spaces are provided for the 6 remaining apartments close to the entrance in the eastern portion of the site. The

proposed buildings are pushed back further west and slightly closer to the houses at the rear/north.

- 7.6. A number of observations were received and highlighted there is a lack of adequate car parking, unsafe set down area which contravenes the CDP. The public car park is not intended for residential use. There is no continuous footpath along this road and serious concerns for all users.
- 7.7. I note the applicant has submitted a revised site layout plan and has incorporated in-curtilage car parking, however, the plans submitted lack sufficient details and therefore, I will assess the current proposal as submitted to the Planning Authority. I have reviewed the proposed development in accordance with the CDP, I note the site layout proposal does not allow for any in-curtilage car parking for the proposed 9 no. apartments, whereby 12 car parking spaces are required. I note the applicant is proposing to utilise the existing public car parking located opposite the subject site. I have concerns regarding this proposal, the car park currently has capacity for approximately 36 car parking spaces, and the proposed development requires 12 car parking spaces which equates to 33% of the existing car park. Therefore, the proposed development will use a significant number of the existing car parking spaces provided within the public car park, it is my opinion that this will impact the capacity of the public car park to accommodate visitors to Kenmare town and has the potential to create a traffic hazard in the town centre. As highlighted by the Roads Department of Kerry County Council (KCC), the car park is public and on public lands and could be subject to changes in the future which could render it unsuitable to serve this type of development. Therefore, I consider it is unreasonable and unrealistic for the proposal to solely rely on public car parking to serve this development at this location, given the number of car parking spaces required in the public car park.
- 7.8. I do note that the CDP and the Apartment Guidelines does allow for a flexible approach to the provision of car parking standards where such a case is substantiated. I acknowledge that the site is appropriately 250 metres (3min walk) from the town centre and the occupants have the option to walk or cycle to the town centre, however, Kenmare town is rural in nature and generally residents require some car parking within the curtilage of their residents. In addition, the applicant has not provided any details in relation to public transport options or details in regard to

the intended end user of the proposed apartments. Therefore, I consider a degree of car parking should be provided in-curtilage for use by the future residents. I do not consider that the applicant has sufficient demonstrated that car parking can be excluded from this site.

7.9. I also have concerns regarding the location of the one number set down car parking space, when the car parking space is in use, it will obstruct sightlines for the customers and staff of the adjoining Agribusiness farm premises, the sightlines to the east when exiting the Agribusiness will be significantly reduced. I also have concerns that the set down area will in turn be used as a permanent car parking space. In addition, I have concerns regarding the lack of public footpath proposed to the front of the subject site, I acknowledge that there is currently no footpath on either side of the road to the junction with the N71, however, it is my opinion that a footpath should be provided where possible in order to eventually provide a continuous footpath to enable connectivity in the future as per Roads Departments comments.

7.10. Having regard to the CDP, the Apartment Guidelines, it is my opinion that the proposed development should provide in-curtilage car parking due to the location of the subject site within a small to medium sized rural town. The use of the adjacent public car park will substantially reduce the capacity of the public car park for users of the town and could potentially impact traffic safety of the town. In addition, the set down area and lack of continuous public footpath will negatively impact pedestrian traffic safety, therefore permission should be refused.

7.11. **Design & Layout**

7.12. The proposal consists of 3 storeys building in 3 blocks. The blocks are staggered and set back slightly from each other. The overall height is 10.925 metres and total floor area of 543.15sqm. The external finishes include natural stone at ground floor level, painted render at first floor and a corrugated metal cladding or similar at second floor.

7.13. The observations submitted state that the proposal for three storey building is overdevelopment of the site and out of character for the area.

7.14. Having visited the site, the site is located directly adjacent to a single storey Agribusiness with an overall height of 6.5 metres which is located 13 metres west of the proposed apartment building. There is a two-storey dwelling located to the east

at a distance of over 40 metres and the proposed site adjoins the rear garden of this dwelling. To the rear/north of the subject site are 2 no. two storey dwellings, set back over 10 metres from the proposed apartment building, due to the topography of the land, the ridge height of the existing dwellings and the proposed apartments are similar at 16.9 m above sea level (asl). I note Flooding, Coastal and Marine Unit of KCC have requested the applicant to increase the finished floor level by 0.75 metres, this will increase the overall height of the proposed apartment to 17.65 metres asl. I note the concerns raised regarding the overall height of the proposed development; however, I consider the overall height of 10.925 metres is not exceptionally high for an urban location and may integrate with the surrounding area providing the design and layout are acceptable.

- 7.15. In regard to the overdevelopment of the site, I note the site has an area of 0.094 hectares and is triangular in shape. The applicant is proposing 9 number apartments which equates to 95.7 units per hectare. Volume 6 Development Standards and Guidance refers to density and states “in general, the number of units to be provided on a site should be determined with reference to the Guidelines for Planning Authorities on “Sustainable Residential development in Urban Areas” (2009) or any update thereof”. I have reviewed the Compact Guidelines and section 3.34 refers to Small and Medium Sized Towns (1,500-5,000 population), I consider Kenmare town falls within this category as the population census for 2022 is noted as 2,566. The site is located on the edge of the town centre, and it is the policy and objective of the Guidelines that densities in the range of 25 dwelling per hectare (dph) to 40 dph (net) shall generally be applied at the edge of small to medium sized towns. Therefore, the proposed density of 95.7 dph (gross) (the net density is not provided with the application) is high for the location. However, Small/Medium Town – Centre also describes the inner urban neighbourhood which could be used to describe this site and states that the density should respond positively to the scale, form and character of existing development, and to the capacity of services and infrastructure (including public transport and water services infrastructure). However, in this particular case, as mentioned in the previous section, the applicant has not provided any in-curtilage car parking and therefore, I consider the density for this location is too high and should be reduced in order to reflect the infrastructure capacity for the area.

- 7.16. Although, not mentioned in the appeal or observations submitted, I have concerns regarding the location of the proposed building, it is set back from the public road in an urban area and offers no passive surveillance for the area. At present, due to the location of the car park and the nature of the agribusiness, there is little passive surveillance or overlooking onto the public road during the evening/night. In accordance with DMURS, section 2.21 "Place" as Part of the Design Equation, recognises that whilst the movement of traffic is a key issue, there are several others, including the "sense of place" which are of core significant to the creation of safe and more integrated street designs. Therefore, an active frontage enlivens the edge of the street creating a more interesting and engaging environment which will ensure the street is overlooked and generate pedestrian activity as people come and go from buildings enhancing a pedestrian's feeling of security and well-being. I consider given the urban location; the proposed development does not address the street and therefore does not provide any active street frontage or a "sense of place" to the area.
- 7.17. Having regard to the location of the proposed development within an urban setting set back from the public road which does not offer any active street frontage and taking into account the high density proposed which does not consider the existing infrastructure services, I do not consider the design layout is appropriate to the urban context. Therefore, it is in my opinion that the site layout proposed is not appropriate for the urban setting and therefore should be refused.
- 7.18. **Residential Amenity**
- 7.19. The proposed development is located on a brownfield site within zoned lands in Kenmare town, the nearest building to the west is the Agribusiness at 13.1 metres separation, the dwelling to the east is over 40 metres from the proposed apartment block. The dwellings to the rear/north are located between 10 and 16 metres.
- 7.20. The observation submitted states the revised scheme put forward by the applicant to the Commission pushes the building close to their boundary, directly impacting their amenity and privacy. No obvious material change has been made to address this concern in the revised proposal of 6 apartments. The height and proximity of the proposed buildings would significantly block natural light to nearby properties. The distance between block 3, apartments 6 & 9 was approximately 10 metres, meaning

that depending on the time of year, these rooms could receive little to no sunlight, adversely impacting quality of life. If they are moved closer this would reduce natural light further and create negative impact on quality of life.

- 7.21. In relation to overlooking, I note the apartment block is located between 10 and 16 metres from the closest dwellings to the north. The submitted revised scheme has moved the proposed development closer the dwellings to the north, however, no separation distance has been provided. I will assess the proposed development in regard to the initial design submitted to the Planning Authority. The CDP notes 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 topography, design and housing type and mix. The Compact Settlement Guidelines, SPPR 1 – Separation Distance consider a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear and side of houses, duplex units and apartment units, above ground floor level shall be maintained. Separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces.
- 7.22. I have examined the proposed site layout and floor plans, I note apartment 6 and apartment 9 do not contain any habitable windows on the rear/northern elevation, a bedroom window is proposed on the western elevation, a bathroom is proposed on the northern elevation, but this will be frosted. Apartments 4, 5, 7 & 8 are separated by over 16 metres from the nearest dwelling to the north, therefore, I consider that the proposed development complies with the separation distance as outlines in SPPR 1 of the Compact Settlement Guidelines.
- 7.23. In regard to overshadowing, the applicant has not provided a daylight and sunlight assessment, therefore it is difficult to assess the full impact of the proposed development on the adjacent properties. I note the closet dwelling is located 10 metres to the north of the proposed development and it is the same ridge level of the existing dwelling due to the topography of the area. The sunlight during the day could be negatively impacted on the southern elevation of the existing dwelling, as the proposed development is located directly to the south, I note there will be limited impact on sunlight from the east and west due to the location of the proposed

development. I cannot adequately determine the exact impact of the proposed development on the nearest property to the north due to the absence of an appropriate assessment but given the location of the proposed development to the south of the existing dwelling, there will be some degree of impact. An appropriate assessment could have determined appropriate mitigation measures to alleviate any concerns from the existing residents. If the Commission are mindful, to grant permission, a daylight and sunlight assessment should be required prior to a grant of permission.

- 7.24. Having regard to the proposed development and the separation distance proposed in the submitted drawing to the Planning Authority, I consider that the proposed development is in compliance with SPPR 1 of the Compact Settlement Guidelines. In regard to the potential impact on daylight and sunlight, I cannot conclusively determine that the proposed development will not negatively impact the daylight and sunlight of the existing property to the north as no appropriate assessment was submitted. Therefore, I consider given the location of the proposed development, to the south of the existing dwelling, with a 10-metre separation distance and of similar overall height, there will be some degree of negative impact on the residential amenity for the residents.

8.0 AA Screening

- 8.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The proposed site is not located within a designated site, Kenmare River SAC (site code: 002158) is located 100metres southwest of the subject site and Roughty River Estuary pNHA (site code: 002092) is located approximately 500metres south.

The proposed development comprises of an apartment development consisting of 9 number units. No nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.

The reason for this conclusion is as follows:

- Scale and size of the proposed development
- Distance to the nearest European site at over 100m to Kenmare River SAC (site code: 002158).
- The lack of connections to the SPA.
- The connection to public water and public wastewater.

I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

I recommend that planning permission should be refused for the reasons and considerations as set out below:

10.0 Reasons and Considerations

1. It is considered that the car parking provision for the proposed development and, in particular the absence of on-site car parking spaces and location of the set down area, would be seriously deficient and would be inadequate to cater for the parking demand generated by the proposed development, thereby leading to conditions which would be prejudicial to public safety by reason of traffic hazard on the public roads in the vicinity and which would tend to create serious traffic congestion.
2. Having regard to the urban location of the site, to the established built form and character of area, it is considered that the proposed development, consisting of a three-storey building set back from the public road would be incongruous in terms of its layout and design, which lacks integration with street frontage and would set an undesirable precedent for future development in this area. The proposed development would seriously injure the visual amenities and pedestrian safety of the area, would be contrary to the principle of Design Manual for Urban Roads and Streets, in

relation to urban development and active street edge and would, therefore, be contrary to the proper planning and sustainable development of the area.

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

Jennifer McQuaid
Planning Inspector

6th August 2025

Appendix A: Form 1 - EIA Pre-Screening

Case Reference	ABP- 322493-25
Proposed Development Summary	Construction of residential apartment building comprising 9 units, refuse store, storage structures, bicycle parking and all associated site, landscaping and services works.
Development Address	Gortamullin, Kenmare, Co. Kerry.
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2. <input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	State the Class here
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	

<p>development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	<p>Schedule 5, Part 2, Class 10b(i) Construction of more than 500 dwelling units.</p>

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3)
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ Date: _____

Appendix A: Form 2 - EIA Preliminary Examination

Case Reference	ABP- 322493-25
Proposed Development Summary	Construction of residential apartment building comprising 9 units, refuse store, storage structures, bicycle parking and all associated site, landscaping and services works.
Development Address	Gortamullin, Kenmare, Co. Kerry.
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	The proposed development consists of three no. three storey block to contain 9 no. apartments. The development consisted of typical construction and related activities and site works. The works proposed do not result in the production of significant waste, emissions or pollutants. Surface water will be discharged to a public water. Wastewater will be discharged to public sewer.
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	The proposed site is located within an urban area; there are no significant sensitivities in the immediate area. The subject site is not located within a designated site, the nearest are as follows: <ul style="list-style-type: none"> • Kenmare River SAC (site code: 002158) is located 100metres southwest of the subject site. • Roughty River Estuary pNHA (site code: 002092) is located approximately 500metres south. • Mucksna Wood SAC (site code: 001371) is located 1.2km south of the subject site. • Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC (site code: 000365) is located approximately 4.5km north of the subject site. • Blackwater River (Kerry) SAC is located approximately 5.8km northwest of the subject site. • Kilgarvan Ice House SAC (site code: 000364) is located approximately 6km east of the subject site. • Doughill Bog NHA (site code: 001948) is located 6km southeast.

	<ul style="list-style-type: none"> • Killarney National Park SPA (site code: 004038) is located approximately 6.5km north of the subject site. • Maulagowna Bog SAC (site code: 001881) is located approximately 7km southwest of the subject site. • Old Domestic Building, Dromore Wood SAC (site code: 000353) is located approximately 7.5km west of the subject site. • Eirk Bog SPA (site code: 004108) is located approximately 9 km north of the subject site. • Caha Mountains SAC (site code: 000093) is located approximately 9.3km south of the subject site. • Glanlough Woods SAC (site code: 002315) is located approximately 9.7km east of the subject site. • Cloonee and Inchiquin Loughs, Uragh Wood SAC (site code: 001342) is located 10.2km southwest of the subject site. • Slaheny River Bog NHA (site code: 000383) is located 11km southeast. • Glengarriff Harbour and Woodland SAC (site code: 000090) is located appropriately 11.6km south of the subject site. • Derryclogher (Knockboy) Bog SAC (site code: 001873) is located appropriately 12km southeast of the subject site. <p>My appropriate assessment screening concludes that the proposed development would not likely have a significant effect on any European Site.</p> <p>The subject site is located within a flood risk area. The Planning Authority have requested the applicant to raise the finished floor level of the proposed development such that the necessity for floodgate barriers as a mitigation measure against future climate change is not needed.</p>
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent,	<p>The site size measures 0.094ha. The size of the development is not exceptional in the context of an urban environment.</p> <p>There are existing dwellings adjacent to the proposed site. Observations were raised in relation to overlooking</p>

nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	and overshadowing, however, given the separation distance, no issues arise. The proposed development is a relatively small development in the urban context. There is no real likelihood of significant cumulative effects within the existing and permitted projects in the area.
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.

Inspector: _____ **Date:** _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)

Appendix B: Water Framework Directive Screening

WFD IMPACT ASSESSMENT STAGE 1: SCREENING			
Step 1: Nature of the Project, the Site and Locality			
An Bord Pleanála ref. no.	ABP-322493-25	Townland, address	Gortamullin, Kenmare, Co. Kerry.
Description of project		Construction of residential apartment building comprising 9 units, refuse store, storage structures, bicycle parking and all associated site, landscaping and services works.	
Brief site description, relevant to WFD Screening,		<p>The site is located within the urban area of Kenmare town; the site is set back from the public road and there are no dwellings directly adjacent to the proposed development. The proposed development will be connected to public water, public wastewater and public surface water.</p> <p>There are no water features on site or adjacent the subject site.</p> <p>The flood risk in this area has increased at this location, although the flood zone designations as detailed in the accompanying flood risk assessment remain similar for the site, the predicted flood depths have increased especially for the 0.1% AEP event, based on these revised models, the proposed FFE of</p>	

	the development (currently set at 0.6m) will need to be increased by at least 0.75m.					
Proposed surface water details	Surface water will be disposed via public surface water.					
Proposed water supply source & available capacity	Public mains are available.					
Proposed wastewater treatment system & available capacity, other issues	Public wastewater connection is available.					
Others?						
Step 2: Identification of relevant water bodies and Step 3: S-P-R connection						
Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at	Identified pressures on that water body.	Pathway linkage to water feature (e.g., surface run-off, drainage, groundwater)

				risk, review, not at risk		
Groundwater	The site is on the groundwater.	Kenmare groundwater IE_SW_G_040	Groundwater status is described as Good (period for GW 2016-2021)	Groundwater is described as Not at Risk.	None identified.	Potential surface water run-off.
River	The site is located 50m distance from the river to the south.	Finnihy_020 Code IE_SW_2221 F010510	River status is described as Moderate (period for GW 2016-2021)	River is described as Not At risk.	Urban Runoff pressures.	Potential surface water run-off.
Transitional Water	The site is located 800m	Inner Kenmare River	Transitional Water status is described	Transitional water is described as Not At risk.	None identified.	Potential surface water run-off.

		distance from Kenmare Bay to the south	IE_SW_190_0300	as Good (period for GW 2016-2021)			
Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.							
CONSTRUCTION PHASE							
No.	Component	Water body receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure*	Residual Risk (yes/no) Detail	Determination** to proceed to Stage 2. Is there a risk to the water environment? (if ‘screened’ in or ‘uncertain’ proceed to Stage 2.
1.	Surface	River Finnihy_020	Located appropriately 50metres south of subject site. No	Spillages	Standard Construction practice	No due to separation distance	Screened Out

		Code IE_SW_22 21F010510	noted drainage ditches to river.				
		Inner Kenmare River IE_SW_19 0_0300	Located appropriately 800metres south of subject site. No noted drainage ditches to bay.	Spillages	Standard Construct ion practice	No due to separation distance	Screened Out
2.	Ground	Kenmare groundwat er IE_SW_G_ 040	Pathways exist through drainage underground	Spillages	Standard Construct ion practice	No	Screened Out
OPERATIONAL PHASE							

3.	Surface	River Finnihy_02 0 Code IE_SW_22 21F010510	Located appropriately 50m southeast of subject site. No noted drainage ditches to river	Spillages	SuD s features	No	Screened Out
		Inner Kenmare River IE_SW_19 0_0300	Located appropriately 800metres south of subject site. No noted drainage ditches to river.	Spillages	SuD s features	No	Screened Out
4.	Ground	Kenmare groundwat er IE_SW_G_ 040	Pathways exist through drainage underground & seepage.	Spillages/seep age	SuD s Features and connectio n to public water	No	Screened Out

					and wastewater		
DECOMMISSIONING PHASE							
5.	N/A						