

**Our Case Number:** ACP-323996-26

**Your Reference:** Waterville Links Ltd



An  
Coimisiún  
Pleanála

McCutcheon Halley Chartered Planning Consultants  
6 Joyce House  
Barrack Square  
Ballincolig  
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P31 YX97

**Date:** 18 February 2026

**Re:** Proposed development N70 Waterville to Ballybrack Road Improvement Scheme  
Townlands of Waterville, Ballybrack and Eightercua, Co. Kerry

Dear Sir / Madam,

An Coimisiún Pleanála has received your recent submission in relation to the above mentioned proposed development and will take it into consideration in its determination of the matter.

Please note that the proposed development shall not be carried out unless the Commission has approved it with or without modifications.

If you have any queries in relation to the matter please contact the undersigned officer of the Commission at [laps@pleanala.ie](mailto:laps@pleanala.ie)

Please quote the above mentioned An Coimisiún Pleanála reference number in any correspondence or telephone contact with the Commission.

Yours faithfully,

Aisling Reilly  
Executive Officer  
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**AN COIMISIÚN PLEANÁLA**  
LDG- \_\_\_\_\_  
ACP- \_\_\_\_\_  
**17 FEB 2026**  
Fee: € \_\_\_\_\_ Type: \_\_\_\_\_  
Time: 16:02 By: Hand

17 February 2026

**By Hand and by email: [lap@pleanala.ie](mailto:lap@pleanala.ie); [appeals@pleanala.ie](mailto:appeals@pleanala.ie)**

**Re: Case reference: JP08.323996 - N70 Waterville to Ballybrack Road Improvement Scheme**

Dear Sir/Madam,

We act on behalf of our client, Waterville Links Ltd., of Waterville House, Waterville, Kerry, V23 WD39 and have been instructed to prepare this submission to An Coimisiún Pleanála (ACP) in respect of the N70 Waterville to Ballybrack Road Improvement Scheme that has been proposed by Kerry County Council, Case reference: JP08.323996.

The proposed development consists of the realignment of a section of the N70 approximately 1.4km in length from the southern end of Waterville Village to the end of the line of residential dwellings at Eightercua to the south. It includes the construction of a separate shared use cycle and pedestrian path approximately 1.2km in length, including a 32m shared pedestrian and cycleway bridge located on the western side of the N70 with new boundary stone wall realignment containing a mixture of retaining and freestanding walls, new embankments and a steel bridge crossing over the Currane River on the western side of Waterville Bridge within the grounds of our client's property, Waterville House. The Eastern side of the N70 includes localised widening to include a grass verge with associated boundary treatments.

Our client wishes to express their wholehearted support for the objectives that the scheme seeks to achieve namely addressing issues of road safety, pedestrian and cyclist connectivity, and transport infrastructure deficits along this part of the N70 route and welcomes the opportunity to participate in the planning process by making this submission. However, our client has a number of concerns regarding the details of the proposal which will be outlined further in this submission. It is considered that Kerry County Council have not provided sufficient information to conclude that the subject proposal will not have significant negative impacts on the receiving environment and that alternative options of lesser impact to the current proposal and more appropriate to the site-specific context have not been appropriately considered.

As will be outlined in greater detail later in this submission, MHL Consulting Engineers have on behalf of the client, developed an alternative proposal which represents a more appropriate solution that would require less interventions to and alterations of the existing landscape, heritage and ecological features which characterise this important piece of the Ring of Kerry. The alternative proposal relocates the 3.0m shared surface pathway to the eastern side of the roadway together with utilisation of the existing historic bridge structure with the signalisation of the N70 on both approaches to the Waterville Bridge. This would necessitate the reduction of the trafficked carriageway to 3.25m along the bridge section,

providing for one way traffic only and a reduction in the speed limit through the bridge to 30kph. This alternative proposal is a less engineered solution that is more appropriate to the rural context, and protects the integrity of the historic landscape, including the reduction of impacts on Waterville House and its attendant grounds, as well as Waterville Bridge and the Recorded Monument (KE098-094-- Weir - fish) while still achieving the objectives of the scheme. This submission is supported by specific discipline reports from various specialists in their respective fields and each will discuss the shortfalls of the proposed development as well as the benefits of the alternative proposal having regard to their specific discipline. These documents include:

- Engineering Review Report (and associated drawings of the alternative proposal) prepared by MHL Consulting Engineers
- Technical Ecological Review by Scott Cawley
- Landscape Review prepared by Brady Shipman Martin
- Architectural Heritage Impact Assessment prepared by Consarc Conservation

To reiterate, our client is supportive of the objectives of the scheme and does recognise the need to address the deficits in road safety and connectivity along this stretch of the N70. However, they do not consider the proposed development to represent the best option to achieve this outcome and has several concerns with regard to the built form and scale of the development, and its impact on this sensitive area along the Ring of Kerry and Wild Atlantic Way. It is considered that the proposed layout and design, in its current form, does not take account of the site-specific characteristics, constraints and governing policies which should inform and guide the proposal including the design and location of the proposed pedestrian bridge adjacent to the existing Waterville Bridge.

Our client specifically requests that an Oral Hearing be undertaken in relation to the proposed development which would enable the specific nuances of the proposed development and the alternative proposal to be discussed and elaborated on further.

The grounds of this submission are set out as follows:

1. Section 177AE
2. Site Context
3. Planning Policy Compliance
4. Lack of Sufficient Information to Support the Application
5. Consideration of Alternative Options
6. Ecological Considerations
7. Landscape and Visual Impacts
8. Heritage Impacts
9. Material Contravention
10. Adequacy of EIA Screening
11. Oral Hearing
12. Conclusion

Each of the above is addressed in greater detail below.

## 1 Section 177AE

This submission relates to the application for approval for the proposed development made by KCC to ACP under Section 177AE of the Planning and Development Act 2000, as amended. An accompanying

objection is being made in respect of the related application, also by our client Waterville Links Ltd, to confirm the Compulsory Purchase Orders<sup>1</sup>. Given the overlap between these two processes, this submission and the CPO objection should be read together.

Notwithstanding that an application under Section 177AE arises where a development that is proposed to be undertaken by a local authority requires an Appropriate Assessment under the Habitats Directives,<sup>2</sup> the range of factors which ACP must have regard to and take into account when deciding on the application are far broader. Indeed, the Courts have described the purpose of the processes whereby ACP is required to approve local authority development, which would otherwise be exempted development, as a “safeguard”, protecting the “means through which the public may engage with, or participate in, significant schemes of public works which may impact on the rights of the public.”

The wording of Section 177AE reflects this, and in particular includes an obligation to consider the likely effects on the environment of the proposed development more generally and the “likely consequences for the proper planning and sustainable development in the area in which it is proposed to situate the said development of such development.” (Sections 177AE(6) & (12)). To this end, **ACP is obliged to have regard to:**

- The provisions of the development plan for the area,
- The provision of any special amenity area order relating to the area,
- if the area or part of the area is a European site or an area prescribed for the purposes of section 10(2)(c), that fact,
- where relevant, the policies of the Government, the Minister or any other Minister of the Government, and the provisions of this Act and regulations under this Act where relevant.

## 2 Site Context

Our client is the owner of Waterville House and grounds, which is located immediately west and east of the proposed development where it crosses the Currane River. Waterville House, located in the townland of Waterville, is an 18<sup>th</sup> century Georgian manor which is surrounded by a landscaped garden. It is currently in use as a guesthouse and is part of the Waterville Golf Links which is recognised as one of Ireland’s premiere golfing destinations. The entrance elevation to Waterville House faces east to the Currane River and toward Waterville Bridge. The house sits within an historic designed landscape that incorporates the Currane River, traversed by the Recorded Monument (KE098-094-- Weir – fish) and Waterville Bridge. The River Currane while contributing to the immediate setting of the house, is also of significant ecological value extending within the boundaries of both Killarney National Park, Macgillycuddy’s Reeks and Caragh River Catchment Special Area of Conservation (SAC) to the east and Ballinskelligs Bay and Inny Estuary SAC to the west. The Currane River is an important angling location for visitors to Waterville House and our client holds the fishing rights along the river and lake, including around the bridge.

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<sup>1</sup> Submission entitled ‘Kerry County Council N70 Waterville To Ballybrack Road Improvement Scheme Compulsory Purchase Order Of 2025. An Coimisiún Pleanála - Case reference: CH08.324000 - Submission of Objection by Waterville Links Ltd in respect of the proposed permanent and temporary acquisition of land being Plot Nos. 106-01, 106-03, 106-04, 109-01, 111-01 and Plot Nos. T106-01, T106-02, T109-01, T111-01’

<sup>2</sup> Directive 92/43/EEC; Directive 2009/147/EC

The adjacent N70 forms part of the Wild Atlantic Way, a nationally important tourism route for vehicles and cyclist. The visual experience from the trail looking toward the N70 is protected under regional tourism strategies. It is also part of the Kerry Way which is Ireland's longest, waymarked walking trail around the Iveragh Peninsula. The section from Waterville to Caherdaniel (Stage 6), follows the N70 from Waterville crossing Waterville Bridge over the Currane River and then turns right at An Baile Breac/Ballybrack and continues through Baslickane (Baisleacán) on a narrow-tarred road/boreen with spectacular views over Ballinskelligs Bay, Waterville, Waterville House and Bridge.

Aside from Waterville House and Hogs Head Links located further south along the route, the development pattern of ribbon development and one-off rural housing is located predominantly along the eastern side of the carriageway, together with the Hogs Head Hotel. The main footpath in Waterville also lies on the eastern side of the village, connecting the houses, shops and other amenities. This path abruptly stops at the southern edge of the village with pedestrians (including Kerry Way walkers) having to walk along the road carriageway.

As described by Kerry County Council, the N70 Waterville to Ballybrack Road Improvement Scheme that has been proposed comprises "A 1.4km (approximately) online improvement of the N70 to an all-purpose road with a shared use cycle and pedestrian facility including bridge and all ancillary and consequential works in the Townlands of Waterville, Ballybrack and Eightercua in County Kerry<sup>3</sup>". The proposed location of the two-way cycle and pedestrian bridge to allow crossing of the Currane River is proposed west of the existing Waterville Bridge, adjacent to the eastern boundary of Waterville House and gardens. The proposed shared pathway is also located on the western side of the carriageway, away from the concentration of existing residential dwellings.

The proposed development by Kerry County Council involves a Compulsory Purchase Order (CPO) of lands along the entirety of the route including within the demesne of Waterville House and, as evidenced in Figure 1 below, the boundary of the proposal by Kerry County Council abuts the eastern boundary of the gardens associated with Waterville House. The total permanent land acquisition from the demesne of Waterville House is approximately 0.3 Ha, and 0.18 Ha temporary land acquisition to facilitate construction.

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<sup>3</sup> <https://consult.kerrycoco.ie/en/consultation/n70-waterville-ballybrack-road-improvement-scheme>



Figure 1 Aerial Context of Clients Property in Relation to the Proposed Development

Section 1.4 of the Planning and Environmental Considerations Report (PECR) submitted as part of the planning application documents outlines that the proposed development *“seeks to address several existing road safety issues and to provide improved infrastructure for pedestrian friendly mobility.”* Specific safety issues identified along the route are summarised as follows:

- The existing N70 at this location is a legacy National Secondary Road with no defined geometric design. It is substandard in both horizontal and vertical alignment. The width varies between 4.9m and 5.4m which is also substandard.
- This narrow cross-section renders the route unsafe for vulnerable road users.
- The current forward visibility is as low as 40m in areas which is insufficient visibility for vehicles to stop safely in an emergency.
- The two junctions at the L-7539-0 and L-11590-0 have substandard visibility envelopes. There are currently no facilities for vulnerable road users.
- Part of this section of the N70 overlaps with the Kerry Way Walking Trail. The geometry of the road renders it unsafe for vulnerable road users.

It is stated that the road has been identified by Kerry National Roads Office and TII as a location for improvement given the current substandard alignment, cross-section and pavement condition. The proposed development is identified under the Kerry County Council Service Delivery Plan 2019.

### 3 Planning Policy Compliance

This section sets out the various policies at national, regional and local level relevant to the proposed development, and where relevant outlines how the proposed development and submitted design and associated application documents have failed to address them and/or are in contravention of same.

#### 3.1 National Planning Policy

The proposed development has not been appropriately assessed against the most recent iterations of the following national planning policy documents:

- **National Planning Framework (Project Ireland 2040):** In June 2023, the Government gave approval to commence the process of undertaking the First Revision of the NPF. The revision process took place over a two-year period, with the revised NPF taking effect in the planning system on the 30<sup>th</sup> April 2025 after being approved by both Houses of the Oireachtas. Upon review of the application submitted by Kerry County Council, it has been noted that in their assessment of the proposed development against relevant policy and legislation, that the proposal has been assessed against the now superseded NPF rather than the revised version which took effect in April 2025. Resultantly, key policies relevant to the proposed development have not been considered. These includes:
  - Policy Objective 23 which requires the protection and promotion of **“the sense of place and culture and the quality, character and distinctiveness of the Irish rural landscape** including island communities that make Ireland’s rural areas authentic and attractive as places to live, work and visit.” As will be discussed further in this submission, the proposed development has been led by engineering-based solutions that have not given due regard to the nature and distinctiveness that it sits within and the likely significant impacts that it will have across a number of disciplines including landscape and built heritage.
  - National Policy Objective 37 to **“Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages.”** While the proposed development will enhance the safety of the route for pedestrians and cyclists utilising the route compared to the current baseline, as will be demonstrated further in this submission, it will result in the degradation of this sensitive landscape. A viable alternative exists which has not been considered by the Council, that would represent a more balanced and nuanced approach that infinitely more suitable based on the mitigatory effect of its use on key landscape and built heritage features.
  - The NPF outlines the southwest region (p. 47) noting the need for **“Integrated planning, management and development of the areas traversed by the Wild Atlantic Way to maximise both the quality and integrity of the visitor experience and the added benefit in economic terms, especially for rural and local communities.”** As above, the proposed development is an over-engineered solution which would lead to the unnecessary urbanisation of this sensitive area of the Wild Atlantic Way. Should permission be granted, it would lead to the unnecessary disintegration of the established rural character for which this area is recognised.

- **Climate Action Plan 2025:** Ireland's Climate Action Plan (CAP) is updated annually under the Climate Action and Low Carbon Development (Amendment) Act 2021. The CAP 2025 was published on the 15<sup>th</sup> April 2025. Notably, the subject application has referred to the CAP 2023 in their policy assessment. The CAP 2023 was superseded by the CAP 2024 on 20<sup>th</sup> December 2023, which was then subsequently superseded by the CAP 2025 on the date referenced above.
- **Biodiversity Action Plan:** Ireland's 4<sup>th</sup> National Biodiversity Action Plan (NBAP) sets the national biodiversity agenda for the period 2023-2030 and aims to deliver the transformative changes required to the ways in which we value and protect nature. The most recent NBAP was published on 25<sup>th</sup> January 2024. The Planning and Environmental Considerations Report submitted by Kerry Council references the NBAP 2017 – 2021 rather than the current iteration of this policy document.

While the provisions of each of the above policy documents may not have materially changed insofar as to implicate the current proposed development, the repeated reference to outdated material in the applicant's assessment of their proposal demonstrates a lack of attention to detail from the outset of this application.

## 3.2 Regional Planning Policy

### 3.2.1 Regional Spatial & Economic Strategy for the Southern Region 2020 - 2030

Informed by the NPF, the Regional Spatial & Economic Strategy for the Southern Region (RSES) 2020 – 2030, amongst other objectives, promotes further investment in placemaking and improvements to the public realm as a means of creating more attractive settlement centres that can support local communities and enterprise as well as the wider commercial economy, including tourism.

Having regard to the proposed development, the following aspects of the RSES are of relevance.

#### Landscape

Section 5 relates to 'Environment' and sets out the provisions of the RSES intended to *"safeguard and enhance our environment through sustainable development, transitioning to a low carbon and climate resilient society"*.

It is recognised that the southern region hosts some of Ireland's most important landscape features such as Ireland's highest mountain ranges, extensive coastal areas, islands and river valleys. The RSES notes specifically that:

*"It is also important that public access initiatives and plans consider historical setting and landscape character and potential for the negative effects related to pressure of visitor numbers."*

The subject application by Kerry County Council, as this submission will detail further, has not appropriately assessed potential impacts on the historic and visually sensitive landscape of Waterville from the proposed development. The application as submitted does not align with the provisions of the RSES in this regard.

## Built & Archaeological Heritage

Objective	Description
<b>RPO 207 Archaeological Investigation</b>	Where proposed development may have implications for recorded archaeological monuments /sites, zones of archaeological potential, or undiscovered archaeology, local authorities should ensure that decisions relating to development (including infrastructure associated with broadband, telecommunications and renewable energy installation of services installation and major road/rail infrastructure) are informed by an appropriate level of archaeological investigation undertaken by qualified persons.

The proposed development comprises the installation of a new bridge over the Currane River. There is a recorded monument within the Currane River c. 90m west of the proposed development boundary, i.e. KE098-094-- Weir - fish : Waterville, Baslickane. This recorded monument has not been highlighted within the submitted drawings, nor has it been meaningfully assessed across the submitted application documents. The applicants have failed to appropriately demonstrate that their proposal will not negatively impact this recorded monument and have therefore failed to comply with the provisions of RPO 207.

## Tourism

Section 4.5 of the RSES relates to 'Rural Development', and within same the Ring of Kerry is recognised as a significant attraction and destination for rural tourism in the South West, along with the Wild Atlantic Way. It is stated that:

*"The promotion of enhanced transport networks including public transport services is essential to attract and enable ease of movement around the Region by tourists and visitors. Improvements are needed at key arrival points such as ferry ports with better public transport connections and to the existing road and rail networks/services to remove bottlenecks and improve connectedness to and between key tourism destinations. The identification of strategic corridors will assist in the development of the network between our cities, towns and rural areas."*

As detailed further in this submission, it is not considered that Kerry County Council has had due regard to the potential impact of the proposed development on the value of the subject lands as an important tourist destination for both the Ring of Kerry and the Wild Atlantic Way, as well as hosting one of Ireland's most prominent golfing destinations.

Furthermore, the policies identified below have not been adequately considered in the design of the proposed development.

Objective	Description
<b>RPO 53 Tourism</b>	It is an objective to: <ul style="list-style-type: none"> <li>a) Enhance provision of tourism and leisure amenity to cater for increased population in the Region including recreation, entertainment, cultural, catering, accommodation, transport and water infrastructure inter alia;</li> </ul>

	<ul style="list-style-type: none"> <li>b) Promote activity tourism subject to appropriate site selection and environmental assessment processes;</li> <li>c) Sustainably develop the road network and public transport services and facilities for improved visitor access, longer dwell times due to improved connectivity to ports and airports and tourism growth;</li> <li>d) Sustainably develop walking and cycling trails opening greater accessibility to the marine and countryside environment by sustainable modes and promote the sustainable designation and delivery of Greenway and Blueway Corridors.</li> <li>e) Facilitate appropriate tourism development and in particular a National Greenways, Blueways and Peatways Strategy, prioritising sustainable projects that achieve maximum impact and connectivity at national and regional level;</li> <li>f) Identify and map catchment areas concerning Culture, Heritage and Tourism of regional significance/scale. Such catchments should have the potential to deliver small-scale economic development and using wider local services such as Post Offices and local public transport.</li> </ul>
<p><b>RPO 54 Tourism and the Environment</b></p>	<p>Development of new or enhanced tourism infrastructure and facilities should include an assessment of the environmental sensitivities of the area including an Environmental Impact Assessment (EIA); Appropriate Assessment (AA) and Strategic Flood Risk Assessment (SFRA) if required in order to avoid adverse impacts on the receiving environment. Where such tourism infrastructure or facilities are developed, the managing authority/agency should ensure that effective monitoring protocols are put in place to monitor and assess the ongoing effect of tourism on sensitive features with particular focus on natural, archaeological and built heritage assets.</p>
<p><b>RPO 173 Tourism Corridors</b></p>	<p>It is an objective to invest in the sustainable development of infrastructure and service improvements on the transport networks along our region's key tourism corridors, subject to robust feasibility studies to reduce impacts on the environment and required appraisal, planning and environmental assessment processes, including the Wild Atlantic Way, Ireland's Ancient East and Ireland's Hidden Heartland Corridors.</p>
<p><b>RPO 174 Walking and Cycling</b></p>	<p>The following walking and cycling objectives are supported and will guide investment subject to the required appraisal:</p> <ul style="list-style-type: none"> <li>▪ Delivery of high-quality, safe, cycle route network across the region and cycling environments (applicable to cities, towns and villages) with provision for segregated cycle tracks.</li> <li>▪ Development of a safe cycling infrastructure to cater for the needs of all groups of cyclists, especially new cyclists, school children, elderly etc.</li> <li>▪ A cycle network that is coherent, continuous and safe, particularly when going through busy junctions.</li> <li>▪ Support sustainable pedestrian and cyclist greenway initiatives and the potential for inter connections between greenways subject <b>to robust site selection processes and environmental assessment processes.</b></li> </ul>

With regard to these policies, while the proposed development does provide for road improvement works including the creation of a shared pedestrian and cycle path, we consider that the design put forward by Kerry County Council has failed to address key site-specific issues, in relation to ecology, architectural heritage, landscape and visual impacts as well as more generally, the usability of the scheme being hampered by its location on the western side of the carriageway, away from the established housing and therefore predominant users. Evidence of adequate assessment of many of the identified disciplines is sparse and often lacking in its totality, with a notable failure to address and assess the impact on sensitive natural, archaeological and built heritage features. These points will be discussed in more detail in the sections to follow.

### 3.3 Local Planning Policy

#### 3.3.1 Kerry County Development Plan 2022 - 2028

##### Landscape

The proposed development crosses an area which has been designated as a 'Visually Sensitive Landscape' under the Kerry County Development Plan (KCDP) 2022 - 2028. Further to this, there is a designated view from Waterville Bridge toward the west facing Waterville House. Section 11.6 of the KCDP relates to 'Landscape' and, notably, this section of the Plan is not referenced in the submitted Planning and Environmental Considerations Report (PECR).

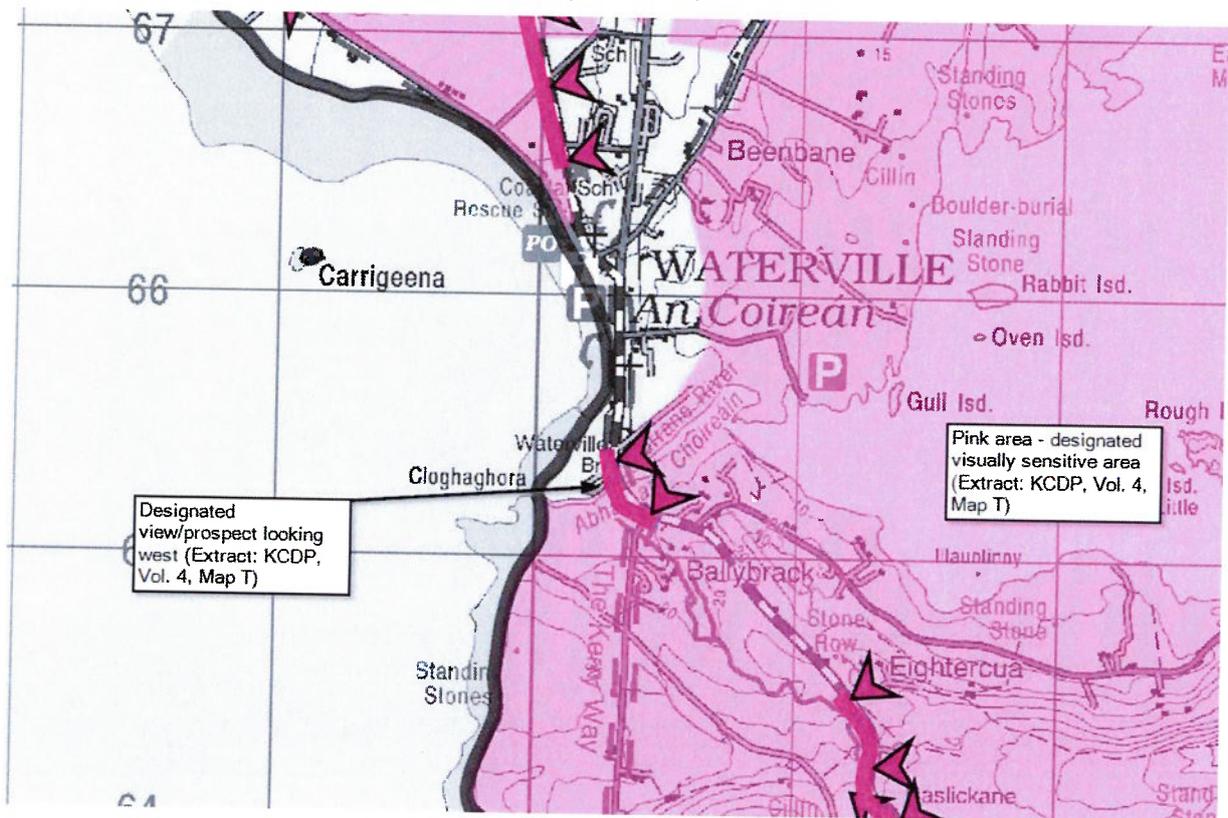


Figure 2 Landscape designations afforded to the subject site as outlined in the KCDP 2022.

With respect to the subject proposals crossing of a 'Visually Sensitive Landscape', Section 11.6.4 of the KCDP sets out the following:

*The following provisions shall apply to development in Visually sensitive landscape areas:*

- *There **is no alternative location for the proposed development** in areas outside of the designation.*
- *Individual proposals shall **be designed sympathetically** to the landscape and the existing structures and shall be **sited so as not to have an adverse impact** on the character, integrity and distinctiveness of the landscape or natural environment.*
- *Any proposal must be designed and sited so as to ensure that it is not unduly obtrusive. **The onus is, therefore, on the applicant to avoid obtrusive locations.** Existing site features including trees and hedgerows should be retained to screen the development.*
- *(...) Existing site features including trees and hedgerows shall be retained to form a part of a comprehensive landscaping scheme. **Consideration must also be given to alternative locations.***
- *Extending development into **unspoilt coastal areas is to be avoided.***

In regard to the above, while there is no alternative location for the delivery of a road improvement scheme along this section of the N70, certain aspects of the proposed development are over-designed. The effect of this is that the proposed development has not been designed sympathetically to the landscape to fully consider and mitigate undue adverse impacts on this distinctive landscape, in particular to Waterville Bridge, the Recorded Monument, the established field boundary and hedgerow pattern, as well as Waterville House and its attendant grounds. The alternative proposal by MHL Consulting Engineers represents a more appropriate, less intrusive solution which has not been considered as a reasonable alternative by Kerry County Council.

While not characterised as an 'objective' of the KCDP., the text set out under 11.6.4 is sufficiently prescriptive to create an obligation on the developers and decision-makers alike and therefore "contravention... can be sensibly discerned" (Coolkill<sup>4</sup>). Furthermore, the following objectives must be read in light of the above text and have particular relevance to the subject proposal and have not been considered in the submitted policy analysis:

Objective	Description
<b>KCDP 11-77</b>	Protect the landscapes of the County as a major economic asset and an invaluable amenity which contributes to the quality of people's lives.
<b>KCDP 11-78</b>	Protect the landscapes of the County by ensuring that any new developments do not detrimentally impact on the character, integrity, distinctiveness or scenic value of their area. Any development which could unduly impact upon such landscapes will not be permitted.

<sup>4</sup> Concerned Residents of Coolkill, Sandyford Downs and Lamb's Brook and Aonghus O'Keeffe v An Bord Pleanála [2025] IEHC 265

The summary of the Landscape and Visual Impact (LVIA) that is provided in the applicant's Planning and Environmental Considerations Report (PECR) accepts that the proposed development will result in profound, negative impacts on selected viewpoints within a designated 'Visually Sensitive Landscape' however, no mitigation measures for this are proposed. From this, we would consider that the development as proposed by Kerry County Council does not comply with policy objectives KCDP 11-77 and KCDP 11-78, nor the requirements set out at section 11.6.4. It should also be noted that a copy of this LVIA has not been provided as part of the planning application pack, therefore denying both ACP and members of the public the ability to appropriately assess the methodology behind this conclusion and indeed provide an independent assessment of the information provided.

Objective	Description
KCDP 11-79	Preserve the views and prospects as defined on Maps contained in Volume 4.
KCDP 11-81	Prohibit developments that have a material effect on views designated in this plan from the public road or greenways towards scenic features and/or public areas.

Under KCDP 11-79 and KCDP 11-81 it is an objective of Kerry County Council to preserve identified views and prospects, however as set out in section 12.2 of the PECR, the visual impacts of the proposed development were only assessed from the perspective of five viewpoints "representing different viewing contexts along the road corridor". There was a complete failure to refer to assess the impacts of their proposal on the designated view facing west toward Waterville House from the Waterville Bridge.

Equally, and as set out above, the Council's own LVIA assessment, as summarised in the PECR, has concluded that the proposed development will result in significant and profound impacts on selected viewpoints within the designated 'Visually Sensitive Landscape'.

The Architectural Heritage Impact Assessment prepared by Conscarc Conservation and in particular the Landscape Report prepared by Brady Shipman Martin assessed the impacts of the proposed development from the perspective of Waterville House as well as more generally on relevant features within the surrounding area. These reports have found that from the limited conclusions provided from the Council's summary LVIA that there **will be adverse impacts from the perspective of the five viewpoints**<sup>5</sup> e.g. there will be a significant, adverse impacts arising from the proposed development from a landscape, visual and heritage perspective. Furthermore, the designated view looking westward towards Waterville Bridge (with the Recorded Monument and Waterville House in the background) was not even assessed in the information submitted. The logical inference from this conclusion is the visual impact is necessarily material. Therefore, KCDP 11-81 mandates that the development be prohibited from being carried out.

<sup>5</sup> The submitted PECR does not specify the quality of the landscape and visual effects (i.e. whether they will be positive, neutral or negative), however as outlined in section 1 of the Landscape Report prepared by Brady Shipman Martin, given the guidance used in the methodology and reflecting the general policies of the area, the nature of these effects would be negative.

Objective	Description
<b>KCDP 8-49</b>	Carry out further research and analysis to identify, survey and promote the conservation of historic landscapes in Kerry.
<b>KCDP 8-50</b>	Require that proposals for development within historic designed landscapes be sensitive to and respect the built heritage elements and green space values of the site.

Section 8.4.5 of the KCDP relates to 'Historic Landscape' and notes in relation to designed landscapes that:

*"At times, natural features such as woodlands, water bodies, landscape contours, were used to create a specific view or setting, at other times, these changes were artificially made. Buildings, walled gardens, gate lodges, boundary walls, decorative gates and statues were used to create a particular view or vista, and at times, to present a public image of the estate to the surrounding population. Historic landscapes and demesnes reflect a tangible link with our past, the traditions, skills of design and execution, of a society and economy."*

Waterville House sits within a designed landscape bound by the N70 roadway to the East, Ballinskelligs Bay shoreline to its West, and the Currane River to the south. The houses orientation is east/west with a slight southerly angle providing a broad vantage along the river toward Lough Currane and beyond. The designed gardens and landscaped views associated with Waterville House contribute toward its attractiveness as a tourist destination. The proposed development would significantly negatively impact the historic designed landscape enjoyed throughout this area and with no screening measures proposed to mitigate such, it is considered that the development as proposed would directly conflict with policy objectives KCDP 8-49 and KCDP 8-50.

Furthermore, Objective KCDP 8-50 clearly requires that where development is proposed within a historic designed landscape, some form of regard must be had at least to the built heritage elements and green space values of the site, and the scheme of development be adapted accordingly. This obligation is placed on the developer proposing the development, in this case Kerry County Council. In the present case, there has been no consideration of Waterville House, its designed gardens, the Recorded Monument on site, or any other built heritage elements and green space values of the site.

Notwithstanding that ACP is the relevant decision maker in the context of the Section 177AE application, the Council has made a series of decisions in the course of the performance of its functions to progress the proposed scheme to the present application, and in so doing has failed to discharge the obligations set out by Objective KCDP 8-50 of its own plan.

### **Architectural & Archaeological Heritage**

Section 8.3 of the KCDP relates to 'Archaeological Heritage' and states that the archaeology and built heritage of the County is not a renewable resource and *"it is the efforts of this generation that must ensure its protection and preservation for the future"*. The KCDP clearly states that the council will ensure that decision-making on heritage-related projects and developments are informed by an appropriate level of environmental assessment including assessment of impacts on other environmental receptors such as protected species. However, as will be discussed further in this submission, there is a notable lack of consideration for the key heritage features that characterise this sensitive landscape.

The following objectives are set out under this section of the Plan:

Objective	Description
<b>KCDP 8-24</b>	<ul style="list-style-type: none"> <li>i. Secure the preservation in situ of all sites, features, protected wrecks and objects of archaeological interest within the county. In securing such preservation the Council will have regard to the advice and recommendations of the National Monuments Service, Department of Housing, Local Government and Heritage, the National Museum of Ireland, and the County Archaeologist.</li> <li>ii. Ensure that proposed development (due to location, size, or nature) which may have implications for the archaeological heritage of the county will be subject to an Archaeological Assessment (including Underwater Archaeological Impact Assessment) which may lead to further subsequent archaeological mitigation – buffer zones/exclusion zones, monitoring, pre-development archaeological testing, archaeological excavation and/or refusal of planning permission. This includes areas close to archaeological monuments, development sites which are extensive in area (half hectare or more) or length (1km or more) or include potential impacts on underwater cultural heritage and development that requires an Environmental Impact Assessment.</li> </ul>
<b>KCDP 8-26</b>	Protect and preserve and promote the underwater archaeological heritage of the county. In assessing proposals for development, the Council will take account of the Archaeological Potential of rivers, lakes, intertidal and sub-tidal environments. Where flood relief schemes are being undertaken the Council will have regard to the Archaeological Guidelines for Flood Relief Schemes (DHLGH and OPW 2021).
<b>KCDP 8-27</b>	Ensure that development (including forestry, renewable energy developments and extractive industries) within the vicinity of a recorded monument, zone of archaeological potential or archaeological landscape does not detract from the setting of the feature and is sited and designed appropriately and sympathetically with the character of the monument/feature/landscape and its setting.
<b>KCDP 8-30</b>	Protect and preserve the industrial, military, maritime, riverine, lacustrine and post-medieval archaeological heritage of the county as reflected in such sites as mills, lighthouses, harbours, Valentia cable station, gun batteries, towers, and demesnes. Proposals for refurbishment, works to or redevelopment of these sites should be subject to a full architectural and archaeological assessment including, where appropriate, Underwater Archaeological Impact Assessment.
<b>KCDP 8-38</b>	Seek the retention and appropriate repair and upgrading of historic, buildings, structures, road bridges, railway bridges and tunnels throughout the county, subject to environmental assessment.
<b>KCDP 8-39</b>	Ensure that rejuvenation and placemaking projects in the county enhance the physical, social, architectural, and historic settlement pattern of the locality.

There has been no Archaeological Impact Assessment (AIA) submitted with the application by Kerry County Council. There is a summary of an AIA carried out in support of the application provided in the submitted PECR, however, the full report has not been provided to detail the assessment carried out to support the conclusions of such. Notwithstanding this, the application as submitted by Kerry County Council has failed to consider impacts of the development on the adjacent recorded monument in the Currane River, c. 90m west of the proposed development and within the Ballinskelligs Bay and Inny Estuary SAC. The proposed development therefore fails to comply with policy objectives KCDP 8-24, KCDP 8-26, KCDP 8-27, and KCDP 8-30.

With respect to KCDP 8-38 and KCDP 8-39, it is considered that the proposal by Kerry County Council has not put forward the most appropriate development strategy for Waterville Bridge. It is considered that the alternative option for the crossing of the Currane River developed by MHL Consulting Engineers that is detailed further in this submission would be a more appropriate intervention at this location as it represents a lesser impact on the historical heritage asset of Waterville Bridge.

### Active Travel & Connectivity

The KCDP outlines the Council's broad support for the expansion of the County's network of integrated pedestrian and cycle paths. The following policies are of note in this regard:

Objective	Description
<b>KCDP 10-36</b>	Promote and facilitate opportunities to create an integrated pedestrian and cycle network linking key tourist destinations in the County and to the national network subject to environmental, heritage and normal planning constraints.
<b>KCDP 10-42</b>	Support and facilitate the sustainable development of new greenways at appropriate locations and protect existing greenways as keys components of an overall green tourism infrastructure and as standalone tourism products in their own right, and subject to environmental assessment.
<b>KCDP 14-21</b>	Improve access for all vulnerable road users and people with disabilities to all modes of transport with provision for universal design thereby increasing and improving transport facilities for all users.

Given the identified lack of consideration for key site-specific constraints and governing policies, it cannot be concluded that the proposed development has adequately demonstrated that it represents the proper planning and sustainable development of the area and therefore is not in compliance with KCDP 10-36 and KCDP 10-42. Furthermore, and as outlined in the Landscape Review Report by Brady Shipman Martin, the location of the shared pathway on the western side of the established carriageway goes against the established desire line of those residents living in the locality, necessitating significantly more crossing points along the route than if the path were to be located on the eastern side.

In addition, it is noted that planning permission Reg Ref: 16787 was granted by KCC to A&M Hogs Head Golf Club Ltd in respect of the development of the Hog Head Hotel. Condition 4 of this permission required the making of a development contribution of €165,000 for the provisions of "500m of footpath, a footbridge over the Currane River, land acquisition, accommodation works including a boundary wall, setback to complete the footpath and public lighting." The reason for this contribution was stated as being

that the Developer should “contribute towards the cost of public infrastructure and facilities benefiting the development.” This should clearly be located on the eastern side of the carriage to align with the majority of development, including the Hog’s Head Hotel and the residences in Waterville.

The Proposed Scheme is, therefore, contrary to KCDP 14-21 in that it does not represent the best, most accessible option for vulnerable road users.

In discussion improvements to national roads, Table 14.3 identifies the N70 Killorglin-Cahersiveen-Kenmare Road (of which the proposed development forms part) as a priority road infrastructure project. However, the following policy objective indicates that any upgrade of this route must be proportionate to minimise the impact of the scheme on unique road corridors and tourist routes.

Objective	Description
<b>KCDP 14-33</b>	Ensure a proportionate design response to the identified need for the projects listed in table 14.3 in order to minimise the impact of the scheme on unique road corridors and tourist routes.

Having regard to the benefits of the alternative scheme that will be discussed further in this submission, it is clear that comparatively, the proposed development has not been measured in responding to the specific characteristics of the route and the need to minimise the impact on same. Therefore, the proposed development is not in accordance with KCDP 14-33.

### Ecology & Environment

Chapter 11 of the plan indicates the key role that the KCDP plays in providing the framework for guiding sustainable development patterns ensuring the protection and sustainable development of biodiversity and the environment more broadly.

In relation to Natura 2000 sites and the potential interaction with infrastructure projects such as the proposed development, the KCDP outlines the Council’s broad support for the expansion of the County’s network of greenways and shared pedestrian/cyclist pathways. Section 10.4.1.2 of the plan outlines that the Council will “continue to support and facilitate the provision of greenways/blueways/peatways where appropriate within the county **where it can be demonstrated that such development will not have significant adverse effects on the environment including the integrity of Natura 2000 sites**”.

Of relevance to the proposed development are the following policies:

Objective	Description
<b>KCDP 11-1</b>	Ensure that the requirements of relevant EU and national legislation, are complied with by the Council in undertaking its functions, including the requirements of the EU Birds and Habitats Directives.
<b>KCDP 11-2</b>	Maintain the nature conservation value and integrity of Special Areas of Conservation, Special Protection Areas, Natural Heritage Areas (NHAs) and proposed Natural Heritage Areas (pNHAs). This shall include any other sites that

	may be designated at national level during the lifetime of the plan in co-operation with relevant state agencies.
<b>KCDP 11-3</b>	Work with all stakeholders in order to conserve, manage and where possible enhance the County's natural heritage including all habitats, species, landscapes and geological heritage of conservation interest and to promote increased understanding and awareness of the natural heritage of the County.
<b>KCDP 11-22</b>	Encourage and facilitate the retention and creation of features of local biodiversity value, ecological corridors and networks that connect areas of high conservation value such as watercourses, woodlands, hedgerows, earth banks and wetlands.

As outlined in the Technical Ecological Review by Scott Cawley and discussed further in this submission, through insufficient survey methods and inaccurate categorisation of habitats, the submitted NIS casts doubt as to whether there is sufficient scientific basis provided to conclude that the proposed development will not have a significant negative impact on the Natura 2000 sites that it intersects. Furthermore, the proposal provides for the removal of approximately 350m of hedgerow and no appropriate mitigate measures have been provided to mitigate this loss, nor was the removal of hedgerow properly assessed in the submitted EIA Screening assessment. Kerry County Council have therefore failed to comply with the requirements of their own policies KCDP 11-1, KCDP 11-2 and KCDP 11-3 as set out above.

### 3.3.2 Kenmare Municipal District Local Area Plan 2024 - 2030

The Kenmare Municipal District Local Area Plan (LAP) puts forward the future vision and strategy for the settlement of Waterville to sustainably develop the town while maintaining and enhancing its physical assets, unique character and natural attributes.

*It is vital that future development supports the existing role and function of the town as a rural service centre, seaside and tourist town having regard to the scale of the existing settlement and the setting of the town in an attractive coastal rural landscape.*

The following objectives are provided for guiding development in the settlement of Waterville that relate to the subject development:

Objective	Description
<b>KENMD-WE-1</b>	Promote the strengthening of Waterville as an employment and service centre commensurate with its function as a district town and as an attractive residential location, service centre and tourist town.
<b>KENMD-WE-9</b>	Facilitate and promote the sustainable development of Waterville as a golfing destination.

The proposed development as submitted by Kerry County Council would directly negatively impact Waterville House, one of the settlements primary tourist attractions. Waterville House is used in association with Waterville Golf Links as guest accommodation, the negative impacts on Waterville House

as a result of the proposal can therefore be seen to similarly negatively impact the realisation of KENMD-WE-1 and KENMD-WE-9.

Objective	Description
<b>KENMD-WE-2</b>	Improve the urban definition of the boundaries of the settlement and to promote the development of attractive approach routes into the town.
<b>KENMD-WE-3</b>	Retain and improve, as necessary, the distinctive historical, architectural and physical character of the town.
<b>KENMD-BT-1</b>	It is an objective of the Council to promote attractive approaches into the village (including the protection of stone walls) and ensure that any new developments are of a high architectural standard and contribute to the public realm.

The significance of stone walls is also noted in the LAP in section 2.6.2.4.3 Stone walls, *“In recognition of their contribution to our quality of life, as well as their embodied energy, the Council aims to protect these walls and support owners in their retention and preservation.”* The proposed development, by reason of the interventions chosen including the degradation of the historic rural landscape by the excessive removal of historic, locally distinctive, lichen covered, dry-stone boundary walls and hedgerows, and the installation of a bridge structure in direct conflict with the historic bridge structure to which it is proposed to be affixed will not improve the southern approach into Waterville. It will lead to the excessive urbanisation of this established, visually sensitive, rural landscape and an irreversible loss of the area’s intrinsic character. This is evident in recent developments, where reconstructed stone walls which have been constructed using traditional stone wall techniques (but from a different locale and stone source), appear incongruous to this section of the landscape. Therefore, the proposal does not protect any of the distinctive features which characterise the area and is there not in accordance with policies KENMD-WE-2, KENMD-WE-3 or KENMD-BT-1.

As noted above, the proposed development will entail the removal of extensive sections of historic stone walls which have not been quantified within the submitted application. Section 2.6.2.4.3 of the LAP specifically relates to the management of existing and historic stone walls within the LAP’s administrative boundary and sets out the following:

*Stone walls are part of our tangible and intangible cultural heritage. They are a link to the past and contribute to an area’s built, natural and geological heritage. They embody vernacular craft and traditional building skills, and their visual impact contributes positively to the character of our landscape. They include farm walls, landed estate walls, historic enclosures and graveyards. They form the edges to our country roads and define approaches to towns and villages. In recognition of their contribution to our quality of life, as well as their embodied energy, the Council aims to protect these walls and support owners in their retention and preservation.*

Objective	Description
<b>KENMD-WE-5</b>	Facilitate and promote streetscape and civic area improvements throughout the town to attain an attractive urban environment, while protecting features of architectural & cultural importance.
<b>KENMD-WE-8</b>	Facilitate and promote a distinctive, high quality public realm along the waterfront area by creating a pleasant, usable space for local residents & visitors alike.

Additionally, the following objectives of the LAP relate to the development proposed by Kerry County Council:

Objective	Description
<b>KENMD - 28</b>	Protect, preserve and promote the archaeological value of underwater sites in Kenmare's riverine, intertidal and subtidal environments.

There is recorded monument adjacent to the proposed development that is within the River Currane and also within the boundary of the Ballinskelligs Bay and Inny Estuary SAC. The presence of this monument is not noted within the applicant's Natura Impact Statement (NIS), the AHIA nor is its location indicated on any of the submitted drawings. With respect to this, it is not considered that the proposed development is compliant with KENMD-28.

#### 4 Lack of Sufficient Information to Support the Application

The subject application is made to ACP under Part XAB (Section 177AE) of the Planning and Development Act 2000 as inserted by Section 57 of the Planning and Development (Amendment) Act 2010. Local authorities are required to make an application to ACP for any proposed development in their functional area, or on the foreshore, where an appropriate assessment under the Habitats Directive is required, as is the case for the proposed development. Previously these projects would have been dealt with by local authorities under s.179 of the Planning and Development Act (as amended) and Part 8 of the Planning and Development Regulations, 2001 (as amended). Following this change in legislation and resultant procedure, these submissions are expected to contain significant detail and information due to (a) statutory requirements and (b) because the decision making process being outside the remit of the local authority means that local knowledge that might have been taken for granted by the local authority will now need to be set out clearly in the application.

Article 249 of the Planning and Development Regulations, 2001 as amended by the Planning and Development (Amendment) (No. 3) Regulations 2011 outlines the information that should be shared and submitted when a local authority makes an application to ACP. This includes the NIS but equally the plans and particulars of the proposed development.

It should be noted that ACP clearly set out its requirements in relation to applications made under 177AE and these requirements can be found on the ACP website under '*Applications for approval for Local Authority Developments made to An Bord Pleanála under 177AE of the Planning and Development Act, 2000*,

as amended (Appropriate Assessment) - Guidelines for Local Authorities'. It identifies the information required by ACP under plans, particulars and other considerations, noting that the level of detail is dependent on the nature, scale and complexity of the proposed development and the receiving environment.

While this suggests there may be a level of flexibility for local authorities in terms of the information that should be provided, it is expected that the information contained in an application must be comprehensive enough to allow for the adequate assessment of all aspects of the proposed development and fully elaborate on key aspects of same, i.e. that *"the project is accurately described in drawing and written form and its full implications relating to all relevant considerations including any mitigation measures proposed are clearly set out in the documentation."* (Section 1.3, AA Applications - Section 177AE: Introduction, as set out on the ACP website).

In relation to plans, it is stated that the nature and extent of the proposed development **should be fully described in drawing form** including provision of:

- Site location plan
- Scaled site layout plan,
- Plans, elevations and sections of all aspects of the proposed development for which approval is sought;
- Insofar as is relevant to the application for approval being made and having regard to the specific requirements as set out in section 177AE, note should be taken of the provisions of articles 23 (relating to requirements for plans, drawings and maps) and 83 (relating to documents and particulars) of the Planning and Development Regulations, 2001 (as amended) concerning plans, drawings and maps lodged.
- Where the application relates to proposed development remote from a recognised settlement, the site location map should identify the location of the proposed development site relative to the nearest identifiable settlement.
- Details in relation to proposed plant, infrastructure or equipment (for example proposals for wastewater treatment facilities or water pipelines) should be provided as far as possible. This should include plans and elevations (including in the context of the structures to which they may be affixed), sections and technical specifications.
- Construction methodology statements describing the full extent of all aspects of the proposed development including location of any site compounds, car parking, materials storage areas, lagoons etc. and mitigation measures where proposed.

The requirements for particulars are **equally as comprehensive**, with three specific tables provided documenting the scope of detail required. The following table sets out these requirements:

Effects on the environment of the proposed development including
<ul style="list-style-type: none"><li>▪ Full description of proposed development including details of construction and operational phases and impacts, likely emissions and/or discharges, phasing, and any mitigation measures proposed;</li><li>▪ Protected Structures, Architectural Conservation Area (ACA), archaeological sites or ancient monuments or other built heritage etc. immediately impacted upon or in vicinity whose setting might be affected;</li><li>▪ Impact on other designated sites such as Natural Heritage Areas;</li><li>▪ Adequacy of the public or other water supply;</li><li>▪ Public sewerage facilities and capacity to facilitate the proposed development;</li></ul>

- Availability and capacity of surface water drainage facilities and any history of flooding relevant to the site;
- Flood risk assessment in accordance with The Planning System and Flood Risk Management – Guidelines for Planning Authorities (November 2009);
- Hydrological / hydrogeological assessment of project;
- Assessment under the Water Framework Directive and associated regulations including any capacity of receiving waters to assimilate any additional discharge loadings in accordance with water quality standards and objectives;
- Assessment of landscape status and visual impact, as appropriate;
- Carrying capacity and safety of road network serving the proposed development;
- The likely significant impact arising from the proposed development, if carried out including impacts on amenities of properties in vicinity;
- Air, odour and noise emission assessments; and
- Any Special Amenity Area Order (SAAO) which may be affected by the proposed development.

#### The likely consequences for proper planning and sustainable development in the area in which it is proposed to situate the development

- Justification for the project;
- Main Development Plan provisions relating to the subject site and surrounding area including any relevant Core Strategy provisions;
- Relevant planning history relating to the subject site and the surrounding area;
- Relevant national, regional and local policies; and
- Description of use of adjoining, abutting or adjacent lands.

#### The likely significant effects of the proposed development on a European site (the Natura Impact Statement - NIS)

As defined under s. 177T of the 2000 Act (as amended) an NIS constitutes a

*"...statement for the purposes of Article 6 of the Habitats Directive, of the implications of a proposed development, on its own or in combination with other plans or projects for one or more than one European site, in view of the conservation objectives of the site or sites" and shall include "... a report of a scientific examination of evidence and data, carried out by competent persons to identify and classify any implications for one or more than one European site in view of the conservation objectives of the site or sites".*

An Coimisiún Pleanála as the Competent Authority carrying out the appropriate assessment on these cases should be provided with documentation based on the appropriate information. This would include any survey work results, baseline studies and further analysis and assessment of the effects of the proposed development on a European site(s). In absence of such An Coimisiún Pleanála may have to consider refusing to approve the proposed development, to use its powers under s. 177AE(5)(a)(i) to seek further information, to make alterations to the proposed development or to invite a revised NIS.

It is considered that a thorough and complete NIS and its inclusion into a single comprehensive report should provide the necessary information required to facilitate An Coimisiún Pleanála in its timely determination of the case.

The guidance from ACP is therefore very clear in terms of the level of information required to be submitted in support of any proposed development. Inspection of the submitted planning application documents by Kerry County Council confirms that the required level of detail has not been reached and there are numerous oversights and omissions present which would not allow ACP to adequately assess the proposed development. These include but are not limited to:

- Inadequate drawings provided for the proposed development including a lack of plans, sections and elevations of proposed structures including (i) the prefabricated bridge structure, its associated substructure, details of how this structure will tie into the existing bridge and surrounding boundary treatments, (ii) comprehensive details of the location and extent of the proposed instream works to facilitate the construction of the bridge substructure, (iii) comprehensive details quantifying the extent of the demolition of existing drystone walls and adequate information showing the proposed design of the replacement walls.
- Only 4 no. sections have been provided along the entirety of the 1.4km route with these all concentrated along the final 250m on the approach to Waterville village and in the immediate vicinity of and approach to Waterville Bridge. The positioning of these sections is selective and does not clearly illustrate the impact on existing boundary treatments, nor provide accurate detail of any proposed boundaries or embankments required to facilitate the development along the entirety of the route. Notably, a section through the bridge structure itself has not been provided.
- The new combined filter drain system proposed to serve the proposed shared path is referenced in text within the submitted PECR and other documents, including the existence of an outfall to the Currane River which is a designated SAC. Sufficient detail in drawing form is not provided for this system.
- There is a complete lack of plan details in relation to key points along the route including key intersections and crossing points which would normally be expected for a development of this type.
- Best practice guidance from TII (Design Phase Procedure for Road Safety Improvement Schemes, Urban Renewal Schemes and Local Improvement Schemes DN-GEO-03030) requires the completion of a Stage 1, Stage 2 or Combined Stage 1&2 Road Safety Audit (RSA) for such schemes. Typically, a Stage 1 RSA would be performed by an independent auditor, and this would demonstrate the recommendations for safety improvements, such as the inclusion of traffic calming measures etc. An RSA was not submitted with the application documents, and it is unclear whether one was conducted and report prepared on the scheme submitted to the Commission or if any recommendations from such an audit were implemented in the final design. Having regard to the nature of the proposed development, and the stated objectives of the scheme to enhance road safety and accessibility for vulnerable road users, this is a significant oversight.
- Discrepancies between the submitted drawings for the shared pathway, proposed boundary treatments, materiality details and the information contained in some of the associated supporting documents including the photomontages – see figures below for examples.

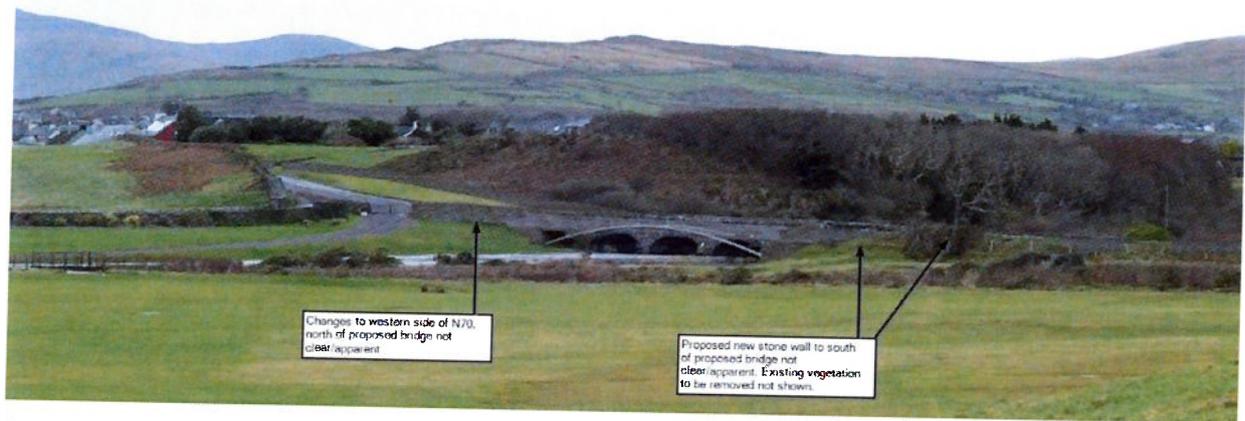


Figure 3 Marked up version of View 1 – Baslickane Lane from the submitted photomontages with identified discrepancies identified (Source: Brady Shipman Martin, February 2026)



Figure 4 Marked up version of View 3 – Baslicon / N70 Junction from the submitted photomontages with identified discrepancies identified (Source: Brady Shipman Martin, February 2026)

- Supporting reports are referenced in passing or summarised in the PECR, EIA Screening and NIS submitted, including LVIA and AHIA but full copies of these supporting reports have not been lodged as part of the application. The omission of these documents would not allow ACP to complete a comprehensive assessment of the proposed development particularly having regard to the sensitive characteristics of the area. Notably, an Ecological Impact Assessment has not been prepared for the proposed development despite the sensitive ecological context and the quantum of hedgerow proposed to be removed to facilitate the development.
- The likely significant impact arising from the proposed development does not appear to have been adequately considered giving the lack of detail, insufficient survey methods and lack of focus on key aspects including the heritage and landscape features impacted by the proposed development. This also includes the likely negative impact on the privacy and amenity currently enjoyed by Waterville House.
- Incorrect / outdated policy documents are referenced in the PECR and often relevant policies aren't referenced or considered, most notably the omission of any reference to relevant landscape specific policies in the PECR including the designated view of Waterville Bridge. This,

given the established visual sensitivity of the site and surrounding landscape, infers that an adequate assessment of the proposed development's consistency with the relevant policies has not been completed.

- While it is recognised that a final CEMP is dependent on consultation with the appointed contractor and the agreed construction methodology, the draft CEMP provided in support of any planning application should be adequately detailed to enable an assessment to be made that public and environmental health and environmental sensitivities are adequately protected during the construction phase. It is submitted that the draft CEMP in support of the proposed development is too general, does not adequately address any likely identified effects during the construction phase in particular and notably, there are also a number of inconsistencies in the mitigation measures identified within the PECR, NIS and draft CEMP.

Having regard to the above, it is clear that the detailed requirements for Section 177AE applications have not been met adequately in the submitted application and resultantly, a general theme of under assessment of the potential effects of the proposed development is a common thread throughout each of the submitted documents. This would not allow ACP to complete a true assessment of the implication and effects of the proposed development.

The gaps and deficiencies in the information submitted to ACP undermines the public participation process that can be undertaken in respect of the proposed development, which is a fundamental part of the s.177AE process. Indeed, as explained by the High Court in *Hoare*<sup>6</sup>, exceptions to the general rule that local authority development is exempted development are in place to "*safeguard[] the means through which the public may engage with, or participate in, significant schemes of public works which may impact on the rights of the public.*"

The logic set out in *Hoare* is doubly relevant in the context of the section 177AE procedure which seeks to incorporate mandatory requirements of EU law that give effect to the Aarhus Convention.<sup>7</sup> The Convention creates binding, overarching obligations that transcend numerous aspects of European and national law to ensure that public participation in environmental decision-making takes place at the **earliest possible stage** in the process, and that the public has all sufficient information available to it to meaningfully participate in that process.

This was confirmed in *LZ II*,<sup>8</sup> the CJEU has interpreted the provisions of the Convention as requiring member states to provide for members of the public to participate "effectively" in the AA process. Similarly, in *Holohan (cited above)*, the Court stated that for an AA to be valid "*all aspects of the plan or project*" must be identified. The lack of crucial plans and particulars in respect of the proposed development therefore undermine the quality of the assessment that will be undertaken, including the public participation aspect.

It is plain from a review of the information submitted as part of the application for the proposed development that inadequate information has been provided to enable the effective and meaningful participation in the approval process.

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<sup>6</sup> *Hoare & ors -v- Limerick City Council* [2011] IEHC 27

<sup>7</sup> Convention On Access To Information, Public Participation In Decision-Making And Access To Justice In Environmental Matters done at Aarhus, Denmark, on 25 June 1998

<sup>8</sup> Case C-243/15 LZ II

## 5 Consideration of Alternative Options

The subject application proposes a new two-way cycle and pedestrian bridge to be provided west of the existing Waterville Bridge and a new shared use cycle and pedestrian facility which will run adjacent to the upgraded N70 for an approximate length of 1.4km. While the submitted PECR states that *“the design seeks to minimise the impact of the project on this designation [visually sensitive area] by maintaining the location and level of the existing road and minimising impacts on existing boundaries where possible”*, the submitted application does not make any reference to alternative options (including do-nothing/do-minimum scenarios) having been considered nor has any Options Report been submitted with the application. Having regard to the sensitivity of the location, and the various policies set out at national, regional and local level, it is not acceptable that no alternative options of lesser impact have been considered to this than an over-designed and out-of-context engineered solution. Additionally, where impacts have been identified, such as the removal of approximately 350m of hedgerow, no specific landscape measures have been provided to mitigate this. Given the sensitivity of the site (landscape/visual, architectural heritage, and ecological), these should have been provided within the application. There is little comfort provided in the documentation submitted that the impact of this development won't have a significant negative impact on the local context.

The failure to put forward any alternative options analysis to ACP for their consideration, including an alternative which would omit the separate pedestrian/cycleway bridge, has also denied members of the public the opportunity to participate in environmental decision-making at the earliest possible stage. This is particularly important having regard to the specific planning policies governing the area, the identified impacts that are associated with the proposed scheme, particularly those that conflict with some of these policies, and the failure to identify any alternatives that would directly address or at least mitigate these impacts.

Having specific regard to the proposed development, MHL Consulting Engineers have been engaged to carry out a review of the proposal by Kerry County Council and have identified the following constraints:

- Owing to the location of the existing pedestrian pathway in Waterville on the eastern side of the carriageway as well as the concentration of established residential population and Hogs Head Hotel similarly on the eastern side, pedestrian and cyclist users of the shared facility along the western side of the N70 are required to cross the N70 at a number of locations over the length of the proposed scheme, 8 no. uncontrolled crossings in total.
- Considerable negative impacts to Waterville House and the Salmon Weir recorded monument in terms of visual and heritage impacts, as well as considerable impact on the designated view towards Waterville Bridge as set out in the KCDP.
- The proposed option does not improve existing deficiencies in the road geometry through Waterville Bridge.
- The proposal will hinder any future road improvement scheme to bring the N70 at this location to an appropriate TII Standard in terms of horizontal alignment and forward visibility.
- The current scheme proposes widening of the N70 to a 7.0m carriageway within the 80kph zone whilst maintaining a narrowed section of trafficked carriageway at Waterville Bride (<6.0m). There is no indication of a traffic calming scheme proposed as part of these works or a localized reduction in speed limit.

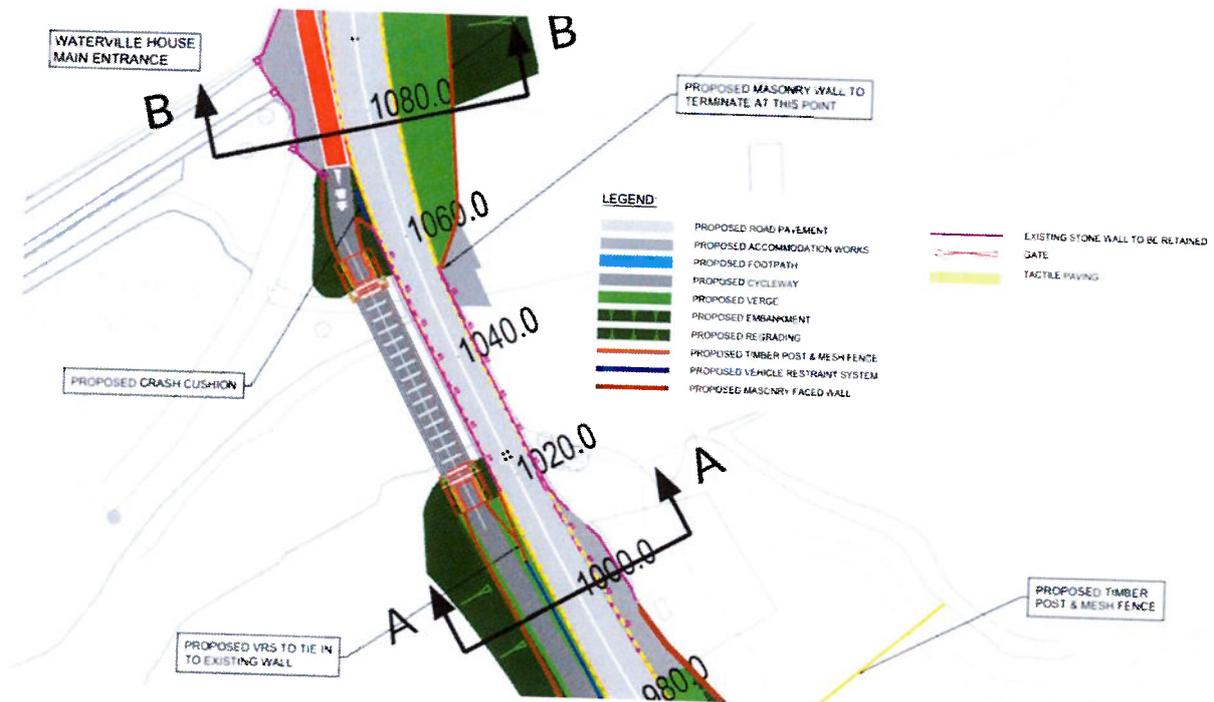


Figure 5 Extract from Site Layout Plan Drawing No. 11045-4104 submitted by Kerry County Council showing proposed bridge

In the identification of these obvious issues with the proposed development, MHL developed an alternative option to the subject proposal which notably, Kerry County Council have not considered within their own submission. It requires significantly less interventions to the existing environment than that required by the proposed development.

The alternative proposal is to traffic signal control the crossing of the Currane Bridge with a reduced trafficked carriageway of 3.25m (one-way only) and to provide a 3.0m raised shared surface on the eastern side of the bridge. The distance between stop lines is 90m. The speed limit on the N70 through this area would be reduced to 30kph. The flexibility of this option better aligns with the requirements of KCDP policy 14-33 than the proposed development. This policy requires a "proportionate design response...in order to minimise the impact of the scheme on unique road corridors and tourist routes." Full details of the alternative option are provided within the Engineering Review document by MHL Consulting Engineers.

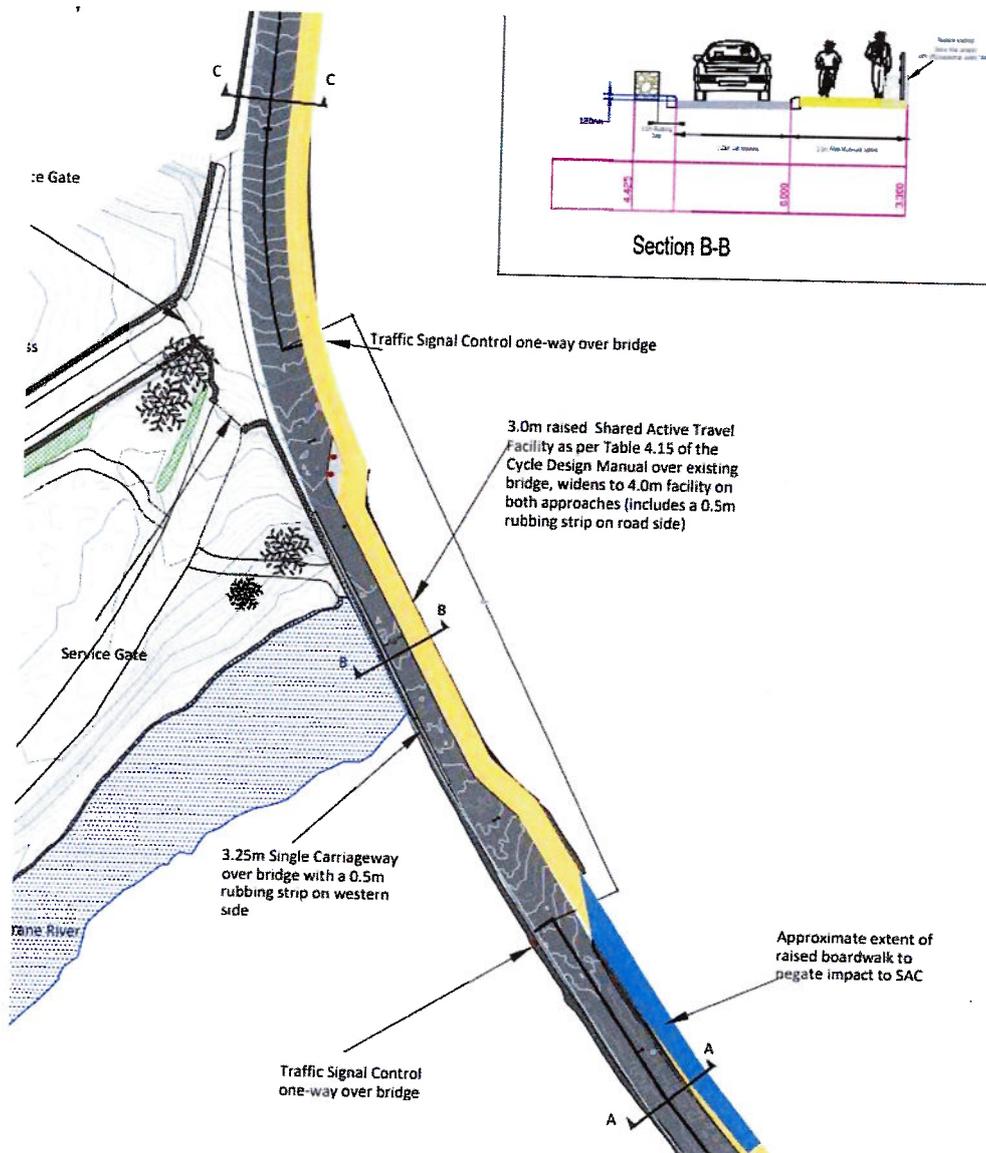


Figure 6 Extract from MHL & Associates Report showing alternative option for the crossing of the Currane River, Drawing No. WH\_RO\_D03

This option would have considerable advantages over the two-way cycle and pedestrian bridge that is currently being advanced by Kerry County Council, such as:

- The traffic signal control crossing meets the shared surface design criteria as well as having minimal visual impact on the environs. The western stone wall parapet is fully maintained, with some localised raising of the stone walls for safety.
- The shared pedestrian/cycle facility associated with the overall road improvement scheme will be on the eastern side of the N70 (Hog's Head Hotel side). It would reduce the total number of uncontrolled pedestrian crossing points from 8 no. as currently proposed to 4 no. in the alternative proposal. While representing an improvement in user safety, this would also reduce the associated visual clutter (signage, road

- markings, tactile paving etc.) which would mitigate the over-urbanisation of this sensitive landscape and maintain the distinctive rural character.
- The location of the pathway on the eastern side of the carriageway would match the development pattern of Waterville and primary desire lines for pedestrian connectivity from existing residents and those residing in Hogs Head Hotel which would negate the need to cross the N70 to access the shared pathway for the majority of intended users.
  - There are no in-streams works required with no adverse effects on any European sites. The southern approach to the bridge (Hog's Head Hotel side) will be constructed within lands identified by Kerry County Council further to grant of planning permission in the area and will constitute a raised boardwalk to minimise impact on the SAC (shown hatched blue in WH\_RO\_D03 attached to the MHL report). Reference is made to the accompanying Ecology Report prepared by Scott Cawley Ecological Consultants.
  - Avoids the need for large earthwork embankments, bridge abutments and new bridge crossing on the west side of the N70, and reduces the extent of removal of existing, distinctive stone walls.
  - The signalisation of the N70 will resolve road safety issues identified in terms of lack of forward visibility and speed through a substandard bend on the approaches to the junction serving Waterville House.
  - The alternative option will provide the identified traffic calming works necessary for the N70 on the approach to Waterville Bridge and will facilitate tourist coaches travelling in both directions at this location.
  - Future road improvement works will not be hindered by this option.
  - The cost of this option is significantly lower than the submitted option with less land-take required. The submitted proposal requires a permanent land take of 2.6752 Ha. If the alternative option is adopted the land take requirement is expected to reduce to 2.5 Ha (estimated based on a marginal increase in land take required on the eastern side of the N70).
  - The signalisation will improve the safety for residents and staff of Waterville House accessing the N70 as it will control speed through this area which as previously outlined is substandard in terms of road geometry.
  - The construction phase will not require the closure of the N70.
  - In the event of power outages there is sufficient forward visibility between stop lines to allow a 'Yield' system to operate. As in other locations within the County the use of Yield control may be sufficient and could be considered as a variation of the proposed alternative option. An example of such is on the N70 on the outskirts of Glenbeigh and on the R563 Milton-Listry Road, a busy regional road.
  - Reduce the landscape and visual impacts on Waterville House and grounds, the Salmon Weir (RMP)/Butler's Pool and Waterville Bridge.
  - There is no impact on the 'Butler's Pool' site, the fish Weir recorded monument (KE098-094) and will have minimal impact on Waterville House. Reference is made to the accompanying BSM LVIA report, Architectural Heritage Impact Assessment prepared by Consarc Conservation, and the ecology report as prepared by Scott Cawley Ecological Consultants.

In summary the alternative proposal as outlined delivers on the objectives of the N70 Waterville to Ballybrack Road Improvement Scheme while **avoiding the significant negative** effects on the landscape and visual environment associated with the proposed development. It can also be constructed without adverse effects on any European sites and has the full support of the owners and operators of Waterville

House and Waterville Golf Links. This proposed alternative option which restricts the intervention to within the footprint of the existing bridge is clearly the most effective way of protecting the national scenic and heritage importance of the receiving environment.

There are examples of similar design solutions being successfully implemented throughout Ireland in areas of high scenic and environmental value. It is considered that this section of the N70 Ring of Kerry route falls within this category and that the less intrusive alternative 'shuttle flow' system should be given serious consideration.

It is confirmed that we indicated to Kerry County Council that we were working on an alternative proposal for their consideration but before it could be submitted, we were advised that newspaper notices were about to be published and application could not be withdrawn or amended.

## 6 Ecological Considerations

Scott Cawley have prepared a technical review of the Natura Impact Statement (NIS) and associated ecological assessments that have been provided as part of the application by Kerry County Council. The purpose of this review was to provide commentary from an ecological perspective on the adequacy of the documentation supporting the subject proposal.

Two separate walkover ecological surveys were carried out in support of the review by Scott Cawley in December 2021 and August 2025. These included habitat surveys, as well as an appraisal of the proposed development site. These surveys were carried out in order to understand the ecological constraints of scheme, including the proposed new bridge which traverses the River Currane.

The River Currane extends within the boundaries of both Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC to the east and Ballinskelligs Bay and Inny Estuary SAC to the west.

The surveys carried out by Scott Cawley in support of their review identified the following Annex I habitats that are not identified in the submitted application which are likely to be part of the QI resource of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC and are within or adjacent to the location of the proposed bridge:

- Molinia meadows [6410] – located either side of the N70 south of the River Currane;
- Vegetation of flowing waters [3260] – comprises the freshwater sections of the River Currane. This is a broadly defined habitat type with relatively few species required to qualify as the Annex I type;
- Priority Alluvial woodland [91E0] – Located in a narrow band on the northern shore of the River Currane, east of the proposed development site.

It has been noted that in presenting the habitat survey data for the proposed development, the applicants have failed to provide objective information supporting their determination that the habitats within and adjacent to the subject site did not correspond to any Annex I habitat types. The failure of Kerry County Council to identify three species commonly associated with *Molinia* meadows [6410] habitat in particular points to a deficiency in the surveys carried out by Kerry County Council.

Also, it must be noted that at Section 3.3.1.1 of the applicant's NIS, the Council stated that they were unable to carry out fulsome surveys "due to landowner access restrictions." For the avoidance of doubt, access to the site was never denied to the Council and our client have facilitated the Council to access their lands to conduct investigations including ground investigations for the purposes of the proposed scheme. Therefore, it can be reasonably discerned that notwithstanding issues with the lack of more

recent survey data, there are identifiable 'gaps' in the information utilised by the Council to complete their ecological assessments. For the purposes of Article 6(3) of the Habitats Directive, for an assessment to be considered "appropriate" it must not contain *lacunae* and must contain complete, precise and definitive findings and conclusions capable of spelling all reasonable scientific doubt as to the effects of the project on the site concerned<sup>9</sup>. As set out above, and in the report prepared by Scott Cawley, the NIS prepared by the Council contain *lacunae*, and therefore, in the absence of significant further information, cannot form the basis of an appropriate assessment.

It is also submitted that the lack of adequate survey data is analogous to the facts of a recent decision of the Commission to refuse planning permission in case ABP-319722-24. In that decision a lack of "any water quality monitoring data for the watercourse that flows through the site" was contrary to objective KCDP 11-2. Just as in that case, the absence of adequate surveying data in support of the proposed road scheme cannot be considered consistent with the objective of maintaining the nature conservation value and integrity of Special Areas of Conservation, Special Protection Areas, Natural Heritage Areas and proposed Natural Heritage Areas.

Furthermore, it is repeatedly stated by the applicant that the proposed bridge will be constructed from the riverbank of the River Currane with no instream works proposed and therefore, there are no works proposed within the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC. However, it appears that the boundaries of the SAC as presented in Figure 4-7 of the NIS are not reflective of the current SAC boundaries, and that the proposed works fall within the SAC boundary.

Further to this, surveys carried out by Scott Cawley indicate that the proposed southern outfall is to be constructed in an area which is part of the QI resource of *Molinia* meadows [6410] of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC. It is the view of Scott Cawley that any proposal that results in the loss of QI *Molinia* meadow [6410] habitat could undermine the site-specific conservation objective 'habitat area' as listed in Table 7-1 of the submitted NIS for the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC [000365], and that significant adverse effects on site integrity cannot be ruled out arising from such a proposal.

The aquatic ecological data to support the application has been derived from an Aquatic Ecological Impact Assessment (EclA) which was originally prepared in December 2017, which notably, has not been submitted as part of the application's supporting documentation. Notwithstanding this, the Aquatic EclA was carried out at an early high-level assessment stage of the project and has not had regard for details proposed within the NIS such as the location of built infrastructure which could affect aquatic species (e.g. the location of any drainage outfalls).

It is not clear based on the information provided within the application and NIS whether or not the proposed development includes expansion of the existing embankments beyond their existing footprint. The NIS has not considered the implications of the expansion of the embankments on the QIs of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC.

The review of the submitted NIS by Scott Cawley concludes that it is not in agreement with the conclusion of the applicant's NIS that the proposed development will not adversely affect the integrity of any European sites, either alone or in combination with other plans or projects. Based on surveys carried out in support of the review, it is considered that the proposed development has the potential for significant adverse effects on the integrity of the Killarney National Park, Macgillycuddy's Reeks and Caragh River

<sup>9</sup> See for example *Holohan, Grace and Sweetman, C-164/17, 2016, Lesoochránárske zoskupenie VLK, C-243/15*

Catchment SAC. The absence of a standalone Ecological Impact Assessment (EclA) to support the application is noted.

The opinion of Scott Cawley in this respect cannot be discounted by ACP in favour of the NIS presented by the Council. In **Holohan**,<sup>10</sup> the CJEU at §51-52 of that judgment, the Court confirmed that, where differing views as to the environmental effect of a proposed development arises, the decision-maker must, prior to granting development consent, satisfy itself that there is no reasonable scientific doubt with respect to the environmental impact of the work envisioned on the site concerned. The Court continued to state that:

*“... the Habitats Directive must be interpreted as meaning that, where the competent authority rejects the findings in a scientific expert opinion recommending that additional information be obtained, the “appropriate assessment” must include an explicit and detailed statement of reasons, **capable of dispelling all reasonable scientific doubt concerning the effects of the work envisaged on the site concerned.**”*

This decision has recently been followed in **Eco Advocacy**.<sup>11</sup> Here the High Court confirmed that “in principle the [decision-maker] can prefer the position of one expert to another” however where, as in the case of an appropriate assessment, the exclusion of doubt as to environmental effects on relevant European sites must be achieved, the decision-maker can only prefer a view over another “in a way that achieves that objective rather than being merely reasonable (because other views may also be reasonable – “reasonable” primarily means having supporting evidence, so if there is conflicting evidence then a multiplicity of views would pass muster on that test – that wouldn’t satisfy the habitats directive’s requirement to exclude scientific doubt).”

Therefore, where Scott Cawley have reached the conclusion based on the evidence submitted with the application and following their own assessment that (i) there are *lacunae* in the assessment undertaken by the Council, and (ii) the proposed development will result in the permanent removal of an Annex I habitat, it is submitted that ACP must determine that it cannot be excluded on the basis of objective scientific evidence that the proposed scheme, as submitted will adversely affect a European Site. This conclusion can only be displaced through the provision of further information to exclude the reasonable scientific doubt raised in Scott Cawley’s report.

In addition, with respect to EIA screening, the Scott Cawley report notes that the gaps in the NIS and ecological assessment preclude an assessment of, at least, the nature, size and location of the proposed development that would enable a determination that it is unlikely to give rise to significant effects on the environment for the purposes of Article 4(2) and Annex III of the EIA Directive.<sup>12</sup>

Scott Cawley have reviewed the proposed alternative crossing option for the River Currane developed by MHL Consulting Engineers comprising the signalisation of the N70 on the approaches to the Waterville Bridge. It has been determined that the alternative signalled crossing can be delivered with a reduced footprint relative to the current application being progressed by Kerry County Council, resulting in reduced associated habitat loss and risk to the integrity of any European sites.

<sup>10</sup> Case C-461/17 Holohan and Others

<sup>11</sup> Eco Advocacy CLG -v- An Bord Pleanála [2025] IEHC 15

<sup>12</sup> As confirmed in **Case C-41/24, Waltham Abbey Residents Association**, based on the precautionary principle EIA is required where there is “a probability or a risk” of significant environmental effects. A risk of significant environmental effects exists “if it cannot be excluded on the basis of objective evidence that the project is likely to have significant effects on the environment”.

## 7 Landscape and Visual Impacts

A summary assessment of a Landscape and Visual Impact Assessment (LVIA) prepared by RPS is provided in the submitted Planning and Environmental Considerations Report (PECR) however a copy of the full LVIA is not provided as part of the submitted application. Given the context and sensitivity of the receiving landscape and visual environment it is unclear why a more comprehensive landscape assessment has not been provided.

Brady Shipman Martin have carried out a review on the landscape and visual aspects of the proposed scheme by Kerry County Council, the full report detailing this review accompanies this submission and is summarised here for context. The review is supported by onsite surveys carried out in August 2021, January 2024 and December 2025.

The proposed development is located within the 'Lough Currane and Máistir Gaoithe' Landscape Character Area (LCA) as defined by the KCDP. Within the KCDP, the area south of Waterville is also located within a designated 'Visually Sensitive Area' and is subject to the highest levels of landscape protection. Further to this, there is a designated view looking west from Waterville Bridge towards Ballinskelligs Bay and Waterville House.

The report by Brady Shipman Martin notes the proposed development will bring about direct, permanent changes to the highly sensitive landscape surrounding Waterville Bridge and Waterville House. There would be significant, negative, permanent effects on the designated viewpoint westward from the Waterville Bridge. There appears to be no specific landscape planting mitigation plans with the application.

As noted previously, MHL Consulting Engineers have presented an alternative option for the crossing of the Currane River comprising a signalled crossing on the eastern side of the N70 and within the existing parapet walls of Waterville Bridge.

The report by Brady Shipman Martin notes that the alternative solution avoids the significant negative effects on landscape and the visual environment associated with the current proposal before ACP, while remaining to deliver the objectives of improved pedestrian and cycle connectivity along this section of the N70. This alternative provides a sensitive design solution that is more appropriate for a landscape of such high local, national and international significance and is consistent with TII guidance and the Design Manual for Urban Roads and Streets (DMURS).

The summary assessment submitted by Kerry County Council with the subject application attempts to downplay this significance, and this is further amplified by a lack of specific, detailed landscape mitigation measures prepared by a competent landscape professional. The submitted PECR notes the following in their summary of the LVIA, which has not been submitted with the subject proposal:

*"The proposed development will be evident from four viewpoints where the degree of effect varies. The **significance of effect from viewpoints 1, 2 and 3 are significant**, whilst the **significance of effect is found to be profound for viewpoint 4.**"*

While there is no reference to the quality of these identified effects in the PECR (i.e. positive, neutral or negative), it appears that the report has accepted that significant and profound impacts on the landscape will arise. The following guidance documents are referenced in the PECR, 'Landscape Character Assessment (LCA) and LVIA for Specified Linear Infrastructure Projects: Overarching Technical Document' (Transport Infrastructure Ireland (TII) Publication PE-ENV-01101, December 2020)', which defines effects as follows:

- **Significant Effects** - An effect which, by its character, magnitude, duration or intensity significantly alters most of a sensitive aspect of the environment.
- **Profound Effects** - An effect which obliterates sensitive characteristics.

In light of these landscape and visual effects, and reflecting the planning policies applicable to the area which generally seek to preserve the landscape and visual environment, it would be considered that the nature of these significant-profound landscape and visual effects would be negative. These effects were considered acceptable by the applicant without the need for mitigation. As such, it cannot be said that the development is integrated into the landscape. Furthermore, the bridge is considered to be a significant visual impact, but this is dismissed due to the fact that there are limited viewpoints of this crossing. Those viewpoints assessed have not considered Waterville House which is a primary tourist destination for the settlement of Waterville which contributes to the built heritage of the village, nor have they considered the designated viewpoint west of Waterville Bridge as set out in the KCDP. It is therefore clear that the proposed development will contravene the policies of the KCDP referred to above that pertain to landscape impacts and in particular will detrimentally impact on the character, integrity and distinctiveness and scenic value of the area. In accordance with objective e KCDP 11-78, the proposed development cannot not be permitted.

Based on TII's guidance document (Landscape Character Assessment (LCA) and Landscape and Visual Impact Assessment (LVIA) of Specified Infrastructure Projects - Overarching Technical Document, PE-ENV-01101, Table 5), Brady Shipman Martin have concluded that landscape significance and sensitivity is very high and visual significance/sensitivity to be very high. The assessment accompanying the proposal underplays the significance of the landscape and visual aspects.

Please refer to the Landscape Report by Brady Shipman Martin for a full and comprehensive overview of the shortfalls in the assessment of landscape and visual effects provided in the submitted PECR and EIA Screening for the submitted scheme and a detailed consideration of the merits of the proposed alternative from a landscape and visual perspective.

## 8 Heritage Impacts

Waterville House is of considerable architectural significance and makes a positive contribution to the surrounding landscape and local area. Notwithstanding that Waterville House and grounds are not included on the Record of Protected Structures (RPS), the Architectural Heritage Impact Assessment (AHIA) prepared by Consarc Conservation which accompanies this submission contains a Statement of Significance which considers that Waterville House should be listed on the National Inventory of Architectural Heritage (NIAH) and the RPS.

It is also noted that similarly, Waterville Bridge should be listed on the NIAH and should be added to the RPS. The Statement of Significance details that the bridge was built c. 1899 to replace an earlier bridge. It has retained its original form with cut stone voussoirs, rubble parapets and cutwaters. It is a typical bridge frequently seen across Kerry and rural Ireland and makes a positive contribution to the surrounding area. The N70 is lined with random rubble walls, built with local old red sandstone stone with a soldier course capping. These form an important part of the local landscape and are characteristic of the Irish rural landscape.

The medieval weir and the fisheries on the River Currane comprise a recorded monument (KE098-094---, Weir - fish) that is within the curtilage of Waterville House and forms an integral part of the cultural landscape. The first known written account of the weir dates to 1604, indicating that there has been

fishing at this location for over 500 years which further establishes the significance to local heritage that this site holds.

It must be noted that a full and comprehensive AHIA was not submitted in support of the proposed development, albeit a short summary was provided within the submitted PECR. Figure 11-1 of the PECR identifies the study area utilised in the assessment. However, an obvious and significant omission is the recorded monument within the Currane River c. 90m west of the proposed development boundary. The proposed development forms part of the backdrop and setting of this RMP and its exclusion from the study area indicates a lack of care on the part of the applicant. Similarly, notwithstanding the current status of Waterville House, the impact of the scheme, and the new bridge structure in particular, on its historic setting due to forming part of its attendant grounds and setting was not considered. The AHIA prepared by Consarc Conservation concludes that Waterville Bridge forms an integral part of the rural landscape and that the weir and both Waterville Bridge and House form an important part of the area's intangible cultural heritage. The proposed works, as submitted, will have a significantly negative impact on Waterville House and its setting, and on the heritage and social value of the cultural landscape. It also identifies that the proposed development would have a profound impact on the setting of the fishing pools and the medieval salmon weir. This is in contravention of Objective KCDP 8-27 to ensure that development within the vicinity of a recorded monument, zone of archaeological potential or archaeological landscape **does not detract from the setting of the feature and is sited and designed appropriately and sympathetically with the character of the monument / feature / landscape and its setting.**

The alternative proposal is a more appropriate solution and will not negatively affect this important historic landscape.

Please refer to the AHIA by Consarc Conservation for a comprehensive overview of the heritage impacts of the proposed scheme.

## 9 Material Contravention

In **Coolkill**, the High Court characterised a County Development Plan as a "*solemn representation*" and a "*environmental contract*" as between the Council and the Public. Such is its place at the heart of the planning scheme, that Local Authorities who seek to bring about development are positively prohibited from contravening their own development plan. This is set out in section 178 of the Planning and Development Act 2000, as amended, which provides:

*"178.—(1) The council of a county shall not effect any development in its functional area which contravenes materially the development plan."*

In **Carman's Hall**,<sup>13</sup> the Court considered section 178 and stated that "[b]efore embarking on development, a local authority should therefore address its mind to the question as to whether or not the particular development represents a material contravention of the Development Plan. **Presumably no responsible local authority would proceed with the development unless it was satisfied that there was no material contravention involved**".

As outlined in Section 2, we consider that the proposed development is not in accordance with a significant number of governing policies set out at national, regional and local level. While many of these

<sup>13</sup> Carman's Hall Community Interest Group & Ors v Dublin City Council [2017] IEHC 544

policies are written in a manner that may allow flexibility and / or differing views on interpretation, the scheme, as proposed, runs contrary to their spirit and intent. In addition, there are a number of policies that are very specific in how they have been drafted and clear in their intent, which the proposed development will materially contravene if carried out. It is also evident from the information submitted with the application that the Council failed to turn its mind adequately or at all to the potential that the road scheme as proposed contravened its own development plan.

Having regard to the proposed development, these policies generally relate to landscape and heritage aspects within the KCDP and having particular regard to the Landscape Review by Brady Shipman Martin (summarised in Section 6) and the Architectural Heritage Impact Assessment by Consarc Conservation (summarised in Section 7), it is clear that the proposed development is in contravention of the policies that Kerry County Council themselves have authored. To reiterate some of the specific policies and objectives previously identified above:

- The proposed development is located within a designated Visually Sensitive Area where policy (Section 11.6.4 of the KCDP) requires that:
  - Individual proposals shall be designed sympathetically to the landscape and the existing structures.
  - Shall be sited so as not to be unduly obtrusive or have an adverse impact on the character, integrity and distinctiveness of the landscape or natural environment.
  - Existing features including hedgerows shall be retained to screen development and form part of a comprehensive landscaping scheme.
- Objective KCDP 11-78 requires that the landscape of the County is protected by ensuring that any new developments do not detrimentally impact on the character, integrity, distinctiveness or scenic value of their area. Any development which could unduly impact upon such landscapes will not be permitted.
- Objective KCDP 11-79 requires the preservation of the views and prospects as defined on Maps contained in Volume 4 - designated view facing west toward Waterville House from the Waterville Bridge as shown in Figure 2 above.
- Objective KCDP 11-81 prohibits developments that have a material effect on views designated in this plan from the public road or greenways towards scenic features and/or public areas.
- Objective KCDP 8-27 requires decision-makers to ensure that development (including forestry, renewable energy developments and extractive industries) within the vicinity of a recorded monument, zone of archaeological potential or archaeological landscape does not detract from the setting of the feature and is sited and designed appropriately and sympathetically with the character of the monument/feature/landscape and its setting.

Having specific regard to these policies, and how the proposed development is in direct material contravention of same, it should be reiterated that a full and comprehensive LVIA in support of the proposed development has not been provided but there is a summary contained in the PECR. This summary concludes that the proposed development will be evident from four viewpoints where the degree of effect varies from significant to profound. This conclusion of significant to profound adverse impacts was accepted, and no measures are put forward to mitigate these effects. Also of note is that the designated view towards Waterville Bridge was not considered in the LVIA. As such, it can be concluded that the proposed development has not adequately considered the visual sensitivity of the landscape within which it is proposed, nor has the scheme been designed sympathetically to the landscape and is unduly obtrusive in this context. If permitted it will, as identified in the PECR and further addressed in Brady Shipman Matrin's report, have a significant to profound adverse impact on the

character, integrity and distinctiveness of the landscape which would contravene objectives KCDP 11-78, KCDP 11-79 and KCDP 11-81.

Further, in relation to built heritage, Objective KCDP 8-27 seeks to ensure that development within the vicinity of a recorded monument, zone of archaeological potential or archaeological landscape does not detract from the setting of the feature and is sited and designed appropriately and sympathetically with the character of the monument/feature/landscape and its setting. A full and comprehensive AHIA has not been submitted by the Council as part of the planning application documents but a summary of same is provided within the PECR. Figure 11-1 of the PECR identifies the study area utilised in the assessment however a glaringly obvious omission is the recorded monument within the Currane River c. 90m west of the proposed development boundary, i.e. KE098-094-- Weir - fish: Waterville, Baslickane. The proposed development forms part of the backdrop and setting of this RMP and its exclusion from the study area indicates a lack of care on the part of the applicant. The AHIA by Consarc Conservation identifies that the proposed development would have a profound impact on the setting of the fishing pools and the medieval salmon weir, i.e. 'An impact which obliterates sensitive characteristics.' Therefore, the proposed development is in contravention of Objective KCDP 8-27.

It is arguable, and indeed persuasive, that the application of provisions of the 2000 Act that deal with development by Local Authorities such as s.177AE, is predicated on s.178 being satisfied, given the express restriction on a local authority effecting any development which contravenes materially its development plan.

This interpretation is supported by the provisions of section 177AE itself, which contains at section 177AE(12) a mandatory obligation to have regard to the provisions of the relevant development plan. ACP must also consider other provisions of the 2000 Act where relevant which would include the section 178 restriction. When assessing compliance with a development plan, it is submitted that ACP should not grant approval in material contravention of a plan as to do so would facilitate a breach of section 178.

In addition, section 178 contains no express provision that would allow ACP to grant approval for a local authority project in material contravention of that development plan unlike other planning approval provisions in the 2000 Act. This would appear to be a clear policy decision reflecting the clear judgement of **Coolkill** that a development plan represents an "environmental contract" and a "solemn representation" as between the planning authority and the public, and the express prohibition contained in section 178.

Finally, **Frescati Estates Ltd**<sup>14</sup> found that permission should not be granted for development that has no prospect of being carried out. Given the prohibition in section 178, if a finding of material contravention was made, as it appears clear it should, the Council would be unable to carry out the proposed development even the Commission could grant approval under section 177AE.

Therefore, even if ACP was minded to grant permission for the proposed development, there is no sufficient legislative or legal basis to enable them to do so.

The alternative proposal by MHL Consulting Engineers demonstrates that there is a feasible and reasonable alternative available and there are several precedent examples of similar approaches being taken where the landscape / heritage sensitivity of the area requires a less engineered approach including Slane Bridge on the N2, Killaloe Bridge on the R496 and Glenbeigh Bridge also on the N70. Similarly there are also a number of examples of road design urbanisation and a reduction in quality of the landscape and visual environment in other sections of the N70 / Ring of Kerry road improvement

<sup>14</sup> Dun Laoghaire Corporation v Frescati Estates [1982] ILRM 469

schemes including Castlecove and Tahilla, where existing landscape fabric (stone walls, natural vegetation, topography etc.) have been removed and replaced with elements more suited to an urban/less sensitive location. Should this approach be sustained, it will lead to the incremental fragmentation and degradation of the Ring of Kerry and Wild Atlantic Way which will have a significant impact on the landscape and heritage assets which are protected under local, regional and national policy. The supporting reports confirm that this proposal would be of lesser impact across all disciplines and would perform at an equivalent or better level than the proposed development in terms of road safety and usability for vulnerable persons.

If ACP does not conclude that the proposed development contravenes materially the above-mentioned policies and objectives it is still required to exercise its planning judgment to resolve the clear tensions between provisions of a development plan that have been identified in this report in favour of the more specific provisions.

In **Four Districts**,<sup>15</sup> the Court confirmed this position, stating that "... it seems that the best view of the law is that any tension between a general clause and a specific provision is best resolved by favouring the specific provision, on the basis of *generalia specialibus non derogant*".

As has been set out in throughout this report, several objectives of the KCDP are contravened by the proposed development which are specific, and in particular:

- Section 11.6.4 of the plan mandates that proposals be designed sympathetically to the landscape and existing structures and that hedgerows be retained. Objective
- KCDP 11-78 requires that new developments do not detrimentally impact on the character, integrity, distinctiveness or scenic value of an area and that "*any development which could unduly impact upon such landscapes will not be permitted*".
- **KCDP 11-79 requires the preservation of views, and KCDP 11 -81 prohibits developments that will have a material effect on such views.**
- **KCDP 8-27 requires that decision makers ensure that development located within the vicinity of a recorded monument not detract from the setting of the feature** and is sited and designed appropriately and sympathetically with the character of the monument/feature/landscape and its setting.

By contrast, the proposed development is generally justified by reference to various policies of the KCDP as set out in section 3.3.1 of the PECR. These policies are all what would be described as "general" objectives within the meaning of **Four Districts**, seeking to "facilitate", "promote", "prioritise" and "enhance" certain matters. For the avoidance of doubt, they do not specifically require that this stretch of the N70 be upgraded, nor that it be upgraded in the specific manner proposed.

The Council do rely on some objectives that envision that works will be undertaken in respect of a large section of the N70. Table 14.3 of the KCDP sets out a list of priority road schemes, which includes the N70 Tralee to Killorglin & N70 Killorglin-Cahersiveen-Kenmare. It is understood that the proposed development is a subset of this overarching roads project. Table 14.3 is supported by objective KCDP 14-27, which seeks to attain "*the provision of all road infrastructure projects set out in Table 14.3*".

However, neither Table 14.3 nor objective KCDP 14-27 are absolute, and neither of these objectives nor any other provisions in the KCDP prescribe the means by which the road must be upgraded, such that the proposed development could not be delivered in an alternative manner. In the absence of prescribed,

<sup>15</sup> Four Districts Woodland Habitat Group & Ors -v- An Bord Pleanála & Ors [2023] IEHC 335

mandatory methodology by which the proposed development is to be carried out, the Council is required, both by law and its own stated objectives, to be design the road in a manner sympathetic to the environment, landscape and the heritage of the area. This is expressly recognised in the text of KCDP 14-27 itself, which requires that the road schemes be provided in a “sustainable” manner. This call for sustainability is echoed in KCDP 14-34<sup>16</sup>. Furthermore, and most notably, objective KCDP 14-33 mandates that the Council ensures a **“proportionate design response to the identified need for the projects listed in table 14.3 in order to minimise the impact of the scheme on unique road corridors and tourist routes.”**

The effect of these express qualifications to Table 14.3 and objective KCDP 14-27 is that they are clearly intended to be considered a “general objective” within the meaning set out in *Four Districts* when compared to the more specific policies of the KCDP referenced in this report. The flexibility inherent to KCDP 14-27 necessitate that a decision-maker considering the proposed development ought to place greater weight on the more specific objectives that lack such flexibility in terms of their delivery, such as, in particular, section 11.6.4 of the KCDP, and objectives KCDP 11-78 KCDP 11-79 and KCDP 11-81, KCDP 8-27 as well as the requirement that the Scheme be delivered proportionately and in a manner that minimises the impact on unique road corridors and tourist routes under KCDP 14-33.

In the present application, there are a number of policies and objectives that create mandatory obligations that are directly applicable to the area and seek to preserve the landscape, built heritage and the environment. On the other hand, the proposed development is only supported by general and aspirational policies, or specific policies with in-built flexibility to ensure adverse effects do not arise as a result of the carrying out of the relevant development.

As set out above and in the reports referred to within this submission, the proposed scheme is overdesigned and liable to giving rise to significant adverse effects on ecological, landscape and heritage receptors in contravention to objectives of the KCDP. The mere fact that the project is envisioned by objective KCDP 14-27 (**albeit as a subset of a larger N70 road improvement scheme**) does not mean the Council can design and deliver a road scheme that conflicts with its own stated objectives. Indeed, the KCDP requires that the proposed road development is “sustainable”, “proportionate” and “minimises the impact” of the scheme on the receiving environment.

However, the proposed development cannot be considered sustainable in an all-encompassing, cross-disciplinary manner given the identified significant landscape, heritage and ecological impacts resulting from its implementation. Therefore, the development as proposed has failed to meet these objectives and it is respectfully submitted that ACP is required to exercise its judgment in favour of the specific objectives and refuse to approve the proposed development.

## 10 Adequacy of EIA Screening

Article 2 of the EIA Directive<sup>17</sup> require that projects likely to have significant effects on the environment by virtue, inter alia, of their nature, size or location shall be subject to development consent and an assessment with regard to their effects. This assessment must relate to the *“whole project in question”* and must include an assessment of the cumulative of impact with the impacts of other existing and/or approved projects In the context of roads developments, the CJEU confirmed that the EIA Class of the

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<sup>16</sup> KCDP 14-34 - Support the sustainable upgrading, strengthening and improvement to the existing Regional Road network including road schemes and by-passes outlined in Table 14.3.

<sup>17</sup> Directive 2011/92/EU as amended by Directive 2014/52/EU

"Construction of Roads" includes significant improvement works, such as realignment or, it is submitted, the provision of a separate pedestrian and cycle way (**CODA**).<sup>18</sup>

For the purposes of EIA screening, Annex III provides that cumulation with other existing and/or approved projects must be considered for the purposes of determining whether an EIA is required. In **Ó Griánna**<sup>19</sup> the Court confirmed that an assessment of the whole project concerned for the purposes of the EIA Directive requires an assessment of all aspects of the project that are "an integral part of the overall development". The CJEU in **Bund Naturschutz**<sup>20</sup> also held that account must be taken "as far as practically possible" in the EIA of any current or future plans to extend the specific project in hand.

In the present case, the proposed development appears to form part of the route corridor of a larger overall road project: N70 Tralee to Killorglin & N70 Killorglin-Cahersiveen-Kenmare. This understanding is reflected in the Council's PECR submitted with the application, which references objective KCDP 14-27 within the policy context.

Further works to the N70 have either been proposed, are being undertaken or have been constructed, including:

- N70 Kilderry Bends Improvement Scheme between Milltown and Killorglin: Referenced in section 14.4 of the KCDP as being completed
- N70 Castlecove Bridge Replacement: This Part 8 Application closed on 14 November 2025.
- N70 Creamery Cross Road Project: This Part 8 Application closed on 5 September 2025
- N70 Milltown Bypass: This is a priority road infrastructure project set out in Table 14.3 of the KCDP.
- N70/N72 Killorglin Bypass: This is a priority road infrastructure project set out in Table 14.3 of the KCDP.

The Council has and intends to significantly upgrade and develop the N70 to improve road alignment and provide for distinct pedestrian and cycle lanes. It also appears likely that some of these works will be in close proximity to, integrated into or otherwise support stretches of the proposed South Kerry Greenway. However, the EIA screening for the proposed development omits any reference to any wider N70 road scheme or improvement works

It is submitted that the EIA screening contains an insufficient cumulative impact assessment as it is limited to "a review of planning applications within 500 meters of the site for the years 2017 - 2021" (See table 8-1). Neither the screening report, nor any other documentation submitted to ACP in support of the proposed development contain any cumulative assessment that considers the potential cumulative impacts of the wider N70 road scheme, as provided by the Council in their development plan. No cumulative assessment has been undertaken in respect of any proximate road works that have taken place or have been permitted within the intervening period between 2021 and the date of application (December 2025) which are liable to giving rise to similar visual, biodiversity and heritage impacts as the proposed development. As also noted above, the information on which the EIA Screening is based in particular as regards LVIA and ecological impacts is also deficient.

<sup>18</sup> Case C-142/07 *Ecologistas en Acción – CODA v Ayuntamiento de Madrid*

<sup>19</sup> *Ó Griánna v An Bord Pleanála* [2014] IEHC 632

<sup>20</sup> Case C-393/92 *Bund Naturschutz*

## 11 Oral Hearing

In accordance with Section 218 of the Planning and Development Act 2000, as amended, we would respectfully request that an oral hearing be held in respect of the application for the proposed development and the accompanying application to confirm the CPO.

In accordance with Section 177AE(7), it is noted that when conducting an oral hearing relation to the compulsory purchase of land which relates wholly or partly to a proposed development under this section in respect of which a local authority has applied for approval shall be entitled to hear evidence relating to—

- a) the likely effects on the environment of the proposed development,
- b) the likely consequences for proper planning and sustainable development in the area in which it is proposed to situate the said development of such development, and
- c) the likely significant effects of the proposed development upon a European site.

It is also noted that, in *Egan*,<sup>21</sup> notwithstanding the absolute discretion afforded to ACP under section 218, an oral hearing ought to be held where it is the only fair means of resolving a factual dispute. The within submission has identified numerous factual, legal and scientific disputes which require full ventilation at an oral hearing.

## 12 Summary and Conclusion

This observation is submitted to An Coimisiún Pleanála with respect to the proposed N70 Waterville to Ballybrack Road Improvement Scheme by Kerry County Council.

Our client fully supports the principle of the proposed development and recognises the need for improvements to the road safety and usability of the route; however, it is considered that the information provided by the Council fails to demonstrate to a satisfactory level that the proposed development will not have adverse impacts on the receiving environment.

This will have a significant impact on both our client's property, Waterville House, the RMP in its immediate environs and the wider settlement of Waterville itself. It is apparent that the proposed development is engineering driven with a discernible lack of consideration and detail for key aspects which should have bene to the fore when considering any development at this exceptionally sensitive location. Having regard to the level of impact identified in the submitted reports by both the applicant and as part of this submission, particularly relating to landscape but also built heritage, it is clear that a grant of permission for the proposed development would require a material contravention of the KCDP. Under section 177AE, there is no express power that would allow ACP to grant approval for a local authority project in material contravention of a development plan. Therefore, even if ACP was minded to grant permission for the proposed development, there is no sufficient legislative or legal basis to enable them to do so for the reasons set out above.

The alternative proposal put forward as part of this submission demonstrates that there is a reasonable alternative available and this does not appear to have been considered by Kerry County Council but would meet the overall objective which seeks to address several existing road safety issues and to provide improved infrastructure for pedestrian/cyclist friendly mobility.

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<sup>21</sup> *Egan v An Bord Pleanála* [2011] IEHC 44

We trust that this submission will be taken into consideration by An Coimisiún Pleanála during their assessment of the development proposed by Kerry County Council.

Yours sincerely,



Orla O'Sullivan

**McCutcheon Halley**

**Enclosures:**

- Engineering Review Report and Associated Drawings for Alternative Proposal prepared by MHL Consulting Engineers
- Technical Ecological Review by Scott Cawley
- Landscape Review prepared by Brady Shipman Martin
- Architectural Heritage Impact Assessment prepared by Consarc Conservation



**N70 Waterville to Ballybrack Road Scheme**

**Review of Proposed Roads Scheme**



**AN COIMISIÚN PLEANÁLA**  
LDG- \_\_\_\_\_  
ACP- \_\_\_\_\_  
17 FEB 2026  
Fee: € \_\_\_\_\_ Type: \_\_\_\_\_  
Time: 16:02 By: Hard

February  
2026



**MHL & Associates Ltd.**  
Consulting Engineers



## DOCUMENT CONTROL SHEET

<b>Client</b>	Waterville Links Ltd
<b>Project Title</b>	N70 Waterville to Ballybrack Road Improvement Scheme
<b>Document Title</b>	Review of Proposed Scheme – Roads, Transportation & Engineering
<b>Job No.</b>	25093RD
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Revision	Status	Author	Reviewed By	Approved By	Date
01	Internal Draft	K Manley	B Murphy		30/01/2026
02	Client Issue Draft	K Manley	B Murphy		30/01/2026
03	Client Issue Draft	K Manley	B Murphy		10/02/2026
04	Client Issue Final	K Manley	B Murphy		17/02/2026

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## **1.0 INTRODUCTION**

### **1.1 Background**

MHL Consulting Engineers have been engaged by Waterville Links Ltd. to carry out a review on the engineering aspects of the proposed N70 Waterville to Ballybrack Road Improvement Scheme, which is being proposed by Kerry County Council, pursuant to a Section 177AE Consent Application to An Coimisiún Pleanála (Kerry County Council, 2025)(Case reference: JP08.323996) together with an associated application to confirm a Compulsory Purchase Order (CPO)( Case reference: CH08.324000).

### **1.2 Scope of the Review**

The scope of this Review includes:

- Site Context.
- Scheme Objectives.
- Submitted Proposal.
- Alternative Solution.

## **2.0 SITE CONTEXT**

The N70 Waterville to Ballybrack Road Improvement Scheme encompasses the design and construction of a realigned roadway approximately 1.4 km in length, featuring a dedicated cycle and pedestrian facility. The proposed plan includes the installation of a new segregated cycle/pedestrian bridge situated to the west of the existing Waterville Bridge.

At this location, the N70 exhibits both substandard horizontal and vertical alignment due to its legacy as an older route; consequently, there is no clear geometric design throughout the length of the existing road the subject of the improvement scheme. The available forward sight distance along this section of the N70 fluctuates considerably, sometimes being limited to just 30–40 meters. The posted speed limit within the scheme area is 80 kph, while current TII standards recommend a preferred forward visibility distance of 120 meters, based on a road design speed of 70 kph.

The horizontal alignment of Waterville Bridge does not meet current standards for curve radius and carriageway width. These factors, along with certain locations on the Ring of Kerry route, necessitate that tourist coaches follow a one-way anticlockwise traffic flow. According to the authors' knowledge, no comparable restrictions apply to Heavy Goods Vehicle (HGV) traffic.



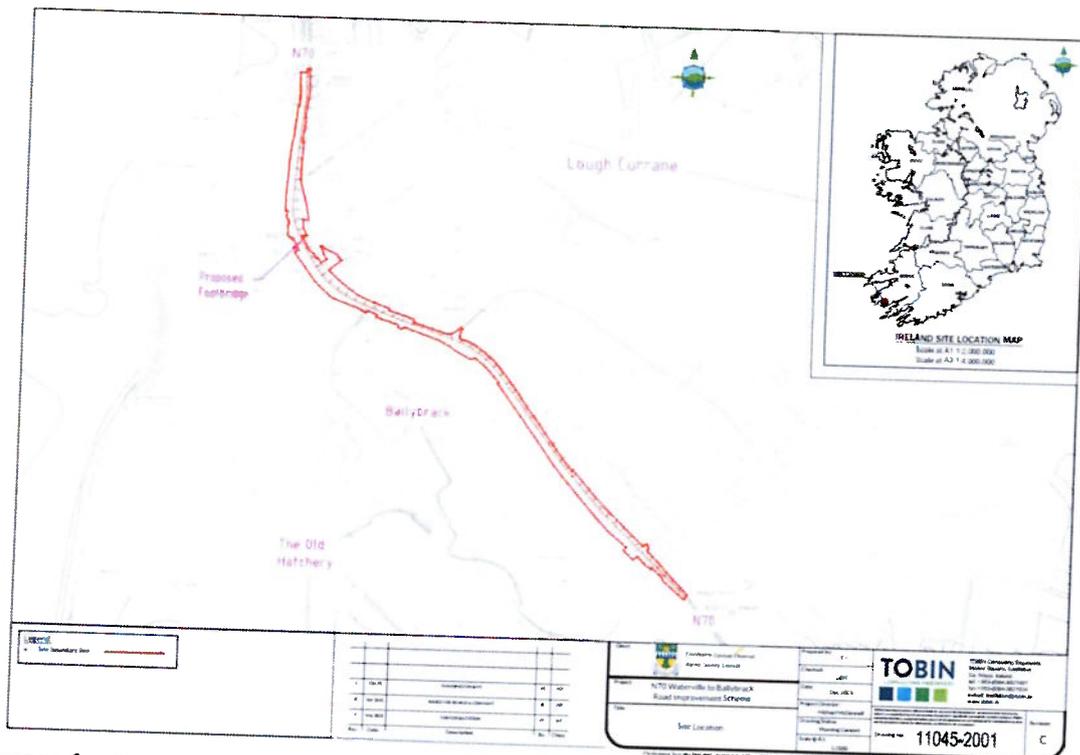
**Photo 1** - View north along N70 to Waterville Bridge with Waterville House on left side, (BSM, 2025)

### **3.0 SCHEME OBJECTIVES**

The proposed development consists of c.1.4km of road realignment of the N70 from the southern end of Waterville Village to the end of the line of residential dwellings at Eightercua to the south.

It includes the construction of a shared pedestrian and cycle path on the western side of the N70 with new boundary stone wall alignment with a mixture of retaining and free-standing walls, new embankments and a steel bridge crossing on the Currane River on the western side of Waterville Bridge within the grounds of Waterville House. The Eastern side of the N70 includes localized widening to include a grass verge with associated boundary treatments.

There are several uncontrolled pedestrian crossing points proposed at Chainage (CH) 130 - Benjamin Close, CH 480 – Ballybrack, CH 650 – Ballybrack/Glenmore Junction, CH 790 – Hog Head Golf Course, CH 850 – Baslicon Road, CH 1080 – Waterville House, CH 1170 – Lower Main Street.



**Image 1 – Scheme extents, (Tobin Consulting Engineers, 2025)**

Kerry County Council’s Planning & Environmental Considerations Report (PECR Report) outlines the objectives of the scheme as noted in Section 1.4.1 and 1.4.2, relating to road safety and the need to improve conditions for vulnerable road users.

The need for the scheme as described in the Report is to address certain existing road safety issues and to provide improved infrastructure for pedestrian friendly mobility. Existing residential dwellings which would be served by the scheme are located primarily on the eastern side of the N70 from Benjamin Close (Ch 120), and the Hogg’s Head Hotel (Ch 760 eastern side of the N70) to Waterville Village, Ch 1373.

Localised widening of the carriageway is proposed along the length of the scheme with the provision of verges and footpaths in places. Further details of the proposed scheme are provided in the submitted drawings.

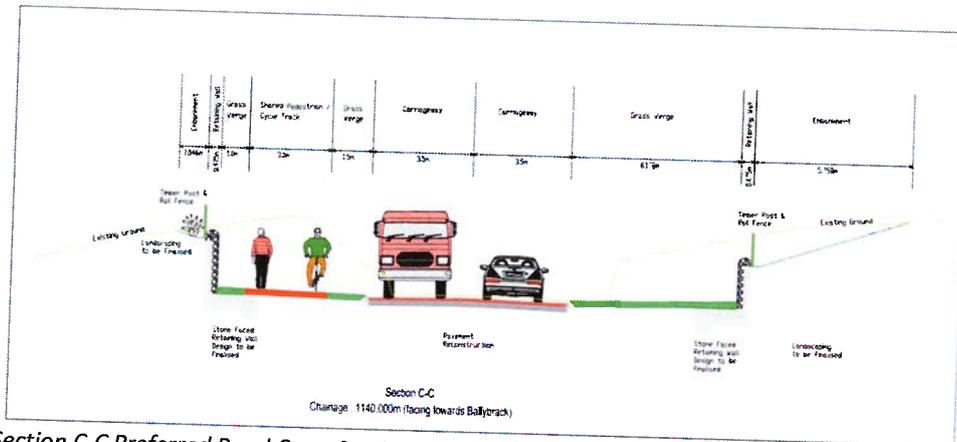
#### **4.0 SUBMITTED PROPOSAL**

The submitted proposal provides a 3.0m shared surface on the western side of the N70 over its entire length, totaling 1253m, and includes a single span 32m structure over the Currane River (circa. Ch1020-Ch1060). The N70 carriageway width will be increased to 7.0m on both approaches to Waterville Bridge where the cross section is set to remain unchanged (<6.0m between yellow edge road markings). A 6.0m carriageway is proposed within the 50kph zone of Waterville Village.

The following Mainline & Cycle Track Cross Section is proposed (Image 2) which, due to changing environment along the proposed route, will vary. Examples of the changing environment are existing stone walls, crash barrier, hedges/trees, Waterville Bridge and existing housing/entrances etc.

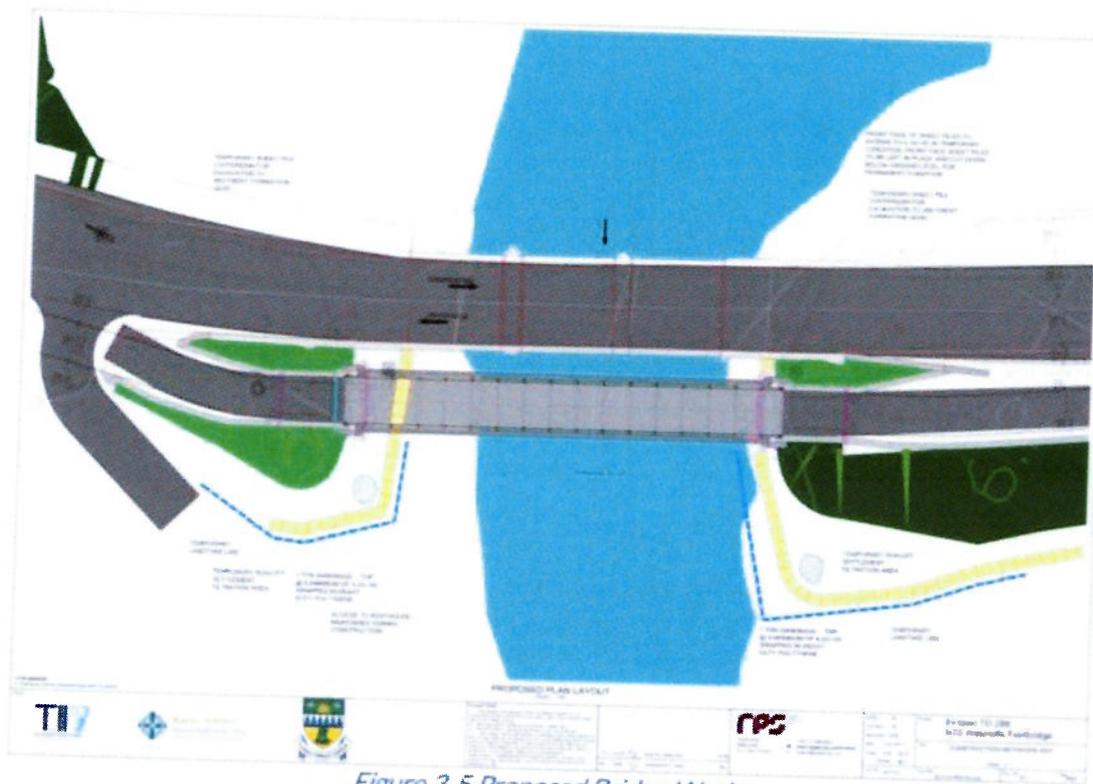
A review of the submitted support documentation highlights the absence of any consideration of

alternative options that would minimize the impact on what is a highly sensitive landscape area, and in particular the alternative option as set out in this report. This option omits the need for a pedestrian/cycle bridge while still meeting the stated objectives of the scheme. It also addresses other limitations of the proposal submitted by the Council as further set out below.



**Image 2 – Section C-C Preferred Road Cross Section, (Tobin Consulting Engineers, 2025)**

The submitted scheme proposes an independent single span structure on the western side of the N70. As outlined in the CEMP this footbridge would be fabricated off-site and constructed without the need for in-stream works. Drainage works associated with the overall scheme involves the construction of header walls and petrol interceptors within the river environs in addition to the proposed bridge works. Image 3 presents an outline of the proposed works to facilitate the construction of the bridge abutments and is taken from the Preliminary Construction and Environmental Management Plan (CEMP Tobins, 2025).



**Figure 3-5 Proposed Bridge Works**

**Image 3 – Proposed Bridge Works adjacent to Currane River, (Tobin Consulting Engineers, 2025)**

The support documentation submitted for the proposed scheme does not provide evidence of site investigation works undertaken in the vicinity of embankments and bridge abutments or supports. No details of site investigation studies have been submitted to support the design of embankments for the road widening or the footings of the proposed single span bridge. This omission raises concerns regarding the unknown depth to groundwater in both cut and fill zones, as well as the required depth for bridge support structures. There is a concern that the embankments shown in the submitted general arrangement drawings may require additional ground improvement works including drainage which have not been accounted for.

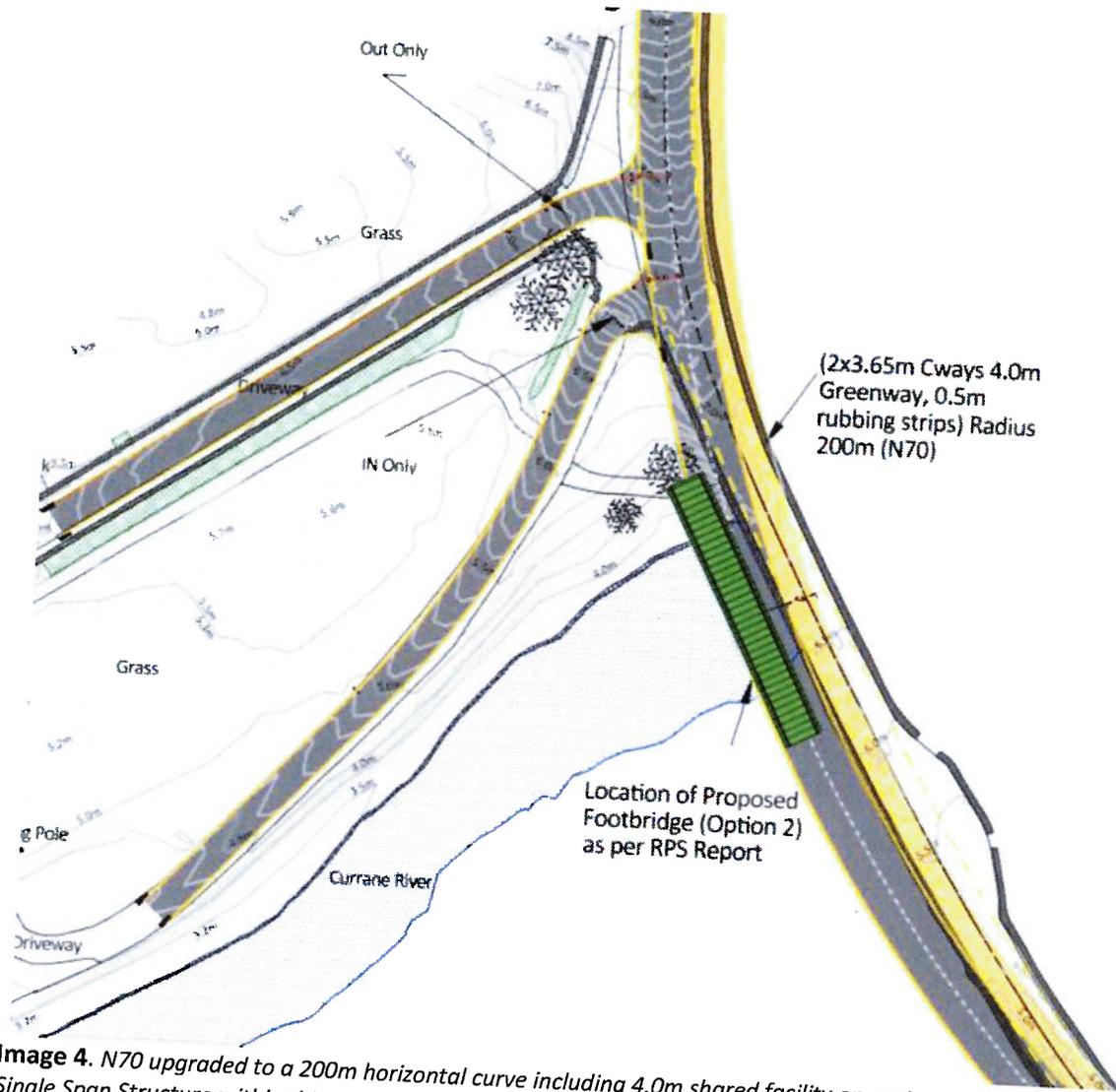
The land-take as outlined in the CPO does not include a working space at the base of the embankment nor does it allow room for the provision of associated interceptor drains. An increase in land-take be it permanent or temporary would require a change in scope of the NIS study undertaken as part of the scheme.

Given the sensitivity of the area and the associated environmental constraints as outlined in the submitted Preliminary Construction Management Plan (Tobin Consulting Engineers 2025) the buildability of the works within the river catchment area in the timeframe outlined is also seriously questioned.

Additionally, a Stage 1 Road Safety Audit, typically performed by an independent auditor, may have influenced the scheme's design through recommendations for safety improvements. Nevertheless, it remains unclear whether this audit was conducted on the scheme submitted to the Commission or if any recommendations from such an audit were implemented in the final design.

The submitted scheme has several limitations:

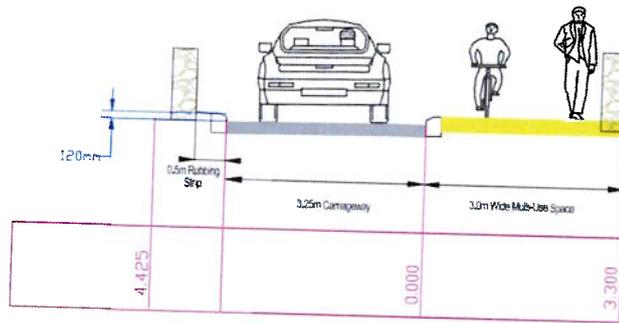
- Users on the western side of the N70 must cross the road at multiple points along the proposed route. As noted earlier, most residential areas, including The Hogg's Head Hotel, are situated on the eastern side.
- Waterville House will be negatively affected by the bridge in terms of its appearance and the encroachment onto Butler's Pool and its surroundings, as discussed in the accompanying Brady Shipman Martin Report from a landscape and visual perspective.
- The proposal does not resolve existing issues with the road geometry at Waterville Bridge, such as limited visibility, narrow carriageway width, and inadequate horizontal curvature for the posted speed limit.
- The new river bridge structure would restrict future upgrades needed to bring this section of the N70 up to TII standards regarding alignment and visibility (see Image 4).
- The current plan widens the N70 to a 7.0m carriageway within the 80kph zone but retains a narrower section (<6.0m) at Waterville Bridge. There is no traffic calming or local speed reduction included in the proposal. This, combined with the additional crossings necessitated due to the settlement pattern, has the potential to create additional traffic safety issues rather than addressing the existing ones.
- In summary, the proposed scheme does not sufficiently improve road safety and may hinder future efforts to address existing shortcomings of the N70 at this site.



**Image 4.** N70 upgraded to a 200m horizontal curve including 4.0m shared facility on eastern side of road. Proposed Single Span Structure within this works area shown in green on the western side of the N70. (MHL Consulting Engineers)

## 5.0 ALTERNATIVE OPTION

Considering the shortcomings identified as part of the submitted scheme, an alternative option that should be considered is to move the pedestrian/cycle lane to the eastern side of the N70, reflecting existing settlement patterns and to better incorporate the lands identified further to grant of permission Reg Ref 16787 relating to the Hogg's Head Hotel development. In addition the option of signalling the N70 on the approaches to Waterville Bridge as shown in Figure 4 would minimise the impact on the scenic landscape at this sensitive location whilst achieving the objectives as set out in the project requirements. Image 5 presents the proposed cross section taken at the tightest point on the bridge. The attached drawing (WH\_RO\_D03) details this proposed option which is also set out at Image 6.

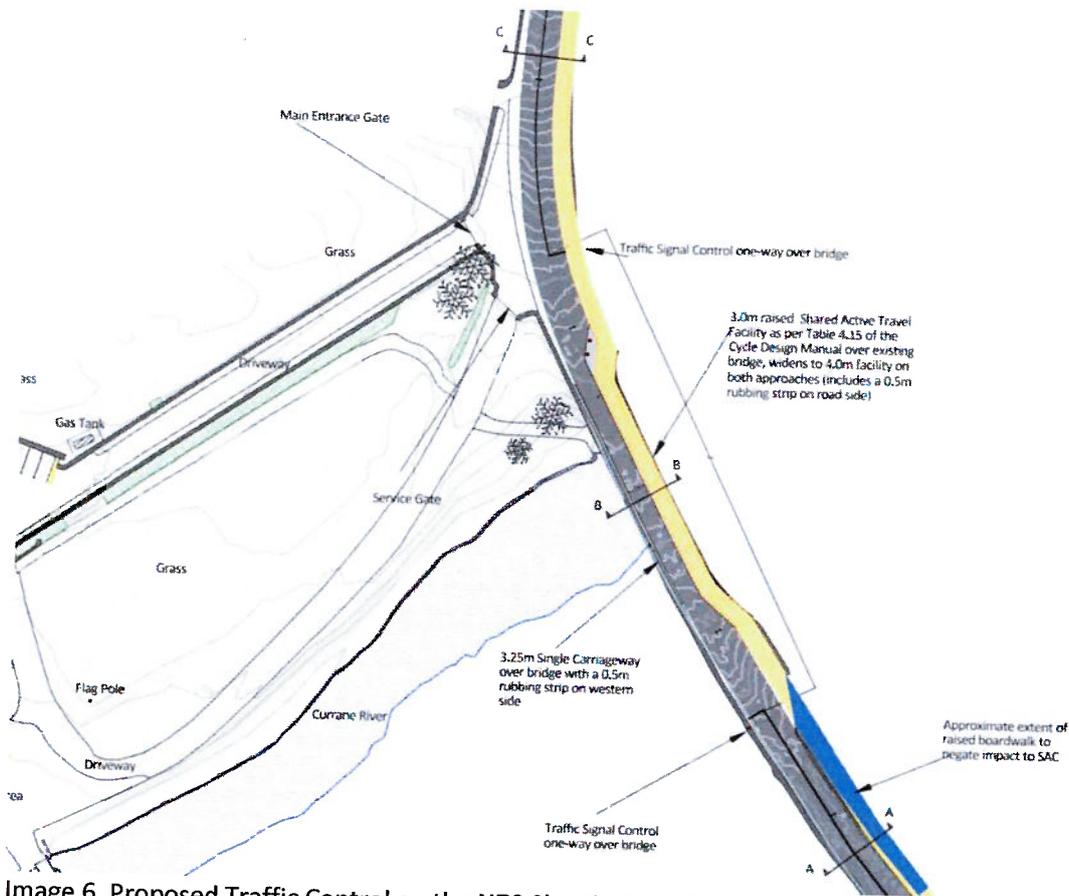


### Section B-B

**Image 5.** Proposed Cross-section over Waterville Bridge (taken at tightest point) (MHL Consulting Engineers, Dec 2025)

This alternative proposal would facilitate the widening of the N70 on the approaches to Waterville Bridge as currently proposed but would also avoid road safety issues which are being created by the proposed scheme due to the widening of the road leading up to the bridge.

The alternative provides a trafficked carriageway of 3.25m (one-way only) on the Bridge section with a 3.0m raised shared surface on the eastern side of the bridge. The distance between stop lines is 90m. The cross section as shown allows a 0.5m rubbing strip to the western stone wall parapet. The speed limit on this area would be reduced to 30kph.



**Image 6.** Proposed Traffic Control on the N70 Shuttle-Flow (90m in length) (MHL Consulting Engineers Dec 2025)

This option would have the following advantages:

- This option meets the shared surface design criteria as well as having minimal visual impact on the environs. Both stone wall parapets are fully maintained, with some localised raising of the stone walls for safety.
- The shared pedestrian/cycle facility associated with the overall road improvement scheme will be on the eastern side (Hogg's Head Hotel side) of the N70 with no crossings required as it would better align with the existing development pattern of Waterville and primary desire lines for pedestrian connectivity from existing residents and those residing in Hogs Head Hotel.
- There are no in-stream works required with minimal impact on either of the identified SACs. The southern approach to the bridge (Hogg's Head Hotel side) will be constructed within lands identified further to grant of permission Reg Ref 167871 as part of a planning permission in the area and will constitute a raised boardwalk to minimise impact on the SAC (shown hatched blue in WH\_RO\_D03). Reference is made to the accompanying Ecology Report prepared by Scott Cawley Ecological Consultants.
- The signalisation of the N70 will resolve road safety issues identified in terms of lack of forward visibility and speed through a substandard bend on the approaches to the junction serving Waterville House over Waterville Bridge.
- This solution provides necessary traffic calming of the N70 on the approach to Waterville Bridge and will facilitate Tourist Coaches travelling in both directions at this location.
- This option does not hinder any future road improvement works that may be considered, as highlighted in Image 4.
- The cost of this option is significantly lower than the submitted option with less land-take required. The submitted proposal requires a permanent land take of 2.6752 Ha. If the alternative option is adopted the land take requirement is expected to reduce to 2.5 Ha (estimated based on a marginal increase in land take required on the eastern side of the N70).
- There is no impact on the 'Butler's Pool' site, the fish Weir recorded monument (KE098-094) and will have minimal impact on Waterville House. Reference is made to the accompanying BSM LVIA report, Architectural Heritage Impact Assessment prepared by Consarc Conservation, and the ecology report as prepared by Scott Cawley Ecological Consultants.
- This option reduces the landscape and visual impacts on Waterville House and grounds, the Salmon Weir (RMP)/Butler's Pool and Waterville Bridge.
- The signalisation will improve the safety for residents and staff of the Waterville House Hotel accessing the N70 as it will control speed through this area which as previously outlined is substandard in terms of road geometry.
- Construction will not require the closure of the N70.
- In the event of power outages there is sufficient forward visibility between stop lines to allow a 'Yield' system to operate. As in other locations within the County the use of Yield control may be sufficient and could be considered as a variation of the proposed alternative option. An example of such is on the N70 on the outskirts of Glenbeigh (refer to image 7) and on the R563 Milton-Listry Road, a busy regional road.
- Nationally there is further precedence for the use of this type of traffic control system particularly in areas of historical and cultural significance.

- N2 Slane Bridge, Co. Meath (53.70, -6.54)
- Killaloe Bridge, Co. Clare/Tipperary (52.81, -8.44)
- Goresbridge, Co. Kilkenny/Carlow (52.63, -6.98)
- Shannonbridge, Co. Offaly/Roscommon (53.23, -8.05)
- Inniscarra Bridge, Cork (51.89, -8.62)



**Image 7.** Yield Controlled shuttle-flow system, N70 Glenbeigh (Google Maps, 2026)

The disadvantages of this option are:

- The N70 is reduced to a single carriageway over 90m which will have the potential for a minor increase in journey times (negligible).
- There would be a requirement to reduce the posted speed limit to 30-50 kph over the extent of the shuttle-flow system (This would constitute a necessary and appropriate traffic calming measure based on existing road geometry at this location and context of the area).
- The provision of signal control will have to include 'louvered' lights to avoid light pollution in what is a 'Dark-Skies' reserve.

It is submitted that this option, which has been vetted by Scott Cawley, Environmental Consultants, Brady Shipman Martin, Consarc Conservation Architects and the remainder of the team, should be considered by the Local Authority and An Coimisiún Pleanála as a viable alternative that achieves the stated objectives as set out in the PECCR Report , to resolve existing deficiencies in the N70 with minimal environmental and visual impact. In summary the proposal as outlined delivers on the objectives of the **N70 Waterville To Ballybrack Road Improvement Scheme** and is a more cost effective solution than those considered to date, and has a lesser environmental, architectural heritage and visual impact than the proposal submitted to the Commission.

## 6.0 CONCLUSION

An assessment of the engineering aspects of the proposed N70 Waterville to Ballybrack Road Improvement Scheme was undertaken having regard to the scheme objectives and support documentation submitted to the Commission as part of the s.177AE Application and associated CPO.

The proposed scheme, while addressing some of the objectives set out, has a number of disadvantages including a disproportionate impact on Waterville House, its setting, the on-site recorded monument, and the wider landscape in terms of land-take and use of the premises, heritage, ecological, landscape and visual impacts.

The current design does not address the sub-standard horizontal alignment at Waterville Bridge and in fact aggravates the road safety risk due to increasing the width of the trafficked carriageway on both approaches (Increased carriageway width generally results in an increase in speed), the lack of any traffic calming measures at the bridge, and the need for numerous uncontrolled pedestrian crossings throughout the scheme. Accordingly, the overarching objective of improving road safety is unlikely to be satisfactorily achieved.

Locating the proposed cycle/pedestrian single span bridge on the western side of the existing Waterville Bridge implies that any future scheme to rectify the substandard horizontal alignment of the N70 at this location would require the bridge to be moved.

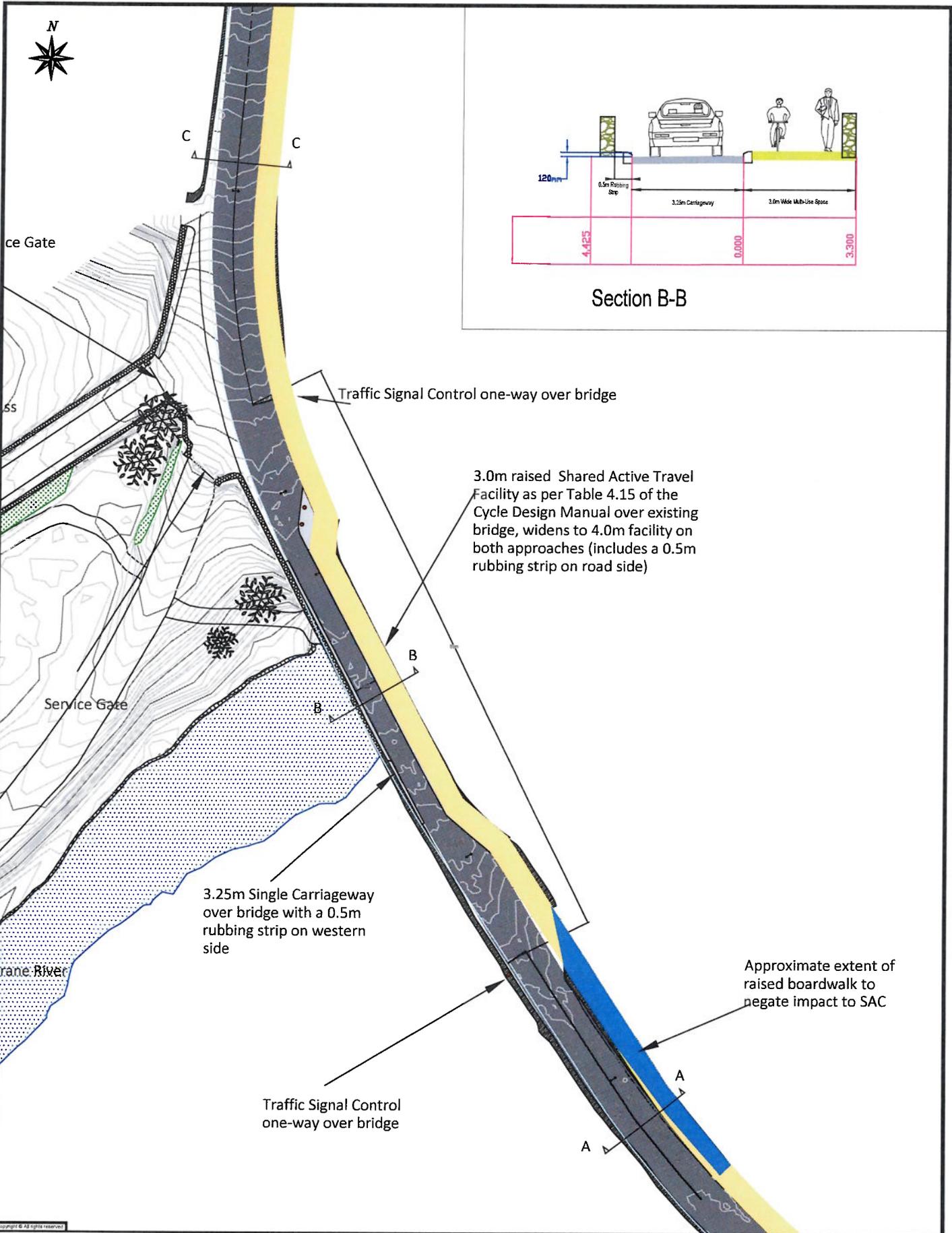
Siting the shared facility on the western side of the N70 when the bulk of dwellings and Hotels are on the eastern side of the road will result in additional crossings (pedestrians and cyclists) of the N70 in what is assumed will be maintained as an 80kph zone. The current proposal includes widening works on both sides of the N70 facilitating the siting of the shared scheme on either side as deemed appropriate.

In addition to the deficiencies in the application set out in Section 4, the planning application documents for the subject development brought forward by KCC and submitted to the Commission do not refer to or assess any alternative options. It is apparent that KCC did not, or did not adequately consider all reasonable alternatives in designing the subject scheme, and in particular the alternative proposed in the within report, and there is no evidence presented as part of the planning application documents to this effect. This is a significant concern, particularly given that the subject development clearly has not considered some of the key aspects required of it in policy terms relating to ecology / environment, landscape and visual, built and archaeological heritage as well as engineering.

The submitted alternative 'shuttle flow' proposal would result in a better outcome in terms of active travel and road safety over this section of the N70. Furthermore it does not compromise the possible future delivery of an improvement scheme encompassing Waterville Bridge. The cost for delivering the scheme objectives is significantly reduced over the current proposal.

As already outlined there are many examples of similar design solutions being implemented

throughout Ireland specifically in areas of high scenic and environmental value. It is put to An Coimisiún Pleanála that this part of the N70 Ring of Kerry route falls within this category and that the less intrusive alternative 'shuttle flow' system should be given serious consideration.



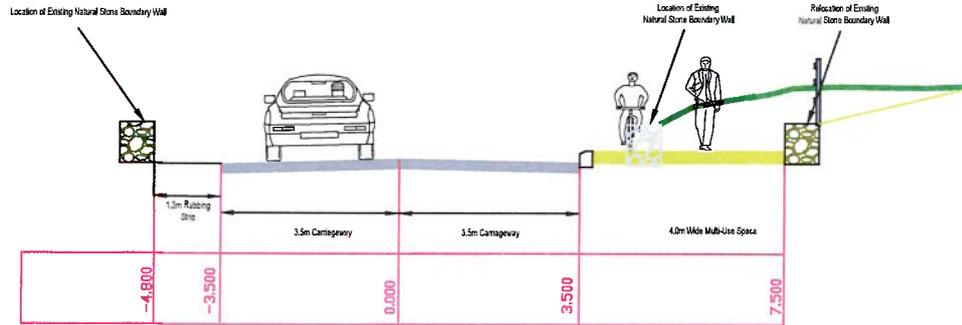
**Notes:**  
 All dimensions are in metres unless otherwise stated.  
 Do not scale from drawing.  
 For any discrepancies found please consult with design office.

Rev.	By	Date	Description
1	KM	16.10.25	Traffic Signal Control Option

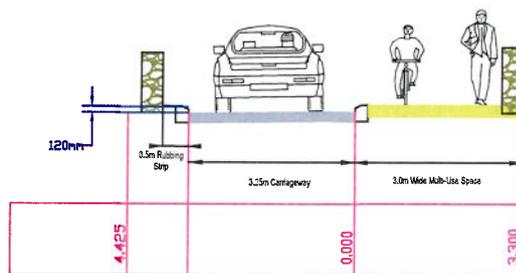
Drawing Status: DISCUSSION	
Project Title: N70 Waterville House	
Drawing Title: Option 1	
Client: Waterville House Hotel	

Designed: KM	Drawn: KM	Checked:
Scale: 1:500 @ A3	Drawing Size: A3	Date: 14.10.2025
Job No. 25093RD	Drawing No. WH_RO_D03	Revision: 1

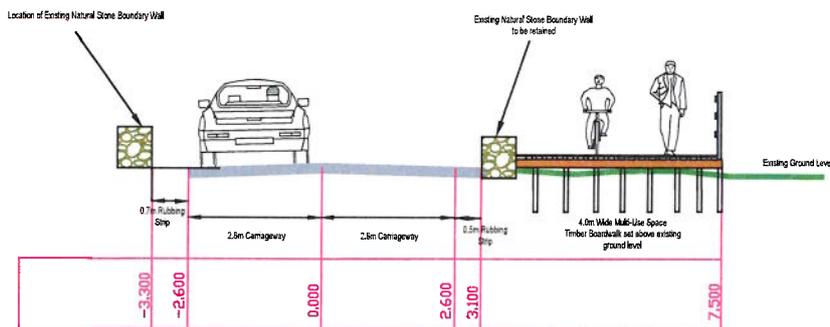
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Section C-C



Section B-B



Section A-A

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Rev.	By.	Date.	Description.
1	KM	16.10.25	Traffic Signal Control Option

Drawing Status: **DISCUSSION**

Project Title: **N70 Waterville House**

Drawing Title: **Sections A, B & C**

Client: **Waterville House Hotel**



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# SCOTT CAWLEY

An Origin Enterprises Company

## Technical Review of Natura Impact Statement and Associated Ecological Documentation of the N70 Waterville to Ballybrack Road Improvement Scheme An Coimisiún Pleanála - Case reference: JP08.323996

prepared for Waterville Links Limited

AN COIMISIÚN PLEANÁLA	
LDG-	_____
ACP-	_____
17 FEB 2026	
Fee: €	Type: _____
Time: 16.02	By: <i>Hand</i>

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**Document Control**

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This report has been prepared by Scott Cawley Ltd. in accordance with the particular instructions and requirements of our agreement with the Client, the project's budgetary and time constraints and in line with best industry standards. The methodology adopted and the sources of information used by Scott Cawley Ltd. in providing its services are outlined in this report. The scope of this report and the services are defined by these circumstances.

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The conclusions presented in this report represent Scott Cawley Ltd.'s best professional judgement based on review of site conditions observed during the site visit (if applicable) and the relevant information available at the time of writing. Scott Cawley Ltd. has used reasonable skill, care and diligence in compiling this report and no warranty is provided as to the report's accuracy.

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Appendix I – Relevé Data

## 1 Introduction

1 Scott Cawley Ltd., were commissioned by Waterville Links Limited to undertake a technical review of the Natura Impact Statement (NIS) and associated ecological documentation submitted with planning application JP08.323996<sup>1</sup>. For clarity the technical review extends to:

- 3. Kerry County Council N70 Waterville to Ballybrack Road Improvement Scheme Natura Impact Statement. Prepared by Tobin Consulting Engineers dated December 2025.
- 7. Kerry County Council N70 Waterville to Ballybrack Road Improvement Scheme Planning and Environmental Considerations Report. Prepared by Tobin Consulting Engineers dated December 2025.

○ The review of the aforementioned report extended solely to Section 4.0 Biodiversity.

2 The authors of this report have additionally reviewed supplementary information pertaining to the above-mentioned reports, where necessary. These are referenced here and in the text below as appropriate.

- 1. Appropriate Assessment Screening Determination Statement - N70 Waterville to Ballybrack RIS
- 4. NIS - Appendix 1 - Proposed Site Location – Drawing 11045-2000 and Drawing 11045-2001;
- 5. NIS - Appendix 2 - Scheme Drawings – Drawings 11045-2000 through 11045-2019; and, Drawings 11045-4101 through 11045-4105.

3 The purpose of the review is to provide commentary, from an ecological perspective, on the adequacy of the Screening determination, NIS and associated Ecological documentation. The content of this report is not legal advice and should not be considered as such or relied upon or acted upon in that regard.

4 The proposed project JP08.323996 is not directly connected with, or necessary to the conservation management of, any European site.

### 1.1 Qualifications and Experience of Team

5 This report has been authored by Colm Clarke of Scott Cawley Ltd., and has been subject to review for quality assurance purposes by Tim Ryle and Andrew Speer of Scott Cawley Ltd. The document has been subject to Scott Cawley's quality assurance procedures whereby: All documents and supporting datasets (e.g. GIS data) released to clients are subject to the following sequential protocols:

- Self-check, in full, by the author
- Full review by a suitably experienced member of staff (the 'reviewer')
- Approval and sign-off by a member of the Senior Management Team, to confirm the report/deliverables meets the client's brief and is of an appropriate standard (the 'approver')

6 Colm Clarke MCIEEM is an Associate Director with Scott Cawley and has over ten years' experience in ecological consultancy. He obtained an honours degree in Natural Sciences, with a specialisation in Botany, from Trinity College Dublin, and a Masters in Biodiversity and Conservation from the same institution. Colm is a full Member of the Chartered Institute of Ecology and Environmental Management (CIEEM), a member of the Irish Environmental Law Association (IELA), and chairperson of the Dublin Bat Group (an affiliate group of Bat Conservation Ireland (BCI)). Colm was a pilot assessor for the CIEEMs Pilot Ecological Impact Assessment Accreditation process. Colm is experienced in the preparation and technical review of

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<sup>1</sup> An Coimisiún Pleanála case reference JP08.323996 available published online at <https://www.pleanala.ie/en-ie/case/323996>. The proponent, Kerry County Council, has also published the project documentation online at <https://consult.kerrycoco.ie/en/consultation/n70-waterville-ballybrack-road-improvement-scheme>. Both websites accessed 21/01/2026.

ecological assessments including Ecological Impact Assessment, Appropriate Assessment Screening reports, and Natura Impact Statements. His experience as author of these reports extends to projects of national infrastructure (roads, rail), residential development and industrial facilities. He has acted in a technical review capacity for local authority and private clients in the information technology sector. Colm is the primary author of this report and conducted the review of the associated documentation.

7 Dr. Tim Ryle is an Associate Director with Scott Cawley Ltd., with over 25 years' experience. He has covered an extensive range of projects and surveys including Terrestrial surveys (Flora and Fauna and Invasive Alien Plant Species) on key Irish habitats; faunal surveys – badger, otters, bats as well as having undertaken/led monitoring projects for national surveys of Annex I habitats in coastal and upland habitats. He has considerable experience in designing, undertaking and managing a wide range of ecological surveys, assessing impacts and designing mitigation measures and biodiversity enhancements, in particular for protected species including badgers, otters, bats, birds, amphibians as well as habitats of conservation importance. Tim's experience includes a considerable number of large infrastructural projects (roads, gas pipelines, airport runway compliance) and he has been actively involved in surveys to inform Impact assessment for planning purposes. An important part of Tim's role is to provide technical advice on matters relating to protected species and habitats both to company ecologists and to clients, and to act (as part of Scott Cawley's quality assurance process) as an internal reviewer for reports. Tim completed the review of this document as part of Scott Cawley's quality assurance procedure.

8 Andrew Speer MCIEEM is Technical Director and Ecologist at Scott Cawley with over 18 years' experience delivering EclAs, AA screenings, NIS/NIRs, and biodiversity chapters for EIARs across a wide range of complex projects and strategic plans. He has extensive expertise in ecological field surveys, impact assessment, and mitigation design for protected terrestrial and aquatic species and habitats, particularly in transport infrastructure. Andrew is also an experienced Ecological Clerk of Works, expert witness, and technical reviewer, with involvement in judicial reviews, EPA licence appeals, and biodiversity training. He has delivered training to local authority clients on the review of Appropriate Assessment documentation to ensure compliance with developments in case law and best practice. Andrew completed internal review of this report as part of Scott Cawley's quality assurance procedure and acted as the approver of the report.

## 2 Receiving Environment for the Proposed Development

9 Scott Cawley Ltd. are familiar with the receiving environment for the proposed development, having conducted a desktop review of ecological records, and two separate walkover ecological surveys in December 2021 and August 2025, respectively. The latter survey was undertaken by the author of this report and included an exercise to classify and map Fossitt habitats and establish whether any such habitats have affinities to any EU Annex I habitats at and near the crossing of the River Currane. The survey also included an appraisal of the proposed development site and its vicinity for suitability for protected flora and fauna species. The scope of these surveys was to understand the ecological constraints imposed on any proposed project which traverses the River Currane rather than to inform a full ecological impact assessment. While focused on specific issues, the results generated in the course of these surveys detract from the certainty of the conclusions reached in the environmental reports prepared in support of the application and in particular the robustness of the baseline information and impact assessment provided by the Council.

10 The proposed development is located within a diverse ecological landscape characterised by a transition from Waterville town in the north to a patchwork of town periphery and rural / extensive agriculture towards the south. The proposed development is dissected by the River Currane, which is within the boundaries of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC [000365] east of the existing N70 bridge, and within the boundaries of Ballinskelligs Bay and Inny Estuary SAC [000335] west of the existing N70 bridge. The latter is designated for coastal Qualifying Interests which are located entirely outside of the proposed development site and its vicinity. The former is designated for a broad range of terrestrial, freshwater and riparian Qualifying Interests, many of which occur or are likely to occur within the proposed development site.

11 A summary table of the habitats that occur within the proposed development site and its vicinity, as recorded by Scott Cawley in August 2025 are documented in Table 1, and illustrated in Figure 1. Annex I

habitats, where these are present are illustrated in Figure 2 in the context of nearby European sites which include those Annex I habitats as reasons for designation.

**Table 1 – Summary of habitats within Scott Cawley’s survey area (illustrated in Figure 1)**

Fossitt	Annex	Relationship with European Sites	Brief description
Amenity grassland (improved) (GA2)	Not applicable	None	Low diversity and common habitat dominated by common grasses.
Buildings and artificial surfaces (BL3)	Not applicable	None	Low diversity and common habitat with little vegetation cover
Dense bracken (HD1)	Not applicable	None	Low diversity and common habitat dominated by <i>Pteridium aquilinum</i>
Depositing/lowland rivers (FW2)	Vegetation of flowing waters [3260] linked to site code [000365]	Qualifying Interest of site code 000365 ( <i>in situ</i> and <i>ex situ</i> )	Lowland river with in-stream vegetation of the vegetation of flowing waters [3260] indicator species <i>Potamogeton</i> spp., <i>Ranunculus penicillatus</i> and <i>Fontinalis antipyretica</i> . The indicators are based on the description in <i>The Interpretation Manual of European Union Habitats – EUR28</i> (European Commission, 2013). The NPWS describes this Annex I type as having a broad definition including “flashy, oligotrophic, bryophyte and algal dominated rivers, to tidal reaches dominated by higher plants” (NPWS, 2025), and for this reason the example in the River Currane is considered the Annex I habitat and part of the SAC QI resource.
Dry calcareous and neutral grassland (GS1)	Not applicable	None	Low diversity semi-improved variant dominated by coarse grasses and with few forb species.
Dry meadows and grassy verges (GS2)	Lowland hay meadows [6510] but not linked to any European site	None	GL3A <i>Briza media</i> – <i>Thymus polytrichus</i> grassland. The example contains six positive indicator species and one high-quality indicator species for 6510 (refer to Appendix I) as per the assessment criteria in Martin <i>et al.</i> (2018) and has been assigned to the Annex I type on this basis.
Hedgerows (WL1)	Not applicable	None	A widespread habitat of some conservation value. Examples in proposed development contain <i>Crataegus monogyna</i> most prominently.
Immature woodland (WS2)	Not applicable	None	Habitat associated with edge of N70 in vicinity of Hoggs Head. Range of ornamental and native tree species.
Oak-ash-hazel woodland (WN2)	Not applicable	None	Widespread habitat of some conservation value. <i>Crataegus monogyna</i> most prominent species.
Ornamental/non-native shrub (WS3)	Not applicable	None	Variable habitat type of low conservation value dominated by non-native species including those with legal restrictions.

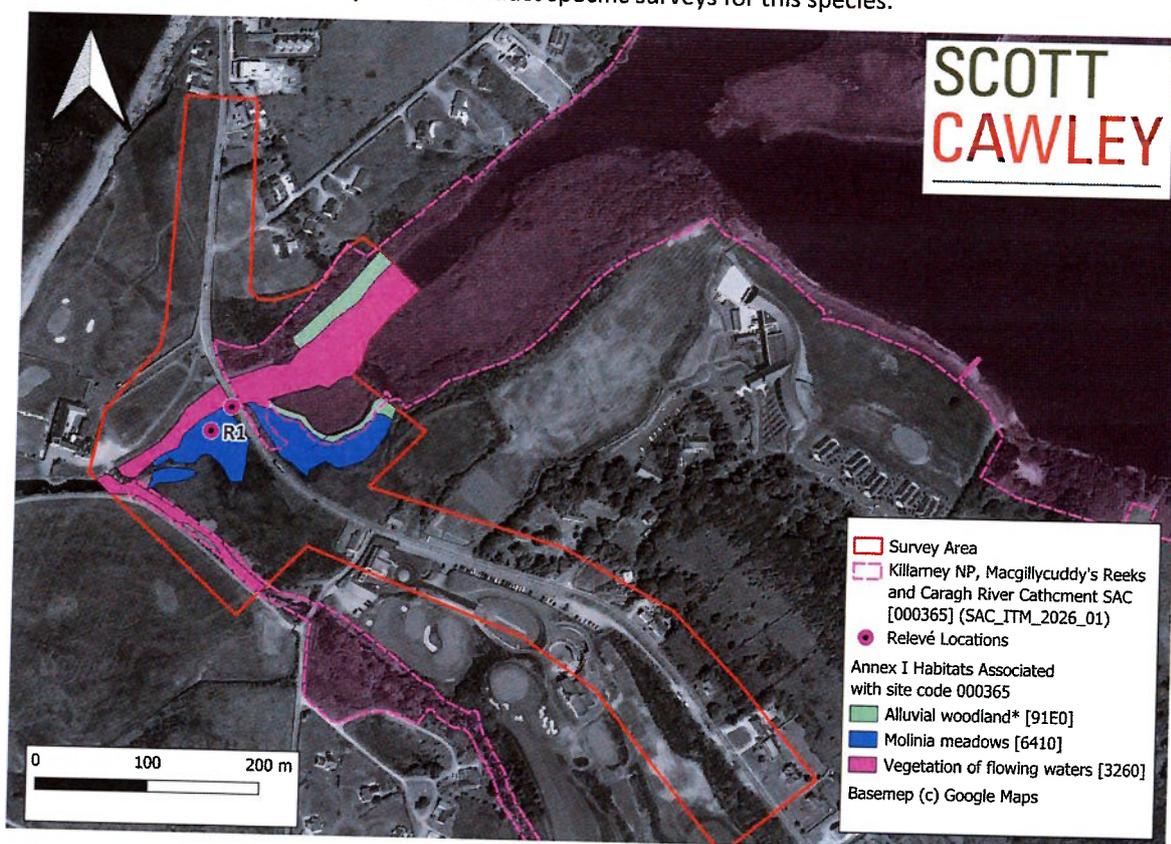
Fossitt	Annex	Relationship with European Sites	Brief description
Recolonising bare ground (ED3)	Not applicable	None	An ephemeral habitat dominated by ruderal species and associated with land that has been cleared south-east of the N70 Waterville Bridge
Reed and large sedge swamps (FS1)	Not applicable, but has supporting function for other Annex I habitats	Supporting role for site specific conservation objectives (fringing vegetation) for QIs of site code 000365	Stands on River Currane dominated by <i>Phragmites australis</i> with understorey of <i>Equisetum palustre</i> and <i>Mentha aquatica</i> .
Residential	Not applicable		Low diversity habitat with few plant species associated with residential dwellings and their built surroundings
Riparian woodland (WN5)	Alluvial woodland* [91E0] linked to site code [000365]	Qualifying Interest of site code 000365	A narrow band on the north bank of the River Currane, east of a boathouse within the curtilage of Waterville House Hotel and is dominated by <i>Salix cinerea</i> subsp. <i>Oleifolia</i> and <i>Alnus glutinosa</i> . Small patches of this woodland, principally containing <i>Salix cinerea</i> over wet grassland species at the interface between wet grassland (GS4) and reed and large sedge swamps (FS1), east of the existing N70. The habitat has been assigned to the Annex I type based on the presence of an overstorey layer with typical species, the correct edaphic conditions and the presence of understorey wetland indicators. It is in line with the description of the habitat in NPWS (2025).
Scrub (WS1)	Not applicable	None	A common and low diversity habitat. The example in the proposed development site is largely composed of <i>Ulex europaeus</i> and <i>Prunus spinosa</i> .
Treelines (WL2)	Not applicable	None	A widespread habitat of some conservation value. Contiguous with hedgerow. Emergent tree species in proposed development site tend to be non-native.
Wet grassland (GS4)	Non-annex variant	None	A low conservation value variant dominated by <i>Juncus acutiflorus</i> , <i>Anthoxanthum odoratum</i> and <i>Holcus lanatus</i> but with absence or low cover of <i>Carex</i> spp., or forbs.
	<i>Molinia</i> meadows [6410] (Waterville House) – not part of any QI resource	None	GL1D <i>Molinia caerulea</i> – <i>Potentilla erecta</i> – <i>Agrostis stolonifera</i> grassland (refer to Appendix I)

Fossitt	Annex	Relationship with European Sites	Brief description
	<p><i>Molinia</i> meadows [6410] linked to site code [000365]</p>	<p>Qualifying Interest of site code 000365 (<i>in-situ</i> and <i>ex-situ</i>)</p>	<p>Unassigned to any IVC community. Has been assigned to the annex I habitat due to the presence of at least three easily identifiable positive indicators (from assessment criteria in Martin <i>et al.</i> (2018) including <i>Molinia caerulea</i>, <i>Filipendula ulmaria</i>, and <i>Juncus acutiflorus</i>, and the location in a wetland context with the appropriate edaphic conditions for the habitat type.</p>



Figure 1 – Fossitt (2000) habitats within Scott Cawley's survey area, which extends beyond the boundaries of the proposed development as presented by the Council.

- 12 The results of Scott Cawley's ecological surveys differ from the results as reported by Tobin in their NIS and accompanying reports, due in particular to the identification of the following Annex I habitats that are likely to be part of the QI resource of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC, and which were neither identified nor considered in support of the Council's application:
- *Molinia* meadows [6410] – located either side of the N70 south of the River Currane;
  - Vegetation of flowing waters [3260] – comprises the freshwater sections of the River Currane. This is a broadly defined habitat type with relatively few species required to qualify as the Annex I type.
  - Priority Alluvial woodland [91E0] – Located in a narrow band on the northern shore of the River Currane, east of the proposed development site.
- 13 Several Annex II faunal species may occur, within or in proximity to the proposed development site boundary most notably otter, salmonids and freshwater pearl mussel. Otter use of the river is considered likely, though no breeding or resting sites were found. Freshwater pearl mussel habitat is present but of poor suitability. The river corridor provides high-value foraging habitat for bats, though roosting potential at the River Currane bridge appears limited. No marsh fritillary food plants were recorded, and the species is unlikely to occur. There is suitable habitat for Kerry slug in the vicinity of the proposed development (wet grassland), albeit Scott Cawley did not conduct specific surveys for this species.



**Figure 2 - Annex I habitat for which site code 000365 has been designated in the context of the proposed development**

### 3 NIS and AA Screening Review

#### Considerations for Technical Review of AA Documentation

- 14 The following requirements are considered in reviewing documents submitted in support of the AA process:

- The reasoning as to why the proposed project/plan requires, or does not require, AA in respect of any European sites as presented in the AA Screening Report/NIS submitted by the Council<sup>2</sup>
- A screening for appropriate assessment must be carried out by the competent authority 'in view of best scientific knowledge'<sup>3</sup>
- An NIS must comprise 'a scientific examination of evidence and data, carried out by competent persons to identify and classify any implications for one or more than one European site in view of the conservation objectives of the site or sites'<sup>4</sup>
- The NIS/AA must identify, in the light of the best scientific knowledge in the field, all aspects of the development project which can, by itself or in combination with other plans or projects, affect the European site in the light of its conservation objectives<sup>5</sup>
- The NIS/AA must contain complete, precise and definitive findings and conclusions, and may not have lacunae or gaps, which requires examination, analysis and evaluation and the making of a complete decision<sup>6</sup>
- The NIS/AA must catalogue the entirety of habitat types and species for which a European site is protected, as well as those habitats and species that are not protected, but which are necessary for the conservation of the protected species, and consider the implications for the proposed development on habitats and species outside of European sites, insofar as those implications are liable to affect the conservation objectives of a European site(s)<sup>7</sup>
- The findings and conclusions presented in the NIS/AA must be made in the light of the best scientific knowledge in the field and there should be no reasonable scientific doubt remaining as to the absence of the identified potential effects<sup>8</sup>

15 Noting the status of the proposed project at planning stage, if written submissions, observations, information and/or advice is received by the competent authority in relation to the proposed plan/project and the AA documentation/process, and there are differing scientific opinions on the scientific data or assessment, the competent authority must address these and provide reasons for preferring one view over another, and those reasons must exclude any reasonable scientific doubt that might have been raised. If scientific doubt as to the conclusions of the AA persists, it is not sufficient that there is also science that reasonably supports the development.<sup>9 10</sup>

16 Scott Cawley's technical review of the NIS and AA Screening report has focused on the identification of lacunae that undermine the robustness of the documents, their findings and conclusions. The authors have in the first instance focused on matters that are fundamental and material, with consideration attributed secondarily to matters that are procedural. We note that the assessments contain a substantial volume of the latter.

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<sup>2</sup> Connelly -v- An Bord Pleanála & ors [2018] IESC 31

<sup>3</sup> Section 177U (1) of the Planning and Development Act, 2000 (as amended)

<sup>4</sup> Section 177T (2) of the Planning and Development Act, 2000 (as amended)

<sup>5</sup> Kelly v An Bord Pleanála & Ors. [2014] IEHC 400

<sup>6</sup> Kelly v An Bord Pleanála & Ors. [2014] IEHC 400

<sup>7</sup> Holohan v. An Bord Pleanála C-461/17

<sup>8</sup> Waddenzee Case C-127/02

<sup>9</sup> Eco Advocacy v An Bord Pleanála [2025] IEHC 15

<sup>10</sup> Environmental trust Ireland v. An Bord Pleanála [2022] IEHC 540

### 3.1 Significant adverse effects on Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC [000365]

- 17 Scott Cawley ecologists conducted surveys the vicinity of the proposed crossing of the River Currane on 14 August 2025. Areas of wet grassland (GS4) either side of the N70 between Ch. 980.0 and Ch. 880.0 approximately are likely to be the Annex I habitat *Molinia* meadows [6410] based on the results of these surveys.
- 18 Relevé data was collected on the western side of the N70 in lands in the curtilage of Waterville House (refer to Appendix I) which has seven positive indicators for the *Molinia* meadows [6410] as per the assessment criteria in Martin *et al.* (2018). The relevé corresponds to the Irish Vegetation Community (IVC) GL1D *Molinia caerulea* – *Potentilla erecta* – *Agrostis stolonifera* grassland which is described as one of the characteristic communities of *Molinia* meadows [6410] in the Irish context in *The Status of EU Protected Habitats and Species in Ireland: Habitat Assessments Volume* (NPWS, 2025).
- 19 Scott Cawley did not collect relevé data on the eastern side of the N70, but observed that an area of wet grassland (GS4) which is partially within and partially outside of the Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC [000365] contains three easily recognisable *Molinia* meadows [6410] indicator species *Molinia caerulea*, *Juncus acutiflorus*, and *Filipendula ulmaria* within the sward. The area within and adjacent to the SAC is more species-poor and rank (unmanaged) relative to the example in Waterville House, but is partially within the SAC and is therefore likely to be part of the qualifying interest (QI) resource. The entire *Molinia* meadows [6410] resource, including those parts that are *ex situ* are part of the SAC resource and should be treated as such. A section of this grassland is illustrated in Plate 1 **Error! Reference source not found.**, below.



**Plate 1 - Area of rank wet grassland (GS4) that has affinities to and is likely to be the Annex I habitat Molinia meadows [6410] at Ch. 900.0 approximately. The foreground is dominated by Juncus acutiflorus with some Molinia caerulea while tall stands of Filipendula ulmaria (green broad-leaved herb and senescent flowering stems) and occasional Lythrum salicaria (purple flower) are visible in the background.**

- 20 We note that in presenting the habitat survey data for the proposed development, the Council has failed to provide objective information supporting their determination that the habitats within the footprint and vicinity of the proposed development did not correspond to any Annex I habitat types. It is our professional opinion that the habitat descriptions provided by the Council do not include any supporting information that would enable the competent authority or a third party come to the same conclusion as the Council in relation to the habitat classifications or descriptions. While we note that the accompanying *Planning and Environmental Considerations Report* (Tobin, 2025b) includes a description of Wet Grassland (GS4) at Section 4.5.1.4, the description mentions only three common grass and sedge species and does not provide a more comprehensive description of the vegetation, and failed to identify the presence of three easily identifiable and recognisable indicator species *Molinia caerulea*, *Juncus acutiflorus* or *Filipendula ulmaria* in the sward of wet grassland (GS4) vegetation. Furthermore, the council states at Table 7-1 page 57 of their NIS that “*Molinia meadows on calcareous, peaty or clayey-silt-laden soils is a terrestrial habitat (NPWS, 2019) and was not recorded within the proposed development site during surveys*” Their omission and failure to identify the habitat points to a deficiency in the surveys conducted by the Council.

- 21 We note that the project description of the proposed development as presented in the NIS includes the construction of an outfall (the Southern Outfall as described in Section 4.2.4.2, page 15 of the NIS and as illustrated Figure 4-7, page 16 of the NIS) within an area, that Scott Cawley believe based on recent site visit to be part of the QI resource of *Molinia* meadows [6410] of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC [000365]. It appears that the boundaries of the SAC as presented in Figure 4-7 of the NIS by the Council are not reflective of the current SAC boundaries<sup>11</sup> and that the proposed works are within the SAC boundary. Based on this review, it is not clear based on the information provided in the NIS, including within Appendix 2 whether the proposed development includes expansion of the existing embankment. The legend titles for the proposed development suggest that there will be some widening of the existing carriageway, but this is not explored or assessed within the NIS in much detail. Furthermore, we note that MHL Consulting Engineers, in their review of the Compulsory Purchase Order (CPO) boundary for the proposed development, have identified that the Council failed to include working space at the base of the embankment, nor does the CPO allow for the provision of associated interceptor drains. This omission appears to be carried through to the NIS, and for this reason, the description of the proposed development, nor the ensuing assessment of effects can be considered complete, precise and definitive.
- 22 It is our view that the construction of the southern outfall and any expansion or alteration of the embankment on the eastern side of the N70 between Ch. 980.0 and Ch. 880.0 is likely to result in the removal of *Molinia* meadows [6410] habitat that is part of the QI resource of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC [000365]. The site-specific conservation objectives for this habitat is to restore the favourable conservation condition in the SAC (NPWS, 2017), and the achievement of the site-specific conservation objective is defined by a series of attributes and targets including one relating to 'habitat area' as documented in Table 2. It is our view that any proposal that results in the loss of QI *Molinia* meadow [6410] habitat could undermine the site-specific conservation objective 'habitat area' as listed in Table 2 below for the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC [000365], and that significant adverse effects cannot be ruled out arising from such a proposal.

**Table 2 – Habitat Area attribute and target supporting the achievement of the conservation objective to restore the favourable conservation condition of *Molinia* meadows [6410] within the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC [000365].**

Attribute	Measure	Target	Notes
Habitat area	Hectares	Area stable or increasing, subject to natural processes, with a minimum area of 9.02ha. See map 4	The full extent of <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils ( <i>Molinia caerulea</i> ) within Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC is unknown. <i>Molinia</i> meadows habitat was recorded as part of the Irish Semi-natural Grassland Survey (ISGS) within the sub-site Bunrower (ISGS site code 2403) (Devaney <i>et al.</i> , 2013; O'Neill <i>et al.</i> , 2013) with an area of 8.03ha. In the production of a habitat map for Killarney National Park, Barron and Perrin (2011) mapped a further 0.98ha of the habitat at Ross Island to give a total minimum area of 9.02ha of <i>Molinia</i> meadows in the SAC. Map 4 shows surveyed grasslands, including the areas classified as 6410 (9.02ha).

<sup>11</sup> The current SAC boundaries have been published by NPWS, date to 06/12/2024 and can be downloaded from the following website: <https://www.npws.ie/maps-and-data/designated-site-data/download-boundary-data> [Accessed 27/01/2026]

Attribute	Measure	Target	Notes
			NB further unsurveyed areas may be present within the SAC

- 23 In the context of the above information, it is our professional opinion that it cannot be ruled out, on the basis of objective scientific evidence, that the proposed development as proposed by the Council, will not adversely affect the integrity of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC [000365] either alone or in combination with other plans or projects.
- 24 The Proposed Development, therefore, cannot proceed, save in accordance with Article 6(4) of the Habitats Directive, which necessitates an assessment of alternative solutions..

### 3.2 Lack of objective habitat data supporting the Assessment and Conclusion of the NIS

- 25 In presenting their habitat survey data, the Council have failed to provide objective information supporting their determination that the habitats within the footprint and vicinity of the proposed development do not correspond to any Annex I habitat types. It is our observation that the habitat descriptions do not include any supporting information that would enable a third party come to the same conclusion as the Council in relation to the habitat classifications or descriptions. While we note that the accompanying Planning and Environmental Considerations Report includes a description of Wet Grassland (GS4) at Section 4.5.1.4, the description mentions only three common grass and sedge species and does not provide a more comprehensive description of the vegetation.
- 26 Wet grassland (GS4) vegetation includes variants that are the Annex I habitat *Molinia* meadows [6410], a qualifying interest of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC [000365]. In the Irish context, *Molinia* meadows [6410] is described in *The Status of EU Protected Habitats and Species in Ireland: Habitat Assessments Volume* (NPWS, 2025) to include the following Irish Vegetation Communities (IVC) based on work completed by Perrin (2021):
- GL1C: *Molinia caerulea* – *Succisa pratensis* grassland – the most species rich variant.
  - GL1A *Juncus acutiflorus* – *Holcus lanatus* grassland. A less species-rich variant than GL1C.
  - GL1D *Molinia caerulea* – *Potentilla erecta* – *Agrostis stolonifera* grassland. A less species-rich variant than GL1C.
- 27 As a result of the absence of objective data submitted by the Council in their NIS and supporting documentation, any assessment undertaken by the Commission based on this information could not be considered "appropriate"<sup>12</sup> within the meaning of Article 6(3), due to the lacunae identified above. As result, any such assessment would not contain complete, precise and definitive findings and conclusions that are capable of dispelling all reasonable scientific doubt as to the effects of the project on the relevant European site.

### 3.3 Absence of Best Scientific Knowledge supporting the Assessments in the NIS

- 28 In their NIS, the Council has not presented best scientific knowledge in support of their assessment of the potential for adverse effects on the integrity of European sites in the likely Zone of influence of the proposed development. The perceived deficiencies with respect to habitats and the absence of objective

<sup>12</sup> As per the judgement in *Holohan v. An Bord Pleanála C-461/17* "43 In accordance with the case-law cited in paragraphs 33 and 34 of the present judgment, an appropriate assessment of the implications of a plan or project for a protected site entails, first, that, before that plan or project is approved, all aspects of that plan or project that might affect the conservation objectives of that site are identified. Second, such an assessment cannot be considered to be appropriate if it contains lacunae and does not contain complete, precise and definitive findings and conclusions capable of dispelling all reasonable scientific doubt as to the effects of the plan or project on that site. Third, all aspects of the plan or project in question which may, either individually or in combination with other plans or projects, affect the conservation objectives of that site must be identified, in the light of the best scientific knowledge in the field"

information supporting habitat classification is discussed in Section 3.1 and Section 3.2, above. We provide the following additional observations in relation to information presented on the ecological baseline:

### 3.3.1 Aquatic ecology

- 29 The aquatic ecological baseline is derived from an Aquatic Ecological Impact Assessment (EclA) previously prepared by Lauren Williams and furnished as Appendix 4 of the *Environmental Assessment of Route Options for the N70 Waterville to Ballybrack Road Improvement Scheme*. The Aquatic EclA dates to December 2017.
- 30 The Aquatic EclA is not presented within or appended to the Council's NIS, is not included as part of the planning documentation for JP08.323996. This omission means the necessary documentary evidence for aquatic ecology is not before the competent authority, and comprises a significant lacuna. Furthermore, aquatic baseline as presented in Williams (2017) was produced prior to the identification of the transport solution, at an early options assessment stage of the project and could not be relied upon as best scientific evidence to prepare a NIS on its own due to the absence of details such as the location of built infrastructure which could affect aquatic species (e.g. the location of any drainage outfalls). Finally, the data contained in the Aquatic EclA is nine years old and cannot be relied upon as 'best scientific knowledge' on account of its age per CIEEM's *Advice Note on the Lifespan of Ecological Reports and Surveys* (CIEEM, 2019), and the fact that conditions in the aquatic environment can and do change with time.
- 31 If the competent authority relied upon the information contained within Williams (2017), it does not include information on the presence or distribution of lamprey species at the proposed development site, as lamprey surveys were not within the scope of the Aquatic EclA. The scope of the surveys for the Aquatic EclA appears to extend to a single snorkelling survey conducted in October 2017 to identify fisheries and aquatic constraints to a number of option crossings of the River Currane. The surveys were not designed or conducted to inform a more detailed assessment of effects of the proposed development as contained and described in the NIS, and does not include information on lamprey habitat or other QIs of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC [000365] at the proposed outfall locations. This means that the competent authority does not have the information necessary to understand whether lamprey ammocoetes are likely to occur and utilise sediments at the locations of the proposed outfalls of the proposed development. This information is required to inform a robust assessment of effects of the development against the site-specific conservation objectives for sea lamprey *Petromyzon marinus* [1095], brook lamprey *Lampetra planeri* [1096] and river lamprey *L. fluviatilis* [1099], in particular for the attributes 'population structure of juveniles', juvenile density in fine sediments, and 'availability of juvenile habitat' (refer to NPWS (2017), pp. 68-70).
- 32 Scott Cawley observed that the watercourse immediately downstream of the River Currane bridge includes sections of riffle with substrate that is typically associated with salmon redds. Scott Cawley ecologists also observed that the fine sediments at the edge of the River Currane are suitable for lamprey ammocoetes (larvae).
- 33 Noting the abovementioned omissions, the information supporting the assessment of effects on aquatic receptors cannot be considered best scientific knowledge.

### 3.3.2 Habitats

- 34 Habitat and species surveys were confined to the proposed development site, not the Zone of Influence (Zoi), based on the information presented in Section 3.3 pp 4-5 of the NIS. This may limit the ability of the Council to identify and assess indirect effects on sensitive habitats, including groundwater-dependent habitats such as *Molinia* meadows [6410]. The absence of this information will prevent the Council or the competent authority from conducting a robust and defensible assessment of effects of the proposed development on the following attributes supporting the site-specific conservation objectives of *Molinia* meadows [6410] in the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC [000365]:
- Habitat area

- Vegetation composition: positive indicator species
- Vegetation composition: moss species

### 3.3.3 Shortcomings with Respect to Assessment of Effects in the NIS

- 35 As documented in Section 3.1 Paragraph 21 of this technical review, it is not clear based on the information provided in the NIS in Section 3.1 (Description of the Proposed Scheme) and in NIS Appendix 2 whether the proposed development includes expansion of the existing embankments beyond their existing footprint.
- 36 The NIS appear not to have considered the implications of the expansion of the embankment on the QIs of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC [000365] with respect to their site-specific conservation objectives. This omission includes any consideration of either direct habitat loss effects or any other indirect effects arising from downgradient changes to edaphic conditions in the vicinity. This is a significant lacuna in the Council's assessment, given the location of QI habitats (i.e. *Molinia* meadows [6410]) and habitats that provide a supporting function to QI habitats of the SAC (wetland habitats in the vicinity of the River Currane which support the existence of vegetation of flowing waters [3260]),
- 37 Furthermore, the assessment of effects with respect to construction phase is light on detail with respect to how certain elements can be delivered in the context of the sensitive and constrained nature of the bridge crossing point. In this regard, the installation of sheet piling from a roadside location without the need to access (and therefore potentially to negatively affect) habitats in adjacent lands has does not appear to be credible or realistic. This is reflected in the observations of MHL Consulting Engineers in their Roads, Transportation & Engineering focused review of the proposed development, whereby they note that the CPO boundary does not reflect the required land take to construct the proposed development. The implications of this are that the assessment of the proposed development in the Councils NIS cannot be relied upon as being precise and definitive.

### 3.3.4 Lacuna with Respect to Birds in the AA Screening and NIS

- 38 Noting that the proposed development is located within the vicinity of European sites that have been designated for bird species, the AA Screening report does not objectively document whether breeding, wintering or passage bird surveys were conducted to inform the assessment. Furthermore, there is no objective evidence describing whether or how an assessment of suitability of the proposed development site has been conducted to support the decision to screen out any European sites which have been designated for birds (SPAs). This lacuna means that the AA Screening conclusion reached by the applicant cannot be relied upon as robust, precise and definitive.

### 3.3.5 Lacuna with Respect to the In Combination Assessment in the AA Screening and NIS

- 39 The Council does not clearly describe the methodology and scope of their in-combination assessment in either the AA Screening report or the NIS. Instead, an assessment of a series of plans and projects is presented in the absence of any spatial or temporal contextualisation. We note that implicit reference is made to the temporal scope of cumulative assessment in Table 8-1, page 24 of the Council's Environmental Impact Assessment (EIA) Screening report via the following statement "A review of planning applications within 500 metres of the site for the years 2017 – 2021 indicates that there are no significant development proposals within the vicinity of the site that could act in cumulation with the project." This statement suggests that the in-combination assessment relies upon work conducted five years in the past, and that the information presented cannot be considered as 'best scientific knowledge'.
- 40 Noting that there are multiple planned or proposed projects comprising upgrades of the N70 in the general vicinity of the proposed development, the applicant has failed to document and consider whether those projects could act in combination with the proposed development and result in either:
- Likely significant effects on any European sites; or
  - Adverse effects of integrity on any European sites.

- 41 Of particular relevance are the following projects:
- Part 8 Application N70 Castlecove Bridge Replacement<sup>13</sup>
  - Part 8 - N70 Creamery Cross Road Project<sup>14</sup>
  - N70 Kilderry Bends CN - N70 Kilderry Bends Improvement Scheme - Road Construction Contract
  - Part 8 Application N70 Cummergorm Bridge Replacement<sup>15</sup>
- 42 The absence of consideration of potential in combination effects of these and other relevant projects within either the AA Screening report or NIS means that the conclusion reached by the applicants are not complete, precise and definitive, and our opinion as set out at paragraph 27 is repeated in this respect.

### 3.4 Conclusion of the NIS and AA Screening Review

- 43 Scott Cawley Ltd. have examined, analysed and evaluated the content of the AA documentation for JP08.323996, including relevant supporting information and are not in agreement with the conclusion of the NIS. In particular, due to the absence of best scientific knowledge, including in particular the nature of the predicted impacts that may arise from the proposed development and considering the implementation of the mitigation measures proposed, that the proposed development will not adversely affect the integrity of any European sites, either alone or in combination with other plans or projects. We are of the view that the potential for significant adverse effects on the integrity of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC [000365] cannot be ruled out based on the potential effects of habitat loss on *ex situ* QI resource *Molinia* meadows [6410]. Furthermore we have demonstrated that there is a lack of objective habitat data supporting the Council's assessment, and that there is an absence of best scientific evidence supporting the assessment and its conclusions, which introduce lacunae to the Council's assessment, and would prevent the Commission from conducting an appropriate assessment that contains complete, precise and definitive findings and conclusions that are capable of dispelling all reasonable scientific doubt as to the effects of the project on the relevant European site, in the absence of significant further information.

## 4 Planning and Environmental Considerations Report Review

- 44 The proposed development is unusual for a project of its scale and nature located in a sensitive receiving environment, in omitting a standalone ecological impact assessment (EclIA) report to identify, quantify, and evaluate the potential direct, indirect, and cumulative effects of the proposed development on habitats, species, and ecosystems. The assessment is instead presented in an environmental report titled *7. Planning and Environmental Considerations Report (PECR) - N70 Waterville to Ballybrack*.
- 45 Scott Cawley's technical review of the Planning and Environmental Considerations report encompasses review of Chapter 4 (Biodiversity) only. It comprises appraisal of the information provided by the Council against the CIEEM's *Ecological Impact Assessment (EclIA) Checklist* (CIEEM, 2019). As per the review of AA documentation, the focus is the identification of lacunae that undermine the robustness of the documents, their findings and conclusions. Where potential lacunae have been identified, recommendations have been provided to overcome these lacunae. The authors have in the first instance focused on matters that are fundamental and material, with consideration attributed secondarily to matters that are procedural.

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<sup>13</sup> Kerry County Council (2025). Available online at <https://consult.kerrycoco.ie/en/consultation/part-8-application-n70-castlecove-bridge-replacement> [Accessed 10/02/2026]

<sup>14</sup> Kerry County Council (2025). Part 8 - N70 Creamery Cross Road Project. Available online at <https://consult.kerrycoco.ie/en/consultation/part-8-n70-creamery-cross-road-project> [Accessed 10/02/2026]

<sup>15</sup> Kerry County Council (2025). Part 8 Application N70 Cummergorm Bridge Replacement. Available online at <https://consult.kerrycoco.ie/en/consultation/part-8-application-n70-cummergorm-bridge-replacement> [Accessed 10/02/2026]

#### 4.1 Absence of Best Scientific Evidence in Support of a Robust Assessment

46 As per the AA documentation, the baseline information presented within the PECR is deficient in a number of respects, which imposes limitations on its usability and robustness for impact assessment. The following items are common to both the PECR and the AA Documentation:

- The presence of Annex I habitats within the proposed development site and its vicinity have not been identified by the authors of the report. This is documented already in Section 3.1 above in relation to *Molinia* meadows [6410]. Furthermore, the Annex I habitat vegetation of flowing waters [3260] has not been identified notwithstanding the listing of indicator species in the description of the habitat lowland / depositing rivers (FW2) in Section 4.5.1.5, page 31 of the PECR. The presence of the Annex I habitat in the receiving environment has implications for working practices with respect to works required in stream (potential for direct loss / pollution events etc) that have therefore not been adequately explored and addressed by targeted measures to avoid and then minimise effects within the PECR.
- The absence of relev  data supporting classification of habitats that have a known affinity to Annex I habitat types means that the defensibility of determinations that those habitats are absent is not robust. We note that Scott Cawley have identified Annex I habitats associated with the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC. Additionally, Scott Cawley identified an area of lowland hay meadows [6510], on the western embankment of the N70 (refer to Section 2 and Appendix I (R2)). This habitat, while not part of any SAC QI resource, is a constraint of some significance given its limited area in Ireland (NPWS, 2025). The omission of this habitat from PECR suggests that the assessment presented by the Council does not meet EclA Checklist Criteria "5. All protected or priority species and priority habitats likely to be significantly affected are clearly and correctly identified, and adequate surveys have been undertaken to inform the baseline". The implications for this is that the effects of the proposed development cannot be avoided, reduced or offset.

#### 4.2 Absence of Mitigation for Hedgerow Loss

47 Hedgerows are acknowledged as important habitat features in the context of the landscape and in the context of their role as ecological corridors for a range of fauna species within the *Kerry County Development Plan*. The development plan includes objective KCDP 11-22 "Encourage and facilitate the retention and creation of features of local biodiversity value, ecological corridors and networks that connect areas of high conservation value such as watercourses, woodlands, hedgerows, earth banks and wetlands." The Council report in the PECR that the proposed development will result in the loss of approximately 320 m of hedgerow. The assessment of effects of the loss omits any clear or explicit statement with respect to whether the loss of hedgerows is significant or not significant, in line with CIEEM's *Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine* (CIEEM, 2024). Furthermore, there is no proposed compensatory planting proposal for the loss of hedgerow habitat and therefore any potentially significant effects have not been offset. Finally, the cumulative assessment fails to adequately and robustly consider whether the project could act cumulatively with other plans or project to result in significant effects on hedgerow arising from habitat loss. Refer to the projects listed at paragraph 41 above and in particular Part 8 - N70 Creamery Cross Road Project<sup>14</sup> – the EIA Screening Report (RPS, 2025) confirms that 579m of hedgerow will be removed:

- "3.2.6.2 Hedgerow Removal There will be areas of hedgerow removal along the N70 to accommodate the realigned route. The main area of hedgerow removal is at the northern end of the scheme where roadside hedgerow is more defined than the south. Much of the N70 boundary to the south of the R565 and along most of the R565 comprises of earthen bank rather than hedgerow. The total extent of hedgerow habitat removal is estimated at approximately 579m. Earthen bank boundaries will also separately be affected."

48 We note that there is a cumulative loss of hedgerow approaching 1km from the proposed development and the N70 Creamery Cross Road Project. These gaps preclude an assessment of, at least, the nature, size

and location of the proposed development that would enable a determination that it is unlikely to give rise to significant effect on the environment for the purposes of Article 4(2) and Annex III of the EIA Directive.

## 5 Consideration of Alternatives - Signalisation of the N70 on the approaches to Currane Bridge

- 49 Scott Cawley have participated in the development of a proposal for an alternative crossing option for the River Currane in conjunction with MHL Consulting Engineers. Scott Cawley's role in the development of this proposal was to identify and assess whether it is a feasible alternative that could pass the appropriate assessment test.
- 50 In brief the alternative comprises signalisation of the N70 on the approaches to the Currane Bridge. It excludes the installation of any new watercourse crossing, and relies on the conversion of the existing historic bridge into a facility divided into a 3.0m wide single vehicular carriageway (western carriageway) and a single 3.0m wide raised shared active travel facility (eastern carriageway). The southern approach to the bridge (Hogg's Head Hotel side) will be constructed within lands identified further to grant of permission Reg Ref 16787 and will constitute a raised boardwalk to avoid adverse effects on the qualifying interests of any European sites (*Molinia* meadows [6410]). It is anticipated that the latter can be delivered without encroachment outside of the existing embankment of the N70 road and therefore adverse effects arising from loss of *Molinia* meadows [6410] habitat can be avoided.
- 51 The assessment conducted by Scott Cawley of the design determined that it can be delivered within a reduced footprint relative to the design option submitted by Kerry County Council. The reduced footprint and scale of associated works will result in reduced habitat loss effects primarily, and subject to sensitive detailed design can be delivered without adverse effects on the integrity of any European sites. The ability to avoid adverse effects on the integrity of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC is based on the location and mode of installation of a raised boardwalk on the eastern carriageway of the N70 between the River Currane Crossing and the Hog's Head Golf Course. It is acknowledged that the alternative requires detailed assessment in its own right and should be considered in the context of the adverse effects of the option proposed by Kerry County Council on the integrity of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC [000365].

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## Appendix I – Relevé Data

The relevé data below has been assessed against the Annex I grassland assessment criteria for *Molinia* meadows [6410] and lowland hay meadows [6510] listed in Appendix I, of Martin *et al.* (2018).

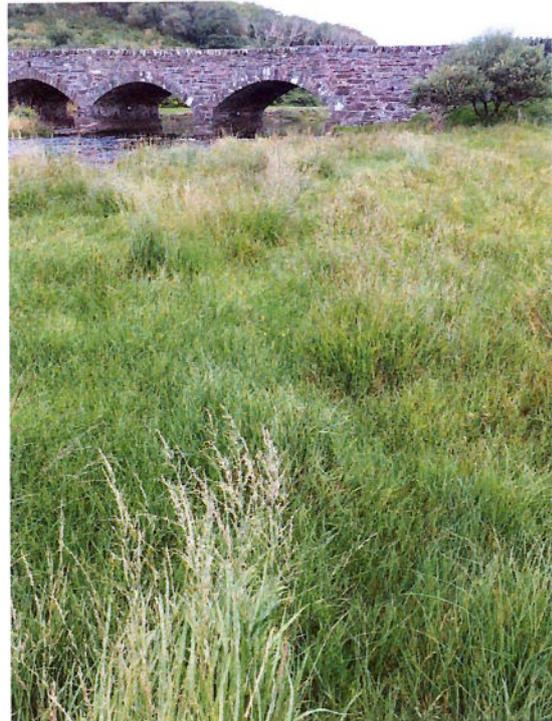
Relevé Number	R1
Shp FID	JN250148_Habitat_ply_V01 = "fid" = '51'; JN250148_Habitats_TargetNote_pt_V01 = "FID" = '4'
Surveyor	Colm Clarke MCIEEM
Date	14/08/2025
X Y Coordinates	450282 565322
Fossitt habitat	Wet grassland (GS4)
Annex I habitat (if applicable)	<i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils ( <i>Molinion caeruleae</i> ) [6410]
Rational for classification as Annex I habitat	Relevé includes seven positive indicator species of the habitats as per assessment criteria published in Martin <i>et al.</i> (2018).
Average sward height (cm)	20
Average scrub height (cm)	Not applicable
Average tree height (cm) (if applicable)	Not applicable
Bare ground (%)	0
Notes on disturbance and management (e.g. regularly mown, grazed)	Appears ungrazed. May be grazed or mown periodically outside of visit period. Short sward
Photo(s) taken (Y/N)	Yes

Relevé Number

R1



DCIM\20250814\_155653



DCIM\20250814\_155704

Irish Vegetation Community (Based on upload of data to the ERICA web application)

GL1D *Molinia caerulea* - *Potentilla erecta* - *Agrostis stolonifera*

Additional notes

Low lying area adjacent to river. *Molinia* and *Carex* prominent in sward

Species	% cover	High Quality Positive Indicator Sp?	Positive Indicator Sp?
<i>Molinia_caerulea</i>	15	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Holcus_lanatus</i>	5	<input type="checkbox"/>	<input type="checkbox"/>
<i>Carex_flacca</i>	15	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Juncus_acutiflorus</i>	15	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Ranunculus_flammula</i>	5	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Galium_palustre</i>	2	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Juncus_effusus</i>	5	<input type="checkbox"/>	<input type="checkbox"/>
<i>Lythrum_salicaria</i>	1	<input type="checkbox"/>	<input type="checkbox"/>
<i>Rumex_acetosa</i>	3	<input type="checkbox"/>	<input type="checkbox"/>
<i>Argentina_anserina</i>	1	<input type="checkbox"/>	<input type="checkbox"/>
<i>Cerastium_fontanum</i>	0.5	<input type="checkbox"/>	<input type="checkbox"/>
<i>Filipendula_ulmaria</i>	5	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Relevé Number	R1		
<i>Lotus_corniculatus</i>	2	<input type="checkbox"/>	<input type="checkbox"/>
<i>Eleocharis_palustris</i>	2	<input type="checkbox"/>	<input type="checkbox"/>
<i>Agrostis_stolonifera</i>	5	<input type="checkbox"/>	<input type="checkbox"/>
<i>Potentilla_erecta</i>	2	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Relevé Number	R2
Shp FID	JN250148_Habitat_ply_V01 = "fid" = '29'; JN250148_Habitats_TargetNote_pt_V01 = "FID" = '5'
Surveyor	Colm Clarke MCIEEM
Survey Date	14/08/2025
XY Coordinates	450300 565343
Fossitt habitat	Dry meadows and grassy verges (GS2)
Annex I habitat (if applicable)	Lowland hay meadows ( <i>Alopecurus pratensis</i> , <i>Sanguisorba officinalis</i> ) [6510]
Rational for classification as Annex I habitat	Relevé includes one high-quality positive indicator species and six positive indicator species of the habitats as per assessment criteria published in Martin <i>et al.</i> (2018).
Average sward height (cm)	10
Average scrub height (cm)	0
Average tree height (cm)	0
Bare ground (%)	0
Notes on disturbance and management (e.g. regularly mown, grazed)	Between wall and fence likely on rock fill associated with the embankment of the existing N70 road. Not subject to grazing pressure at time of survey but unknown how management varies across the year.
Photo(s) taken (Y/N)	Yes

Relevé Number

R2



DCIM\20250814\_162206



DCIM\20250814\_162219

Irish Vegetation Community (Based on upload of data to the ERICA web application)		GL3A <i>Briza media</i> - <i>Thymus polytrichus</i> community	
Additional notes)		Calcifuge flora on embankment west side of road	
Species	% cover	High Quality Positive Indicator Sp?	Positive Indicator Sp?
<i>Lotus_corniculatus</i>	5	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Achillea_millefolium</i>	15	<input type="checkbox"/>	<input type="checkbox"/>

Relevé Number	R2		
<i>Senecio_jacobaea</i>	2	<input type="checkbox"/>	<input type="checkbox"/>
<i>Daucus_carota</i>	5	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Lathyrus_pratensis</i>	5	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Hypochaeris_radicata</i>	2	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Centaurea_nigra</i>	2	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Carex_flacca</i>	10	<input type="checkbox"/>	<input type="checkbox"/>
<i>Helictotrichon_pubescens</i>	15	<input type="checkbox"/>	<input type="checkbox"/>
<i>Festuca_ovina</i>	40	<input type="checkbox"/>	<input type="checkbox"/>
<i>Taraxacum_officinale_agg</i>	2	<input type="checkbox"/>	<input type="checkbox"/>
<i>Trifolium_repens</i>	5	<input type="checkbox"/>	<input type="checkbox"/>
<i>Plantago_lanceolata</i>	2	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Agrostis_canina_vinealis</i>	15	<input type="checkbox"/>	<input type="checkbox"/>
<i>Trifolium_pratense</i>	5	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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# N70 Waterville to Ballybrack Road Improvement Scheme, Co Kerry

Review of proposed development from  
landscape and visual perspective



**Brady Shipman  
Martin**  
**Built.  
Environment.**

# Survey Assessment **Built Environment**

Client:

Waterville Links Ltd.

Date:

17 February 2026

**DOCUMENT CONTROL SHEET**

**6619\_RP01\_Review of proposed development from landscape and visual perspective**

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# 1 Introduction

Brady Shipman Martin have been engaged by Waterville Links Ltd. to carry out a review on the landscape and visual aspects of the proposed N70 Waterville to Ballybrack Road Improvement Scheme, which is being proposed by Kerry County Council, via a Section 177AE Consent Application to An Coimisiún Pleanála - **Case reference: JP08.323996** (Kerry County Council, 2025).

The proposed development consists of a c. 1.4km online improvement of the N70 to an all-purpose road with a shared use cycle and pedestrian facility, including new bridge to the west of Waterville Bridge and all ancillary and consequential works in the townlands of Waterville, Ballybrack and Eightercua in County Kerry.

## ***Review of Landscape and Visual Assessment with the 177AE Application***

As part of the Section 177AE application, there is a brief overview of the landscape and visual effects in the Planning and Environmental Considerations Report (PECR) and Environmental Impact Assessment (EIA) Screening Report. Section 12 of the PECR outlines a summary of the Landscape and Visual Assessment. A number of photomontages (referred to as Appendix B in text, labelled Appendix D in document package) accompany the application. However, a full Landscape and Visual Assessment has not been submitted with the application.

Within the summary of assessment (Section 12.2, p.97), it is stated that the proposed development will have '**permanent..significant** [sic. landscape] *effects into the operational phase*' and '**significant** (views 1 to 3) and **profound** (viewpoint 4) *effects*' on viewpoints. However the PECR does not specify whether these effects will be positive, neutral or negative. The summary of the LVIA refers to the guidance '*Landscape Character Assessment (LCA) and LVIA for Specified Linear Infrastructure Projects: Overarching Technical Document* (Transport Infrastructure Ireland (TII) Publication PE-ENV-01101, December 2020)', which defines effects as follows:

- '**Significant Effects** - An effect which, by its character, magnitude, duration or intensity significantly alters most of a sensitive aspect of the environment.
- '**Profound Effects** - An effect which obliterates sensitive characteristics.'

In light of these landscape and visual effects, and reflecting the planning policies applicable to the area which generally seek to preserve the landscape and visual environment, it would be considered that the nature of these significant-profound landscape and visual effects would be negative.

It is noted that this contradicts Table 8-1 of the EIA Screening report which accompanies the application, which states that '*With respect to views from the N70 and wider landscape character assessment, the proposed scheme is considered to be of a scale and nature that would not result in a negative impact to the surrounding area. Road improvement works will be carried out within the boundary or adjacent to the existing N70, visual impact therefore will be kept low and within the confines of the carriageway.*'

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#### ***Landscape and visual impact assessment on Waterville House***

This report provides an overview of the receiving landscape and visual environment and examines the proposed development's assessment of potential landscape and visual effects which accompany the proposed development application. This assessment would concur with the summary LVIA in that the proposed development will give rise to **significant and profound negative and permanent effects** on the landscape and visual environment.

It also considers an alternative shared pedestrian/cycle route prepared by MHL Engineers on behalf of Waterville Links Ltd, located on the eastern side of the N70 and within the existing parapet walls of Waterville Bridge.

The assessment has had regard to the following documents:

- Guidelines on the information to be contained in Environmental Impact Assessment Reports (EPA, 2022)
- Guidelines for Landscape and Visual Impact Assessment, 3ed. April 2013 (GLVIA3) (Landscape Institute & Institute of Environmental Management and Assessment, 2013)
- Landscape Character Assessment (LCA) and Landscape and Visual Impact Assessment (LVIA) of Specified Infrastructure Projects – Overarching Technical Document (PE-ENV-01101), (Transport Infrastructure Ireland (TII), 2020)
- Landscape Character Assessment (LCA) and Landscape and Visual Impact Assessment (LVIA) of Proposed National Roads - Standard (PE-ENV-01102) (Transport Infrastructure Ireland (TII), 2020)

This report has been prepared using a desk study and site visits in survey in August 2021, January 2024 and December 2025. The assessment of landscape and visual effects (including significance of effects) are based on industry-standard documents referenced above.

The assessment has had regard to the following documents / sources of information:

- Kerry County Development Plan 2022-2028 (KCDP) (Kerry County Council, 2022)
- Kenmare Municipal District Local Area Plan 2024-2030 (KMDLAP), (Kerry County Council, 2024)
- Ordnance Survey Ireland Geohive (<http://map.geohive.ie/mapviewer.html>)
- Environmental Protection Agency GIS Mapping (<https://gis.epa.ie/EPAMaps/>)
- Heritage Council GIS Mapping (<https://heritagemaps.ie>)
- National Biodiversity Data Centre (<https://data.gov.ie/organization/national-biodiversity-data-centre>)
- Google Aerial Photography and Mapping (<https://www.google.ie/maps>)

## 2 Receiving Environment

### 2.1 Landscape Context

#### Location and Context

The seaside town of Waterville (An Coireán) is situated on the N70 which forms part of the Wild Atlantic Way and Ring of Kerry driving routes, on the scenic south west coast of the Iveragh Peninsula, approximately 17km south of Cahersiveen and 14 km north of Caherdaniel. See **Figure 1** below.

The proposed road improvement scheme is in an area identified as a 'visually sensitive area.' The KCDP states that 'development in these areas will only be considered subject to **satisfactory integration into the landscape** and compliance with the proper planning and sustainable development of the area'.

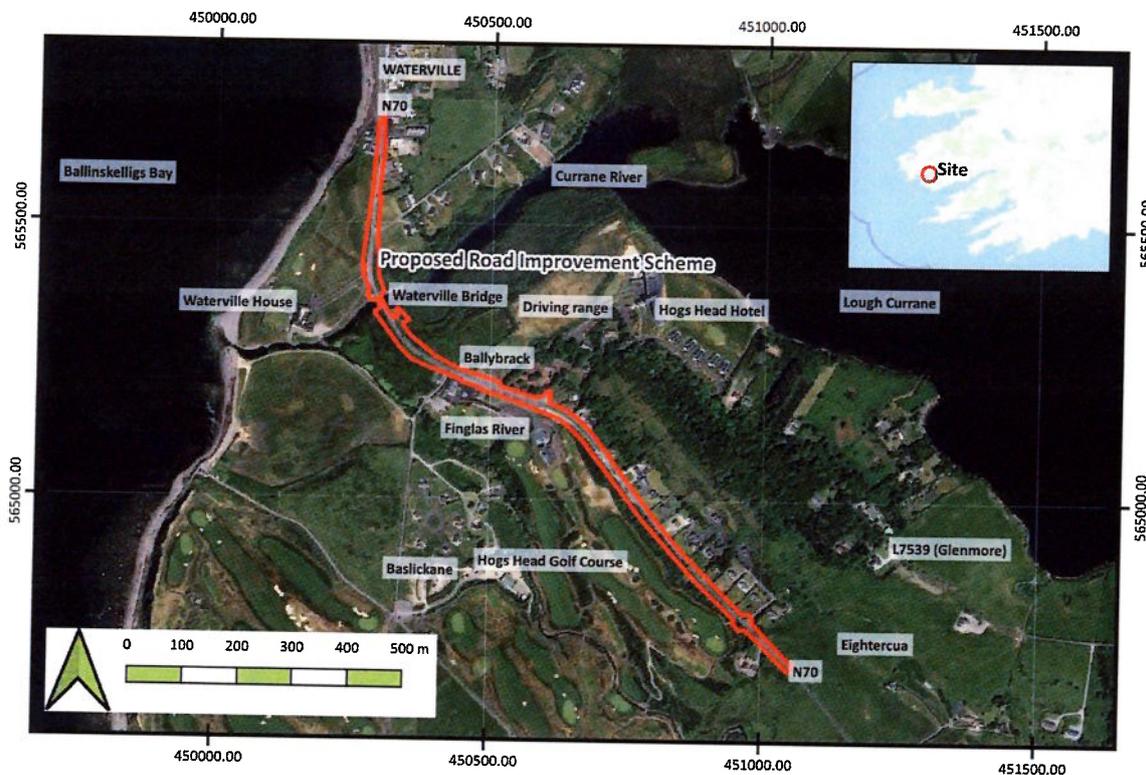


Figure 1 - Site Location

#### Primary Landscape Features

The dominant natural features of the area and wider landscape includes Ballinskelligs Bay, Lough Currane, Currane River, Inny Estuary (north of Waterville) and surrounding hilly and mountainous terrain.

The topography to the south of Waterville is generally low-lying coastal plain, with Ballinskelligs Bay to the west and Lough Currane to the east which connects into the sea via the short Currane River. The topography gently rises toward the south as

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the road begins its ascent toward Coomakista Pass. The wider topography of area is hilly and mountainous with the dramatic Dunkerron and McGillicuddy mountain ranges to the east, with Hogs Head and Bolus Head framing the views to the large horse-shoe shaped Ballinskelligs Bay.

The area is hydrologically complex. Drainage is dominated by the Lough Currane and River system. The Currane River itself is short and a relatively fast-flowing watercourse, draining Lough Currane into Ballinskelligs Bay. The Finglas River drains the areas to the south and joins the Currane River at Waterville House, just below the historical Salmon Weir. Much of the land is marginal with high water table. The area has high rainfall amounts and low-lying areas adjacent to the Currane and Finglas rivers are subject to regular flooding (see **Photo 1**).



Photo 1 - Waterville Bridge and Currane River (BSM, Jan. 2024)

#### Natural Heritage

The vegetation is shaped by the maritime climate and high salt exposure, with field boundaries comprising wind-sculpted Gorse (*Ulex europaeus*), Hawthorn (*Crataegus monogyna*), Blackthorn (*Prunus spinosa*) and Fuchsia (*Fuchsia magellanica*). There are also copses of naturally regenerating Alder (*Alnus glutinosa*), Birch (*Betula pendula*), Holly (*Ilex aquifolium*) and Willow (*Salix sp.*), with lines of planted Sycamore tree (*Acer pseudoplatanus*) in a number of properties in the area (around the junction of Ballybrack/Glenmore).

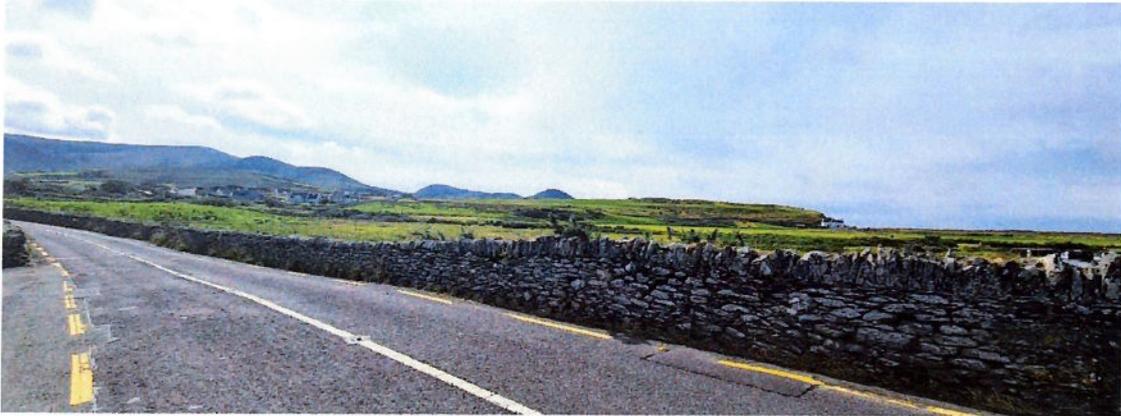
The area is characterised by a range of ecological habitats consisting primarily of grassland, woodland and wetland habitats surrounding Waterville Bridge which crosses the Currane River. West of the bridge on the Waterville House gardens and lands, amenity grassland with golf practice areas, buildings and artificial surfaces are predominant. Agricultural fields generally have coarse, semi-improved grassland and meadows used for low-intensity grazing. Further detail and assessment of the area's ecological features and sensitivities are outlined and considered in the accompanying Ecological Report prepared by Scott Cawley.

The landscape is defined by a traditional small-to-medium irregular field pattern. Boundaries consist largely of distinctive, lichen-covered, old-red sandstone, dry-

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stone walls in a uncoursed, random rubble style and earthen banks (see **Photo 2** below). Further south along the N70 with more recent developments, these traditional enclosures are occasionally replaced or supplemented by modern suburban timber fencing or urbanised, mortared stone and concrete walls, which weakens the unique distinctiveness of the landscape.



**Photo 2** - Existing dry-stone walls along N70 (BSM, 2021)

#### Access and Connectivity

Access to the area is via the N70 national secondary road, which is overall c.143km long, and connects Tralee to Kenmare around the Iveragh Peninsula via a series of villages and towns including Killorglin, Cahersiveen, Waterville, Caherdaniel and Sneem. The route is the principal means of access around the Iveragh Peninsula. The route is in an area of scenic beauty and a significant proportion of it (135km) consists of The Ring of Kerry tourist route and also forms part of the Wild Atlantic Way. A network of smaller local access roads and boreens provide access to surrounding localities. As well as providing vehicular access, many of these smaller access roads are used by pedestrians and cyclists.

In terms of pedestrian connectivity, the main footpath in Waterville lies on the eastern side of the village, connecting the houses, shops and other amenities. On the coastal side, there is an attractive amenity promenade walk along Waterville Beach. Both paths abruptly stop at the southern edge of the village with pedestrians (including the Kerry Way walkers) having to walk along the road carriageway. With the majority of the residential development and Hogs Head Hotel also located on the eastern side of the N70, there would be significant improvement for pedestrian/cyclists if these were connected with a dedicated shared footpath/cycleway. A safe uncontrolled crossing at the Ballybrack/Baslickane road junction would be beneficial to providing a safe walking route for walkers/pedestrians using the Kerry Way.

The Kerry Way, which is Ireland's longest waymarked walking trail, passes through Waterville along the town promenade, across Currane River at Waterville Bridge (see **Photo 3** below), before turning south at Ballybrack junction and along the local access road at Baslickane, leading onto Lothar. There is no footpath for pedestrians to the south of Waterville.

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**Photo 3** - View north along N70 to Waterville Bridge with Waterville House on left side (designated scenic view, KCDP). (BSM, 2025)

#### Landuse

There are a number of land uses in the area, including:

- Urban area of Waterville, which is linear in nature on the east side of the N70 and with a coastal promenade to the west side. This is a small town/village with residential, tourism, retail and accommodation uses. The village core is at the northern end. It is a busy stop-off point for tourist coaches in the summer months.
- Rural area surrounding Waterville (north, east and south), with marginal, low-intensity grazing agriculture.
- Lough Currane and river are renowned for salmon and sea trout fishing, which mention of Butler's Pool (below Waterville) dating back to the 17<sup>th</sup> Century.
- Waterville is home to two golf courses, with Waterville Golf Links c. 1.5km to the northwest of the town and Hogs Head Golf Course c. 0.6km to the south of the town edge which was developed in the last decade. Opposite the Hogs Head Golf Course, the local access road to Glenmore also provides access to the Hogs Head Hotel and practice driving range.
- Waterville House, located on the north side of the river Currane and west side of the N70, is owned by Waterville Golf Links and is used for golf visitor accommodation. On the grounds surrounding the house, there are golf practice areas and fishing stands along the river, to Butler's pool and on both sides of the three arched Waterville Bridge.

The settlement pattern of the area is concentrated around Waterville and along the eastern side of N70 in a linear manner. The surrounding rural area is characterised by individual farmstead and residential dwellings. There are sections of linear, ribbon development along the N70, with a mixture of single and two storey dwellings, which are predominantly on the eastern side of the N70. Hogs Head golf

club house, car park and driving range are locally prominent in views south of Ballybrack junction. The associated Hogs Head hotel is located the east side of the N70, accessed from the Glenmore road and is well screened by intervening vegetation. There are also a number of clusters of holiday home/tourism related developments in the area. East of Waterville Bridge, there is a small layby and water pump station, which is reasonably well screened by landscape planting (albeit with non-native, evergreen *Griselinia* hedge planting).

#### **Waterville House**

Waterville House, which is used for visitor/guest accommodation for the Waterville Links Golf Course, lies to the south of Waterville village to the west of the N70 and on the northern bank of the Currane River. The house sits within a designed landscape, with the front elevation of the house facing south eastwards, with views over the Currane River, Salmon Weir, Waterville Bridge and beyond the Dunkerron Mountains in the distance (see **Photo 4** below). It is noted that KCDP 8-50 *'Requires that proposals for development within historic designed landscapes be sensitive to and respect the built heritage elements and green space values of the site.'*

As well as forming part of the garden setting to the house, the grounds are used golf practice areas (north and south of the House) and for angling along the length of the Currane River stretching from the Salmon Weir/Butler's Pool to Waterville Bridge and upstream on the eastern side of Waterville House, where there is pedestrian access under the northern arch of Waterville Bridge along the water's edge to a boat house, which provides water access to Lough Currane upstream. In the immediate surrounding area of Waterville House, the historic stone walls and Waterville bridge are for the most part intact.

The quality and integrity of the landscape setting and views from the House and grounds form part of the House's unique visitor and amenity offering, as well as supporting the area's designation as a Visually Sensitive Landscape in the KCDP.

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**Photo 4** - View from Waterville House to Currane River, Butler's Pool, Waterville Bridge/N70 and onto the Dunkerron Mountains (BSM, 2021)

Further details and analysis of these some of these built heritage features are outlined and considered in further detail in the Architectural Heritage Impact Assessment prepared by Consarc Conservation.

## 2.2 Visual environment

As noted above, much of the an area is identified as a '*visually sensitive area*'. The KCDP states that '*development in these areas will only be considered subject to satisfactory integration into the landscape and compliance with the proper planning and sustainable development of the area*'. There are also designated views along the N70 around Waterville Bridge looking westwards to Ballinskelligs Bay and Waterville House.

Travelling across Waterville Bridge to Ballybrack junction on the N70, there are expansive scenic views over the surrounding landscape with a mixture of coastal, lake and mountainous vistas (see **Photo 5** and **Photo 6** below).

Further south from Ballybrack junction, views are more enclosed by roadside vegetation, boundary walls and residential development along the east side of the N70.

At Eightercua, views open up south of the residential development at Benjamin Court to the impressive stone alignment of Eightercua along a minor ridgeline and backdrop of Farraniaragh/Cahernageeha/Mullaghbeg/Benrou mountain peaks in the Dunkerrons. Dating back to 1,700BC the four standing stones are aligned to the September equinox, with the largest stone up almost 3m high. In folklore, it is said the stones mark the burial place of Scéine who died at sea just before the Milesians landed in Ireland. She was the wife of Amergin a bard, judge and leader of the Milesians during their conquest of Ireland.<sup>1</sup>

<sup>1</sup> <https://www.discoverireland.ie/kerry/eighercua-stone-row>

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Photo 5 - View west from N70 towards Ballinskelligs Bay with Waterville House in middle ground (designated scenic view, KCDP). (BSM, 2025)



Photo 6 - View east from Waterville Bridge/N70 with Waterville House Boat House (on left) and Currane River with Dunkerron Mountains in the background. (BSM, 2025)

Some of the visual characteristics have been altered by housing, road and commercial developments further south of Waterville, including road widening south of Ballybrack, ribbon development, removal of older walls, banks and hedgerows and replacement with more modern boundary walls and planting. This has locally diminished the landscape and visual quality of the area, and leading to a more urbanised character (see **Photo 7** and **Photo 8** below). Further examples of

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road design urbanisation and a reduction in the quality of the landscape and visual environment are other sections of the N70/Ring of Kerry road improvement schemes (e.g. at Castlecove, Tahilla), where existing landscape fabric (stone walls, natural vegetation, topography etc.) have been removed and replaced with elements more suited to an urban/less sensitive location.



*Photo 7 - View north along N70 between Eightercua and Ballybrack*



*Photo 8 - View north along N70 at Ballybrack*

## 2.3 Landscape Character

Waterville and surrounding landscape to the east are located within the Inny Valley Landscape Character Area of the County Kerry Landscape Character Assessment (Kerry County Council, 2019), which describes the area as a *'peaceful rural landscape'* with *'a ring of mountains and high topography bound this area on three sides and the western boundary is formed mainly by the N70 and the coastline. The area stretches from Waterville on its western side to Ballaghisheen to the northeast.'*

Within the KCDP (Vol. 2, Appendix ), a landscape sensitivity review is outlined with the area located within *'Lough Currane and Máistir Gaoithe'*. The landscape sensitivity is noted as being **'High'** and visual amenity is noted as **'Medium/High'**.

Along the length of the proposed development, there are a number of local character areas including:

- Urban village – Waterville town has a linear pattern with much of the development on the east side of the N70, facing west out to the Ballinskelligs Bay. A promenade walk along the shoreline is a popular and valuable amenity to the town. The main pedestrian footpath in the town is on the east side of the N70 providing pedestrian access to the residential and commercial properties along the street. Travelling south from Waterville, the character is defined by individual residential development and stone retaining walls alongside the road. Views to the sea are limited by topography.
- Currane River Crossing – at the entrance to Waterville House, views open up to the wider landscape with views over the dry stone walls and Waterville Bridge inland to the east and out to sea to the west. The dry stone walls are important landscape fabric in the area, which line the road up to the junction at Ballybrack. The area is located within *'Visually sensitive landscape'* with designated protected views to the west of the N70.
- Ballybrack to Eightercua – the N70 considerably widens south of Ballybrack, with recent mortared stone walls set back to the boundary of Hogs Head Club House, car park and driving range. Further south, there is a line of residential dwellings on the east side of the N70 with a cutting/widening of the N70 to the west with regenerating scrub trees and hedgerows. The area is suburban in character with a range of boundary wall types and garden landscaping. At Benjamin close, the character changes to a rural upland landscape, with views opening to an agricultural landscape with stone walls, Eightercua stone row and backdrop of mountains to the south. This area is also a designated Gaeltacht area.

## 2.4 Landscape Significance

The site and surrounding landscape have a number of statutory designations including:

### 2.4.1 Landscape

Within the KCDP, the area south of Waterville is located within a designated **'Visually Sensitive Area'** and is subject to the highest levels of landscape protection, namely:

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- KCDP 11-77 *Protect the landscapes of the County as a major economic asset and an invaluable amenity which contributes to the quality of people's lives.*
- KCDP 11-78 *Protect the landscapes of the County by ensuring that any new developments do not detrimentally impact on the character, integrity, distinctiveness or scenic value of their area. Any development which could unduly impact upon such landscapes will not be permitted.*

Waterville and the wider surrounding landscape form part of the core area of the Kerry UNESCO Dark Sky Reserve which was designated in 2014, recognising the Iveragh peninsula for its remarkably dark skies due to minimal light pollution (Discover Iveragh, 2023).

Within Section 11.6.4, the KCDP sets out a number of mandatory and prescriptive provisions relevant to visually sensitive landscape areas (emphasis highlighted):

- *'Individual proposals shall be **designed sympathetically to the landscape and the existing structures** and shall be sited so as **not to have an adverse impact on the character, integrity and distinctiveness of the landscape or natural environment.**'*
- *'Any proposal must be **designed and sited so as to ensure that it is not unduly obtrusive.** The onus is, therefore, on the applicant to avoid obtrusive locations. Existing site features including trees and hedgerows should be retained to screen the development.'*

The Kenmare Municipal District Local Area Plan 2024-2030 (KMDLAP) has a number of relevant policies relating to Waterville and surrounding landscape, including:

- KENMD-WE-2 *Improve the urban definition of the boundaries of the settlement and to promote the development of attractive approach routes into the town.*
- KENMD-WE-3 *Retain and improve, as necessary, the distinctive historical, architectural and physical character of the town.*
- KENMD-WE-5 *Facilitate and promote streetscape and civic area improvements throughout the town to attain an attractive urban environment, while protecting features of architectural & cultural importance.*
- KENMD-WE-7 *Facilitate the sustainable provision of sporting, cultural & amenity facilities in the town as a means of boosting the tourism potential of the town.*
- KENMD-WE-8 *Facilitate and promote a distinctive, high quality public realm along the waterfront area by creating a pleasant, usable space for local residents and visitors alike.*
- KENMD-WE-9 *Facilitate and promote the sustainable development of Waterville as a golfing destination.*

In Section 2.6.2.4.3 Stone Walls, it is noted that;

- *'Stone walls are part of our tangible and intangible cultural heritage. They are a link to the past and contribute to an area's built, natural and geological heritage. They embody vernacular craft and traditional building skills, and their visual impact **contributes positively to the character of our***

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**landscape.** They include farm walls, landed estate walls, historic enclosures and graveyards. They form the edges to our country roads and **define approaches to towns and villages.** In recognition of their contribution to our quality of life, as well as their embodied energy, **the Council aims to protect these walls** and support owners in their retention and preservation.'

#### 2.4.2 Visual

The area is nationally renowned for its scenic beauty and is reflected in the KCDP and KMDLAP.

##### 2.4.2.1 Kerry County Development Plan

Within the KCDP the development area and surrounding landscape are located in a designated '**Visually Sensitive Area**', with **designated views/prospects** looking west from the N70 towards Ballinskelligs Bay (and Waterville House) within the Kerry County Development Plan 2022-2028. Within the PECR/EIA Screening Reports, the designated views from the N70 westwards from Waterville Bridge towards Ballinskelligs Bay and Waterville House (see **Figure 2** below) would not appear to have been considered.

As noted above, the N70 also form part of the Wild Atlantic Way, Ring of Kerry and Kerry Way, where the scenery and high visual quality are important to the visitor experience.

There are a number of relevant objectives relating to Views and Prospects in the KCDP including:

- KCDP 11-79 **Preserve the views and prospects as defined on Maps contained in Volume 4.**
- KCDP 11-80 **Facilitate the sustainable development of existing and the identification of new Viewing Points along the route of the Wild Atlantic Way in conjunction with Fáilte Ireland, while ensuring the protection of environmental attributes in the area through the implementation of environmental protection objectives, standards and guidelines of this Plan**
- KCDP 11-81 **Prohibit developments that have a material effect on views designated in this plan from the public road or greenways towards scenic features and/or public areas.**

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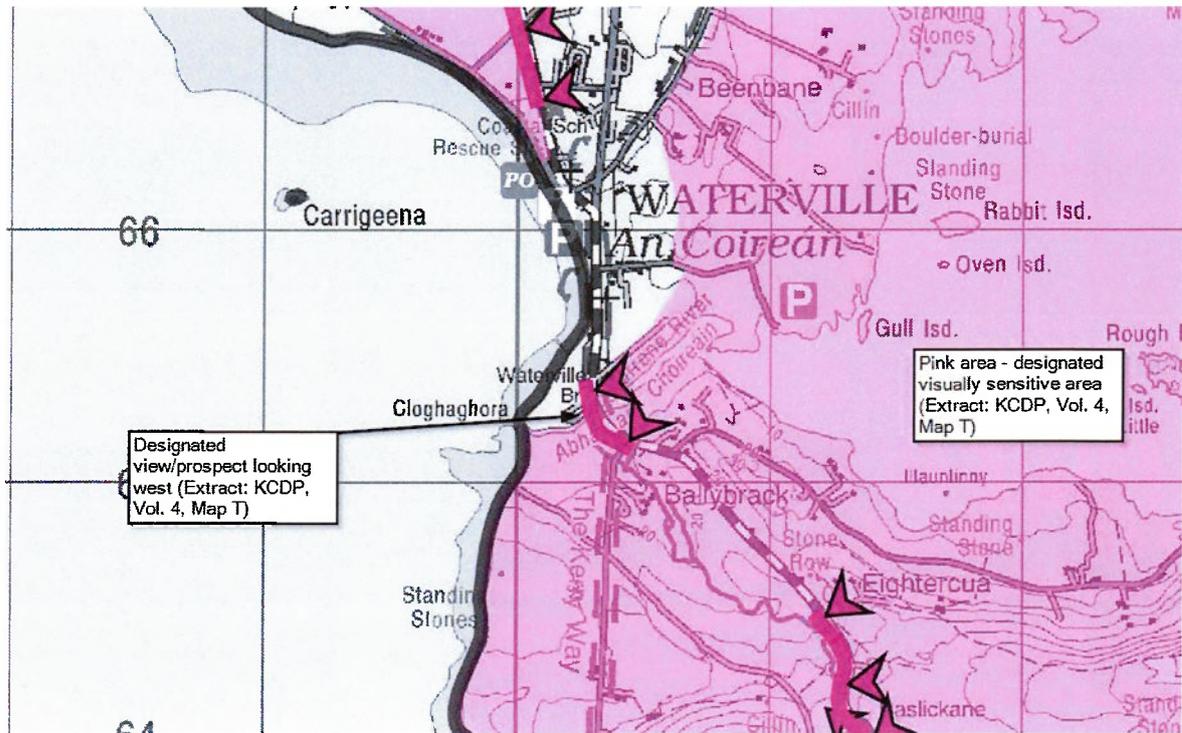


Figure 2 - Designated visually sensitive area and designated views from the N70 looking west. Extract: Landscape Designations - Map P, Vol. 4, KCDP (Kerry County Council, 2022)

2.4.2.2 Kenmare Municipal District Local Area Plan

In Section 3.3.2.6.1 of the KMDLAP, Built Environment and Heritage, it is noted that;

- *'The centre of Waterville has a one-sided linear settlement pattern which has been determined by the sea to the west which has resulted in development being concentrated on the eastern/landward side of the N70. The absence of significant development on the seaward [sic. west] side of the street affords panoramic views of Ballinskelligs' Bay and is probably one of the town's most valuable attributes.'*

There are a number of relevant objectives relating to heritage in the KMDLAP including:

- KENMD-WE-2 *Improve the urban definition of the boundaries of the settlement and to promote the development of attractive approach routes into the town.*
- KENMD-WE-3 *Retain and improve, as necessary, the distinctive historical, architectural and physical character of the town.*

In section 3.3.2.8.2 Natural Environment and Recreational Amenity, it is noted that;

- *'Waterville's distinctive setting overlooking Ballinskellig's Bay and on the shore of Lough Currane with mountain ranges to its backdrop are its prime natural assets. Coastal waters to the west of the town from part of the Ballinskellig's Bay and Inny Estuary SAC, with Lough Currane forming part of*

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*the Killarney National Park, McGuillicuddy Reeks and Caragh River catchment SAC. Some coastal lands within and adjoining the plan area to the north, east and south of Waterville have been designated visually sensitive areas in the KCDP, which recognises **areas of outstanding landscapes in the county**. The KCDP also **sets out views & prospects from the village which are protected from inappropriate development.***

#### 2.4.3 Natural Heritage

There are a number of significant designated Special Areas of Conservation (SAC) and National Heritage Areas (pNHA) immediately adjoining the site, including:

- Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC (000365), which includes the Currane River east of Waterville Bridge as well as fringing wetland and woodland vegetation c.30-60m north and south of the river, and also including the Finglas River south of Waterville Bridge up until its convergence with the Currane River.
- Ballinskelligs Bay and Inny Estuary SAC (000335), encompassing part of the Currane River within the survey area west of Waterville Bridge to Ballinskelligs Bay.

Further detail and analysis these sites are outlined in a separate ecological appraisal report prepared by Scott Cawley.

Within Vol. 6 of the KCDP, the Biodiversity Action Plan (BAP) notes that the Kerry Council *'will seek to ensure that biodiversity considerations are integrated into road project proposals. As part of this, proposed off-line routes will be particularly mindful of the need to protect designated habitats of interest and wider landscape ecological connectivity - at all stages of project delivery.'*

#### 2.4.4 Built and Cultural Heritage

The area has a rich array of archaeological, architectural and cultural heritage.

Within the Record of Monuments and Places (RMP), the landscape south of Waterville is rich in archaeological features. Under the National Monuments Acts (1930-2004), a landscape-scale project **must consider** the 'setting' of these monuments, not just their physical footprint.

Some of the more significant features of high visual prominence in the area include:

##### National monuments:

- KE09424 – Salmon Weir on the Currane river dating back to the 17<sup>th</sup> century, c. 110m below Waterville Bridge and close c.24m to Waterville House.
- KE09399 – Ballybrack Dolmen, c. 315m to the south of the N70 and Finglas River.
- KE09804702 – Eightercua Stone Row, a prominent four-stone row of standing stones on the crest of a ridge, c. 100m to the east of the N70.
- KE09804801 – Templenakilla, consisting of ruined church and burial ground, below the Eightercua stone row, which is visible and c. 20m to the N70.

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#### Architectural heritage:

- Number of buildings within Waterville, built in the 19th century as part of the cable station, coastguard network and development of the town as a tourist hub (Butler's Hotel).
- Waterville Bridge, which consists of a three-arched masonry stone bridge crossing the Currane Rivers.
- Traditional 19th-century stone cottages (some ruined, some renovated) provide an important historical value to the landscape (e.g. Waterville House at the mouth of Currane River, Maggie's Cottage to the south of Currane River).

Each of these elements of the landscape contribute to the national, regional and local identity as they are perceived and experienced, along with the natural features of the area. Whilst many of these built features are mentioned in the PECR/EIA Screening reports accompanying the application, there would not appear to be any substantive assessment of the potential landscape and visual effects on these structures.

Evidence of many of the 19<sup>th</sup> Century historical features and vistas are illustrated in various Ordnance Survey maps, National Library Sketches and Lawrence Collection photographs (see **Plate 3 to Plate 5** below).

Waterville House appears on the first edition Ordnance Survey map of 1842. The attendant grounds are of architectural, landscape and visual significance. The designed landscape provides the setting for the house and incorporates the Currane river and Waterville bridge, with Ballinskelligs Bay to the west and the Dunkerron mountains to the east. The house and attendant grounds (including KE09424 Salmon Weir) are locally prominent on the N70 and make a significant contribution to the visual character of the southern end of Waterville. A number of planning policies, outlined in Section 2.4.2.2 above, directly apply to the protection of these features, including;

- KCDP 11-79 and KCDP 11-81
- KMDLAP KENMD-WE-2 and KENMD-WE-3.

Further details and analysis of these some of these built heritage features are outlined and considered in further detail in the Architectural Heritage Impact Assessment prepared by Consarc Conservation, which accompanies this submission.

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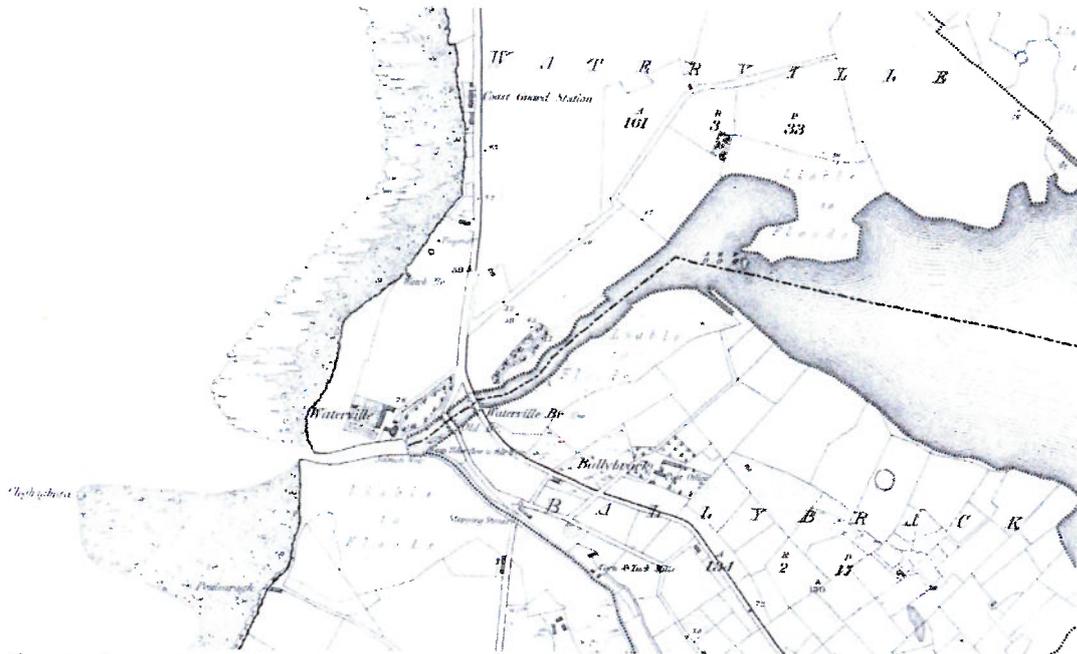


Plate 1 - Extract 6" Map (Ordnance Survey Ireland, 1842) Note presence of Waterville Bridge, Old Bridge, Salmon Weir and Waterville House

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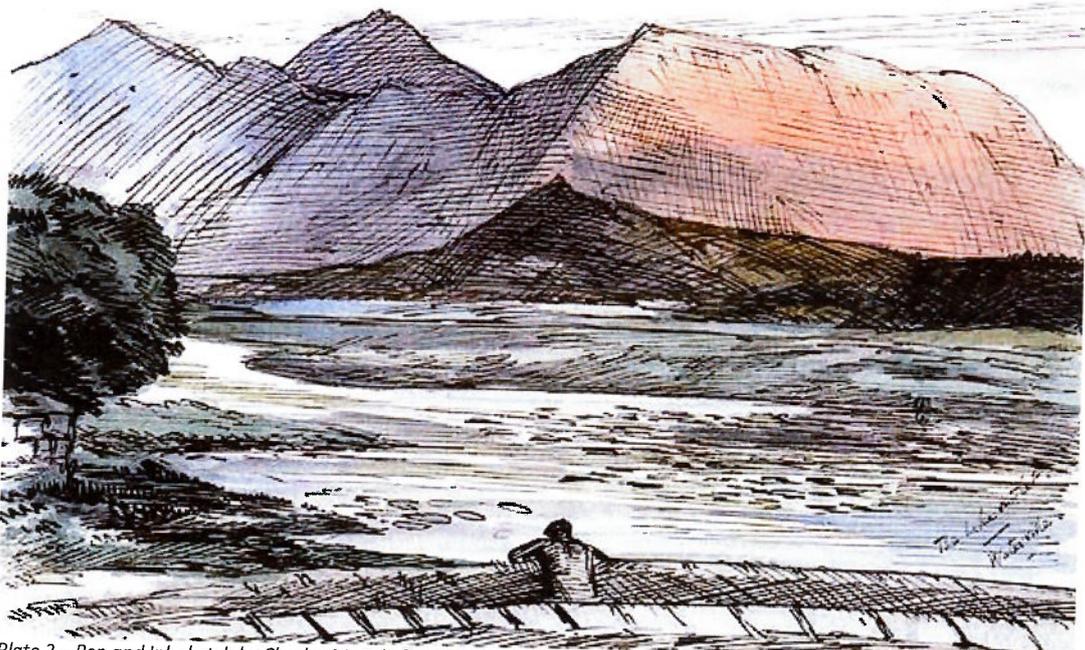


Plate 2 – Pen and Ink sketch by Charles M. Cole from Waterville Bridge towards Lough Currane and Dunkerron Mountains (Source: National Library Ireland, c. 1890s)

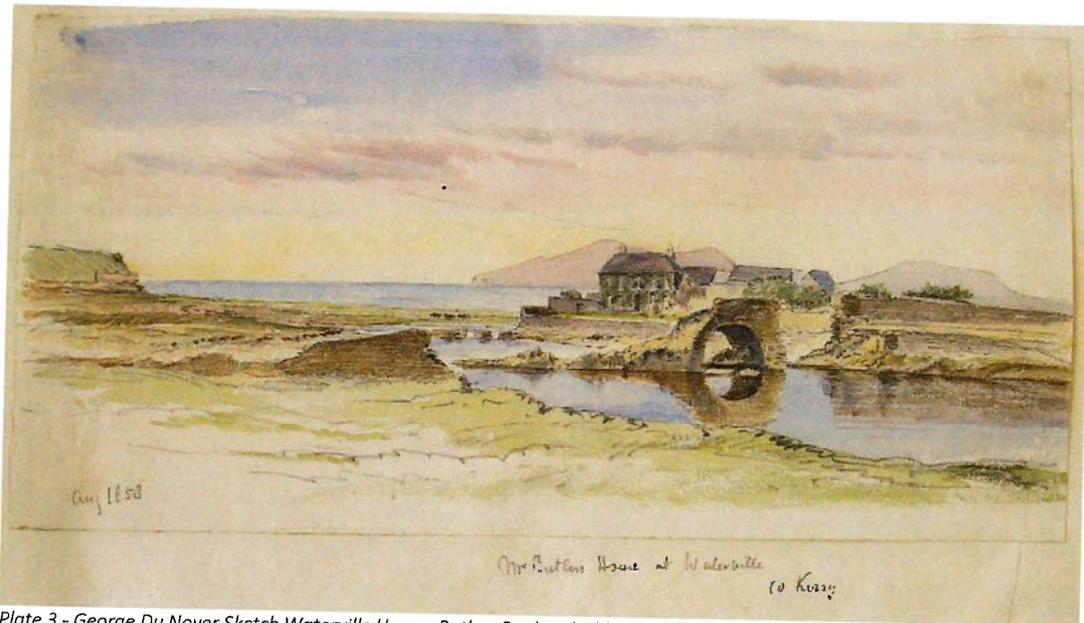


Plate 3 - George Du Noyer Sketch Waterville House, Butlers Pool and Old Waterville. (Royal Irish Academy, 1858)

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Plate 4 - Waterville House at Butler's Pool/Waterville Weir (Source: French, R., Lawrence Collection (National Library Ireland, c. 1890s))



Plate 5 - Waterville Bridge at Butler's Pool/Waterville Weir (Source: French, R., Lawrence Collection. (National Library Ireland, c. 1890s))

#### 2.4.5 Amenity

The Kerry Way is Ireland's longest, waymarked walking trail around the Iveragh Peninsula. The section from Waterville to Caherdaniel (Stage 6), follows the N70 from Waterville crossing Waterville Bridge over the Currane River and then turns right at An Baile Breac/Ballybrack and continues through Baslickane (Baisleacán) on a narrow tarred road/boreen with spectacular views over Ballinskelligs Bay, Waterville, Waterville House and Bridge.

The N70 forms part of the Wild Atlantic Way, a nationally important tourism route for vehicles and cyclist. The visual experience from the trail looking toward the N70 is protected under regional tourism strategies (Fáilte Ireland's Wild Atlantic Way Operational Programme).

The Currane River is an important angling location for visitors to Waterville House.

With no footpath from Waterville village/end of Waterville promenade to Ballybrack junction on the N70, pedestrians have to walk on the road which is currently unsafe. As noted in Section 2.1 above and paragraph 3.3.2.6.1 of the KMDLAP, the development pattern and main footpath in Waterville lies on the eastern side of the village, connecting the houses, shops and other amenities. This abruptly stops at the southern edge of the village with pedestrians (including Kerry Way walkers) having to walk along the road carriageway.

With the majority of the residential development and Hog's Head Hotel also located on the **eastern side of the N70**, there would be significant improvement for pedestrian and cyclists if these were connected with a dedicated shared footpath/cycleway where the most beneficial desire line would be provided between the village, houses and hotel located to south. A safe crossing at the Ballybrack/Baslicon road junction would be needed to provide a safe walking route for walkers/pedestrians using the Kerry Way. Landscape Sensitivity

With a number of designations, the landscape character of much of the Iveragh peninsula and area of the proposed development is considered to be of **national, regional and local significance**.

With the high number of statutory landscape and visual designations, together with the rich tapestry of natural, built and cultural heritage features, the sensitivity of the landscape and visual environment would meet the 'high' to 'very high' sensitivity classifications set out in TII's LCA and LVIA Guidance and Standards (Transport Infrastructure Ireland (TII), 2020).

This would be supported by recent analysis where 97% of stakeholder respondents indicated that the environment is a key priority for the community (LIVE, 2021).

A summary of the landscape sensitivities is outlined in Table 1 below.

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Table 1 - Summary of landscape sensitivities

Sub-Area	Key Receptors / Attributes (Value)	Susceptibility to Change	Overall Sensitivity (GLVIA3/TII)	Summary Comment
<b>A. Waterville Urban Edge (north extent of scheme)</b>	Within KCDP Visually Sensitive Area; part of Wild Atlantic Way / Ring of Kerry experience; townscape setting valued in KMDLAP (panoramic coastal views, waterfront promenades, etc.).	<b>Medium-High</b> (existing urban elements and traffic reduce absolute fragility, but seaward panoramas are a key asset).	<b>High</b>	High policy value and tourist prominence; changes risking visual clutter or seaward view interruption would be sensitive, albeit in a partially urban context.
<b>B. Currane River Crossing — Waterville House/Waterville Bridge</b>	Designed landscape of Waterville House; Waterville Bridge historic stone structure; proximity to Salmon Weir/Butler's Pool (RMP KE09424); designated protected views west from N70; within Visually Sensitive Area; immediate setting to Killarney National Park, Macgillycuddy's Reeks & Caragh River Catchment SAC (east/upstream) and Ballinskelligs Bay & Inny Estuary SAC (west/downstream). High amenity (angling), Kerry Way route nearby.	<b>Very High</b> (coherent historic fabric, intact dry-stone walls, designed vistas to river/bridge/bay/mountain s; very limited capacity to absorb new structures/embankments without altering character and protected views).	<b>Very High</b>	Concentration of heritage, policy protections and designated views; central to the scenic/tourism experience; minor physical changes can cause major perceptual and character effects. This is the scheme's most sensitive location.
<b>C. Ballybrack Junction and Adjacent Frontages</b>	Within Visually Sensitive Area; approach to town noted in KMDLAP; local suburbanising influences (recent widening, mortared walls, golf facilities) already present.	<b>Medium</b> (character already partly altered; some capacity for carefully designed, context-sensitive works).	<b>Medium-High</b>	Policy value remains high, but existing alteration slightly reduces fragility; avoid cumulative urbanisation and visual clutter (signage/road markings/crossings/inappropriate boundary treatment).
<b>D. Eightercua to Start of Scheme</b>	Eightercua Stone Row (KE09804702) on ridgeline; Templenakilla ruined church/burial ground; open rural/upland views to Dunkerron peaks; Gaeltacht area; intact field pattern/stone walls.	<b>High</b> (open skylines and archaeological prominence elevate visual susceptibility; simple rural pattern is easily urbanised).	<b>High – Very High</b>	Heritage prominence and rural simplicity mean boundary loss/road widening/urban details would read strongly in views and affect setting, which would need to be carefully considered.

Overall sensitivity across the study area ranges from Medium–High to Very High, with the **Currane River/Waterville House–Bridge** sub-area assessed as **Very High** due to the convergence of designated views, historic designed landscape and structures, intact traditional stonework, European site interfaces, and the concentration of high-susceptibility recreational receptors.

The value of receptors is high and susceptibility is very high, yielding **very high sensitivity with limited capacity to absorb change without undue negative effects.**

### 3 Characteristics of the Proposed Development and Likely Effects

The proposed development consists of c.1.4km of road realignment of the N70 from the southern end of Waterville village to the end of the line of residential dwellings at Eightercua to the south.

It includes the construction of a shared pedestrian and cycle path on the western side of the N70 with new boundary stone wall alignment with a mixture of retaining and free-standing walls, new embankments and steel bridge crossing on the Currane River on the western side of Waterville Bridge within the grounds of Waterville House.

There are 8no. uncontrolled pedestrian crossing points proposed at Chainage (CH) 130 - Benjamin Close, CH 480 – Ballybrack, CH 650 and CH 690 – Ballybrack/Glenmore Junction, CH 790 – Hog’s Head Golf Course, CH 850 – Baslicon Road, CH 1080 – Waterville House, CH 1170 – Lower Main Street.

Proposed boundary treatment consisting of replacement stone masonry walls and timber post and rail fence. In Section 11.2 of the PECR, it is noted that approximately 320 lin.m. of existing drystone field walls will be removed in Section 1 of the scheme (recorded by survey and rebuilt using original materials). In Section 1 and 3 of the scheme, approximately 420 lin.m. of wall will be removed within the Waterville House property.

The main characteristics of the proposed road development which will give rise to landscape and visual effects are outlined under construction and operation phases in the following.

#### 3.1 Construction Phase Effects

The key characteristics of the project impacting on landscape fabric (vegetation, stone walls, topography), landscape character and visual receptors during the Construction Phase will arise from:

- Direct effects with the removal of existing trees and scrub (c. 5,800m<sup>2</sup>), grasslands (c.4,860m<sup>2</sup>) and 320 linear metres of hedgerow/scrub vegetation;
- Direct and indirect effects arising from general construction disturbance including excavations, earthworks, road construction activity and traffic, relating noise, dust etc.;
- Temporary / permanent land take from properties;
- Establishment / use of temporary construction compound to the east of Hogs Head golf club house on the N70;

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- Direct effects with the amendment and adaption of existing road network, including new earthworks/embankments, widening of the road corridor including some removal of hedgerows, garden plantings and roadside trees, as well as land take from private properties, new boundary walls, surfacing, kerbs, footpaths, drainage, service / utility features, road markings;
- Direct effects along the boundary of Waterville House, the existing stone walls from CH 880 to 1300 (420 lin.m in Section 1 and Section 3 of scheme) will be removed and reconstructed in a new alignment of stone masonry walls, along with construction of vehicle restraint barrier at CH-930 to CH-1010;
- Direct effects with the construction of new embankments from CH 910 to CH 1,020 (110 lin.m. long) on the western side of the N70 and CH 1,060 to CH 1,160 (100 lin.m. long) on the eastern side of the N70;
- Direct and indirect effects with the construction of new bridge abutments and steel low-arched bridge (c.32.8m long x 3.0m wide), set c. 2.5m westwards and downstream of the existing Waterville Bridge. Sheet piling and coffer dams will be required to construct the bridge abutments in area of poorly draining and uneven ground immediately adjacent to the Currane River (which is an SAC). There would be a high magnitude of change arising from the disturbance of historic boundary stone walls, landscape areas, access to fishing locations along the banks of the Currane River/Butlers Pool and to the historic landscape to the foreground of Waterville House, resulting in **significant and negative** effects. The steel bridge would be constructed off-site and lifted into place; and
- Amendment and adaption of existing junctions throughout, including surfacing, kerbs, footpath/cycle route, signage, boundaries, road markings, etc.

Notwithstanding the removal of existing hedgerows and stone walls, there appears to be no specific landscape planting mitigation plans with the application. The lack of this specific mitigation to address the planning policies outlined in Section 2.2 above, is likely to lead to **negative impacts on the character, integrity and distinctiveness of this landscape.**

### 3.2 Operational Phase Effects

The landscape and visual effects arising from the proposed development are considered in summary format in Table 8-1 of the EIA Screening Report and Section 12.0 of the Planning and Environmental Considerations Report (PECR), with no detailed LVIA accompanying the application.

Within Section 12.2 PECR, it is stated that:

*'In terms of landscape effects, the proposed development will involve an alteration to the landform within the application site, but it is considered that the proposed development will have only a physical impact on the landscape, mainly with the alteration of existing stone walls and introduction of an active travel route in combination with a new bridge, limited effects to the local landscape character that the Proposed Development is found in. This is a **permanent change** that has **predicted significant effects** into the operational phase.'*

In Table 8-1 of the EIA Screening Report (p30), it is stated that;

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*'With respect to views from the N70 and wider landscape character assessment, the proposed scheme is considered to be of a scale and nature that would not result in a negative impact to the surrounding area. Road improvement works will be carried out within the boundary or adjacent to the existing N70, visual impact therefore will be kept low and within the confines of the carriageway. Where existing stone build walls are removed, reconstruction will take place in agreement with and under supervision of a suitably qualified conservation specialist. All original materials will be retained on site for rebuilding using traditional methods.*

*A Landscape and Visual Impact Assessment has been prepared by Macro Works Ltd. for the proposed development, which concludes that the proposed development is not considered to give rise to any significant landscape or visual impacts. Please refer to section 12 (Landscape and Visual Impact Assessment) of the Planning and Environmental Considerations Report that accompanies the application.*

This does not appear to have considered or referenced the surrounding landscape features of high/very high significance and sensitivity outlined in Section 2.3 above of this report, including Waterville House, Waterville Bridge, Salmon Weir/Butler's Pool etc. This would be contrary to GLVIA3/TII Standards and Guidelines, which requires assessment of viewpoints representing 'residential, heritage, and recreational receptors' (Transport Infrastructure Ireland (TII), 2020).

Apart from the illustrative photomontage *Figure 5-7* (extract in **Figure 4** below) in the EIA Screening Report, there does not appear to be any assessment of the landscape and visual effects of the proposed new bridge crossing to the west of Waterville Bridge, within the designed landscape and grounds of Waterville House. The application summary LVIA would appear to have only assessed road views and did not assess views from Waterville House, despite it being a key and sensitive receptor in the area.

In relation to visual effects, Section 12.2 of the PECR states that;

*'the significance of effect from viewpoints 1, 2 and 3 are **significant**, whilst the significance of effect is found to be **profound** for viewpoint 4. There are limited views of the River Currane crossing, as illustrated in the Zone of Theoretical Visibility map, so whilst the viewpoints have been assessed with significant effects this will not be true of the majority study area, where there will be no significant effects'.*

The PECR does not specify whether these effects will be positive, neutral or negative. The summary of the LVIA refers to the guidance 'Landscape Character Assessment (LCA) and LVIA for Specified Linear Infrastructure Projects: Overarching Technical Document' (Transport Infrastructure Ireland (TII) Publication PE-ENV-01101, December 2020)', which defines effects as follows:

- **'Significant Effects** - An effect which, by its character, magnitude, duration or intensity significantly alters most of a sensitive aspect of the environment.
- **Profound Effects** - An effect which obliterates sensitive characteristics.'

In light of these landscape and visual effects, and reflecting the planning policies applicable to the area which generally seek to preserve the landscape and visual

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environment, it would be considered that the nature of these effects would be **negative**.

Despite the absence of a complete LVIA with the subject application documentation, we would concur with the LVIA summary findings that the proposed development is likely to give rise to a number of **significant, permanent** and **[sic negative]** landscape and visual impacts during the operational phase. These include;

- **Direct, permanent effects** to the landscape fabric and views from residential properties, road users and amenity users of this stretch of the N70 arising from removal of vegetation, changes to topography and boundaries, road corridor widening, vehicle restraint barriers, road crossing points, road signage and markings, and new bridge structure, with a resultant loss of unique landscape character and urbanisation of this stretch of the Ring of Kerry, Wild Atlantic Way and Kerry Way walking route. The absence of landscape mitigation plans further raises the potential for a range of **moderate to significant and profound negative effects** over the medium to long term. This is reflected in the PECR findings.

There will be an increase in replacement wall height at Chainage 1,000 close to Waterville Bridge, (see section A-A, Drg. 11045-4105, extract in Figure 3 below), resulting in visual obstruction or blocking of views to Ballinskelligs Bay for car vehicles on the N70.

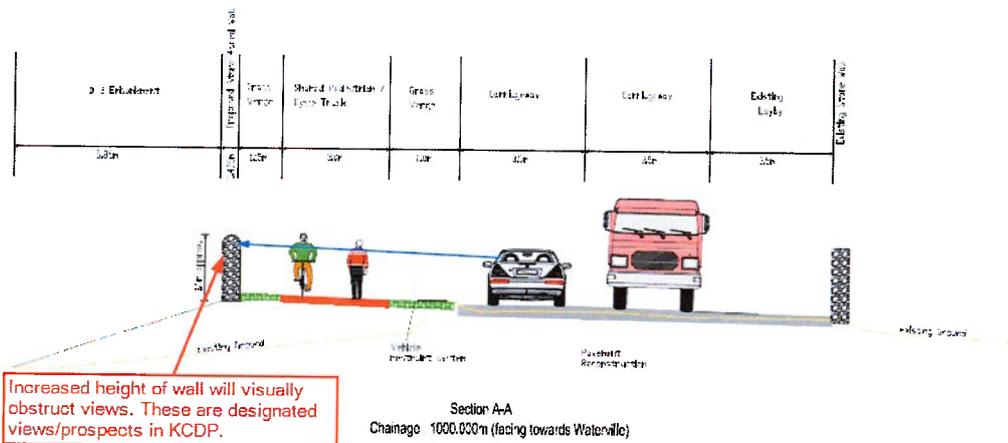


Figure 3 - Extract of Scheme Drg. 11045-4105, Section A-A

There would be **significant, negative** and **permanent effects** on the designated views/prospects westwards from the N70 at Waterville Bridge towards Ballinskelligs Bay and Waterville House, which does not appear to have assessed in the PECR/EIA Screening Report.

These significant effects include:

- **Direct, permanent changes** to the high/very high sensitive landscape character of the area particularly around Waterville Bridge and to Waterville House, which does not appear to have been considered in the assessment. There would be **significant, negative and permanent** changes in the setting and character of Waterville Bridge, Waterville House and its

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- historic landscape setting, reduction in fishing area at Butlers Pool, changes to access to the boathouse on the east side of Waterville Bridge and upon the old salmon weir (SMR KE098-094) downstream of the bridge. A new
- crossing and embankments on the western side of Waterville Bridge within the grounds of Waterville House would **fundamentally re-compose** the view and setting.
  - There will be a **reduction in privacy and amenity** to the grounds of Waterville House, with public access closer to the house. This will have **significant, negative and permanent** effects on the inherent landscape value of Waterville House to offer a unique tourist accommodation experience with the grounds, fisheries and golf activities.
  - Furthermore, there will also be direct, **significant, negative** and permanent visual effects on views from Waterville House, Salmon Weir/Butler's Pool and grounds surrounding the House as shown in **Figure 4** below. This will arise through:
    - Visual obstruction to Waterville Bridge through the introduction of the new steel-arched bridge and embankments, significantly changing the setting of the historic stone bridge which forms part of the designed landscape of Waterville House.
    - Visual intrusion with the introduction of the new bridge, abutments, embankments and walls.
    - Changes to the visual experience of visitors walking up to the boathouse upstream of Waterville Bridge.
  - Cumulatively, these impacts would have **significant, negative and permanent effects** upon Waterville House. Mitigation is unlikely to remove these negative effects.
  - It is considered that the development would materially and negatively alter the curtilage and attendant grounds of a structure of heritage interest.
  - Whilst the National Inventory of Architectural Heritage may not list Waterville House and Waterville Bridge, KCC planning policy (KCDP 8-50) applies to "historic designed landscapes" irrespective of protection status.



**Figure 4** - Photomontage from KCC EIA Screening report (Fig. 5-7) of proposed new bridge from within the grounds of Waterville House.

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Furthermore, it is considered that the proposed development would not be in conformance with a number of KCC Policies, including:

Policy	Requirement	Proposed Development Impact
KCDP 11-77	Protect landscapes of county	Removes/realigns 320m of original walls, introduces new bridge, engineered embankments, urbanised road design in highly sensitive and protected landscape.
KCDP 11-81	Prohibit developments that materially affect protected views	New bridge and embankments will affect views from the N70
KENMD-WE-3	Retain and improve, as necessary, the distinctive historical, architectural and physical character of the town.	New bridge, embankments, realigned walls, vehicle restraint barriers, multiple crossings of N70 will materially change the character of this area of very high sensitivity.

## 4 Consideration of Alternative Solution

The proposed development provides a shared surface pathway of 3.0m in width on the western side of the N70 over its entire length and includes a single span prefabricated bridge structure over the Currane River.

Given the likely **significant, negative and permanent landscape and visual effects** associated with this proposal, the alternative proposal developed by MHL Consulting Engineers on behalf of Waterville Links Ltd relocates the 3.0m shared surface pathway to the eastern side of the roadway together with utilisation of the existing historic Waterville bridge structure with the signalisation of the N70 on both approaches to the Waterville Bridge. This would necessitate the reduction of the trafficked carriageway to 3.25m along the bridge section, providing for one-way, 'shuttle flow' traffic only and a reduction in the speed limit through the bridge to 30kph.

### Compliance with Standards and Best Practice Guidelines

This alternative design approach would be consistent and comply with TII Road Standards, Design Manual for Urban Streets and Roads (Advice Note 1) and other Best Practice Guidelines, including:

- **Landscape Character Assessment (LCA) and Landscape and Visual Impact Assessment (LVIA) of Specified Infrastructure Projects – Overarching Technical Document** (PE-ENV-01101) (Transport Infrastructure Ireland (TII), 2020). In particular, the following sections would be directly applicable;
  - Section 3.3 Application of the Guidelines to Project Thresholds and Phases,
  - Section 5.2 Landscape and Visual Sensitivity and Significance, and;
  - Section 5.4 Mitigation of Landscape and Visual Effects.
- **Landscape Character Assessment (LCA) and Landscape and Visual Impact Assessment (LVIA) of Proposed National Roads - Standard** (PE-ENV-01102) (Transport Infrastructure Ireland (TII), 2020) In particular, the following sections would be directly applicable;
  - Section 2.1.1 Avoidance and Mitigation of Landscape and Visual Effects,

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- Section 3.5.2.4.1 Mitigation measures to address landscape effects, and;
- Section 3.5.2.4.2 Mitigation measures to address visual effects.
- **The Treatment of Transition Zones to Towns and Villages on National Roads (DN-GEO-0308)** (Transport Infrastructure Ireland (TII), 2021). In particular, the following sections would be directly applicable;
  - Section 3.11 Areas of Heritage Value,
  - Section 3.12 Landscape,
  - Section 4 Treatment of Rural Fringe and Gateway, and;
  - Section 5 Treatment of the Transition Zone.
- **Guide for the Implementation of Soft Landscape in Towns and Villages on National Roads (GE-ENV-03001)** (Transport Infrastructure Ireland (TII), 2024). In particular, the following sections would be directly applicable;
  - Section 2.3 Key Soft Landscape Design Tasks and Typical Outputs as required at each TII Project Phase.
- **Design Manual for Urban Streets and Roads, Advice Note 1 – Transition Zones and Gateways** (Department of Transport, 2019). In particular, the following sections would be directly applicable;
  - Section 1.1 – Context - Classification and Method for Analysis,
  - Section 3.1 – Design Principles,
  - Section 3.2 – Verges, Footpaths and Road Markings,
  - Section 3.4 – Boundaries, and;
  - Section 3.6 – Deflections.

#### Alternative Solution

The alternative solution would provide a safe, accessible, direct and landscape context-sensitive approach, which would include:

- The provision of the shared 3m wide pedestrian and cycle path on the **eastern side** of the N70, providing **direct linkage to the existing path network** in Waterville Town.
  - As noted in Section 2.1 above (p. 5), the development pattern of Waterville and primary desire lines for pedestrian connectivity are on the eastern side of the N70, with the majority of the residential dwellings and Hog's Head Hotel located on the eastern side of the N70.
  - Locating the proposed pedestrian and cycle pathway on the eastern side of the N70 would:
    - provide direct connectivity between the town and these developments to the south of Waterville;
    - reduce the high number of uncontrolled pedestrian crossing points currently proposed (c.8no.), along with the associated visual clutter (signage, road markings, tactile paving etc. which would be required to align with TII road safety design standards);
    - avoid the resulting urbanisation of the visually sensitive landscape,
    - maintain the rural and distinctive character of the area; and,
    - avoid unnecessary significant, negative visual effects on the designated scenic views from the N70 at Waterville Bridge.

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- There would still be a need to provide a c.4no. uncontrolled crossings at key crossing points such as the end of Waterville Promenade, Baslickane Junction/Kerry Way route, Hogs Head Golf Club Entrance and Ballybrack/Glenmore Road, reducing visual clutter and providing more direct access to the residential houses on the eastern side of the N70. Users of the Kerry Way walking route would be have a safe route from Waterville to Baslicon Road/Ballybrack Junction on the east of the N70 with a single crossing point.
- Implementation of a traffic signalisation solution for the existing N70 bridge, with the provision of a 3m wide shared pedestrian and cycle route on the eastern/southbound carriageway of the N70. This **would retain existing stone walls** and parapets, but would require some localised raising of the stone walls for safety.
- Construction of a suspended 'boardwalk' south of Waterville bridge (c.100m) avoiding impact on the existing water infrastructure in the area or encroachment into the adjoining SAC.
- Avoid the need for large earthwork embankments, bridge abutments and new bridge crossing on the west side of the N70, and reduce the extent of removal of existing, distinctive stone walls.
- Reduce the landscape and visual impacts on Waterville House and grounds, the Salmon Weir (RMP)/Butler's Pool and Waterville Bridge.

This alternative avoids the **significant negative** effects on the landscape and visual environment associated with the current proposal before An Coimisiún Pleanála, whilst delivering the objectives of the improved and safer pedestrian and cycle connectivity along this section of the N70.

There are similar precedents on the Ireland, where due to high landscape, natural and built heritage sensitivities, a similar design solution have provided a safe and accessible route for pedestrians and cyclists, whilst avoiding significant environmental effects. Examples include:

- N2 Slane Bridge, Co. Meath ([53.703, -6.541](#))
- Killaloe Bridge, Co. Clare/Tipperary ([52.81, -8.44](#))
- Goresbridge, Co. Kilkenny/Carlow ([52.631, -6.989](#))
- Shannonbridge, Co. Offaly/Roscommon ([53.279, -8.051](#))
- Inniscarra Bridge, Cork ([51.89, -8.62](#))

## 5 Conclusion

This review would agree with the summary LVIA in the PECR that the proposed N70 Waterville–Ballybrack Improvement Scheme, as currently designed, would give rise to significant, negative and permanent landscape and visual effects within one of County Kerry's most sensitive and valued environments.

The absence of a full LVIA in the application, together with inconsistencies between the EIA Screening and PECR findings, further highlights that key receptors, including Waterville House, Waterville Bridge, Salmon Weir/Butler's Pool, the designated scenic views from the N70, and the historic designed landscape, have not been adequately assessed. This would be contrary to EPA EIAR Guidelines (2022) and TII Standard/Technical documents, which require proportionate landscape assessment for projects in sensitive areas.

## N70 Waterville to Ballybrack Road Improvement Scheme, Co Kerry

### Review of proposed development from landscape and visual perspective

The scheme would significantly alter the character, setting and visual integrity of a landscape designated as 'Visually Sensitive', contrary to multiple policies in the KCDP and KMDLAP which require developments to protect landscape character, avoid inappropriate design, and safeguard views, heritage assets, and rural distinctiveness. The cumulative effects of removal/realignment of traditional stone walls, introduction of extensive embankments, and construction of a new steel pedestrian bridge within the grounds of Waterville House would erode and diminish the special qualities that define this section of the Ring of Kerry, Wild Atlantic Way and Kerry Way.

A feasible and context-appropriate alternative exists. The eastern-side shared path with signalised shuttle-flow system across the existing historic bridge achieves the primary pedestrian/cycle and safety objectives of the scheme without imposing unnecessary adverse impacts. This approach is fully consistent with TII landscape, heritage and transition-zone guidelines, DMURS, and best-practice precedent at other nationally sensitive crossings. This alternative provides a proven, context-sensitive design solution that is more appropriate for a landscape of such high local, national and international significance.

In conclusion, a more sensitive design solution is both possible and preferable. By adopting the alternative proposal, the project can deliver improved pedestrian and cyclist safety while protecting the highly sensitive natural, cultural and scenic value of the Waterville landscape—ensuring compliance with statutory policy and safeguarding the unique character of this nationally important setting.

N70 Waterville to Ballybrack Road Improvement Scheme, Co Kerry  
Review of proposed development from landscape and visual perspective

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## N70 Waterville to Ballybrack Road Improvement Scheme, Co Kerry

### Review of proposed development from landscape and visual perspective

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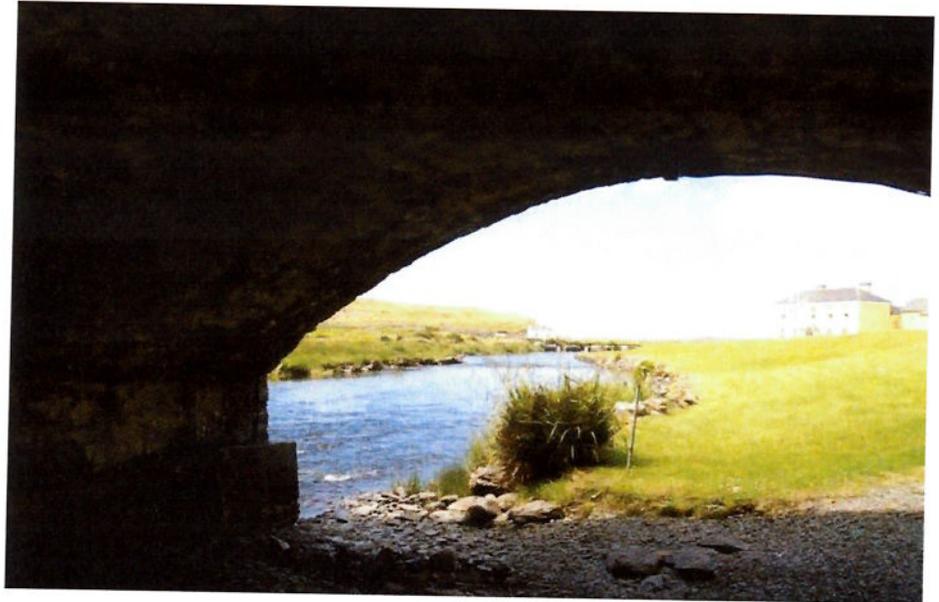


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**N70 Waterville to Ballybrack  
Road Improvement Scheme  
Co. Kerry**



**ARCHITECTURAL HERITAGE IMPACT ASSESSMENT**

FEBRUARY 2026

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## 1.0 INTRODUCTION

### 1.1 INTRODUCTION

This Impact Assessment has been prepared by Consarc Conservation, an RIAI Grade 1 Conservation Architectural Practice, for inclusion in a submission made on behalf of Waterville Links Ltd on the planning application submitted by Kerry County Council (KCC) to An Coimisiún Pleanála, seeking approval for the proposed N70 Waterville – Ballybrack Road Improvement Scheme (Case reference: JP08.323996).

This report addresses the historic structures and cultural landscape affected by this proposed development. It assesses its significance and addresses the impact that the proposed development will have on these assets, including the site of Waterville House, the Currane River, and associated bridge, weir and fishing area.

The report has been prepared with regard to the sensitivity of the wider location and with reference to the government publication 'Architectural Heritage Protection Guidelines for Planning Authorities'. The overall policy is to retain, restore and enhance the integrity and significance of the place within its wider context.

Reference is made to best conservation policy and practice, as defined by the International Council on Monuments and Sites (ICOMOS) in the Venice Charter of 1964, the Burra Charter (Places of Cultural Significance) 1979, the Florence Charter (Historic Gardens) 1982 and subsequent charters.

### 1.2 PROTECTED STATUS

The relevant statutory plans are the Kerry County Development Plan 2022-2028 & Kenmare Municipal District LAP 2024-2030.

#### Protected Structures:

No protected structures are located within the lands of Waterville House, see below list:

RPS No.	NIAH No.	NIAH Rating	Description
not listed	not listed	N/A	Waterville House
not listed	not listed	N/A	Waterville Bridge

It is worth noting that despite the fact that the Waterville House and Waterville Bridge are not protected structures, Section 8.4 of the County Development Plan distinguishes between protected and historic structures:

*"Kerry has a rich architectural heritage which not only comprises buildings of national importance, including country houses, churches, but also more modest structures including thatched dwellings, traditional shopfronts, and post boxes. It reflects the development of the County through the ages, linking the past to the present and maintaining an intrinsic aspect of the County's cultural identity. The wide variety of building types contributes to the special character of the County and is a unique resource, which once lost or damaged, cannot be replaced. The County's historic buildings and townscapes should be treated as an asset and positively conserved and enhanced for the benefit of residents and visitors alike."*



Fig 01. Waterville House, Waterville Bridge and the salmon weir (Geohive Map Viewer). The proposed road improvement scheme will see a new bridge located to the west side of Waterville Bridge and within the grounds of Waterville House.

Adjacent Protected Structures:

RPS No.	NIAH No.	NIAH Rating	Description
RPS-KY-1262/3	21309807	Regional	Coastguard Station
RPS-KY-1255	21309804	Regional	Butler Memorial Fountain

Archaeological

Adjacent to the site of the proposed development, and within the grounds of Waterville House, is one Recorded Monument, listed as follows:  
KE098-094-- Weir - fish: Waterville, Baslickane

Preserved Views & Prospects:

The site of Waterville House and the Currane River is within the range of the preserved KCC 'Views & Prospects' as being from Waterville Bridge looking in direction of Ballinskelligs Bay, across the grounds and house of Waterville House & Currane River.

Landscape:

The development site and surrounding area has been designated as a 'visually sensitive area'.

## 2.0 DESCRIPTION



Fig 02. Waterville House, view over Currane River from Waterville Bridge with Old Bridge (in ruins) footings in foreground and salmon weir in background - *Lawrence Collection NLI*

## 2.1 RECEIVING ENVIRONMENT

### **WATERVILLE HOUSE ITS LANDS & RIVER**

Waterville House is located south of the town of Waterville on the North bank of the Currane River. The house sits on a designed landscape bound by the N70 roadway to the East, Ballinskelligs Bay shoreline to its West, and the Currane River to its South.

The house orientation is East/West with a slight Southerly angle giving a broad vantage along the river towards Lough Currane and beyond to the distant mountains.

### **N70 ROAD**

The N70, known as the 'Ring of Kerry', forms the Eastern boundary to Waterville House and crosses Waterville Bridge. The road is lined with low stone rubble walls heading north to the town of Waterville and south towards Ballybrack.

2.2 CARTOGRAPHIC DESCRIPTION



Fig 03. Commissioners for Bogs in Ireland Map – 1811 by Alexander Nimmo

An early map of the Iveragh region shows Waterville House. The footprint of building differs slightly from later maps. Only one bridge is shown, 'Currane Bridge'. The weir is indicated.



Fig 04. 6-inch First Edition OS Map- Surveyed 1842, Printed 1846

The house, with outbuildings and a walled garden is clearly indicated. There are two bridges crossing the Currane River, an 'Old Bridge' to the west, and Waterville Bridge. The 'Salmon Weir' is also noted. A 'Watch House' is indicated to the north of the house.

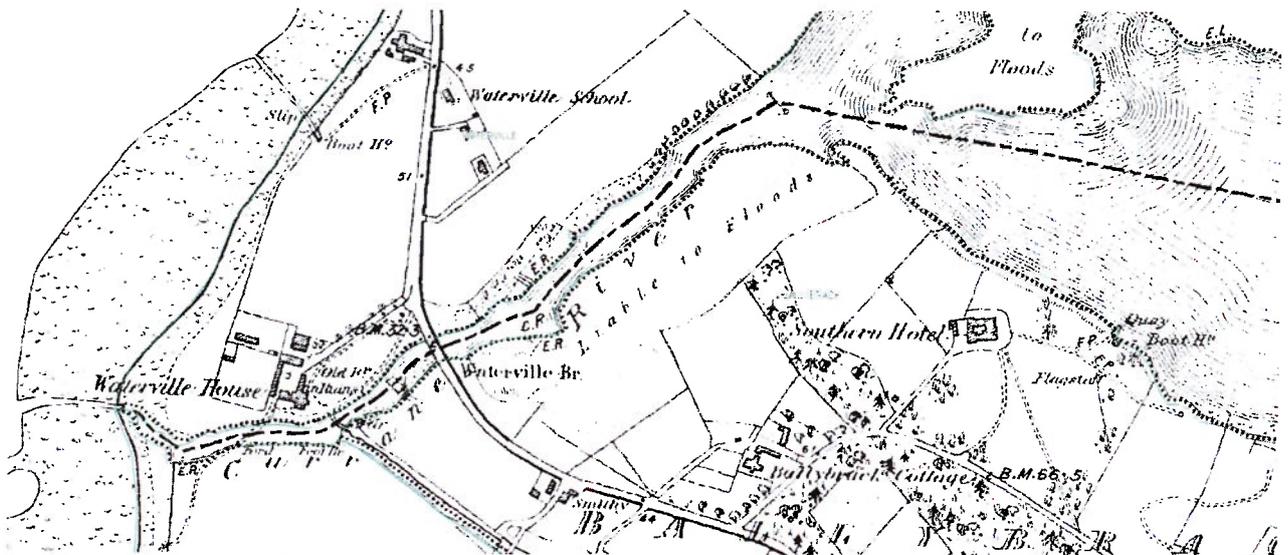


Fig 05. 6-inch Second Edition OS Map - Resurveyed 1895 to 1896, Published 1899

The Old Bridge is noted as 'in ruins', and the road leading to it no longer extant. The weir is indicated and an adjacent footbridge. A number of outbuildings to North and West are indicated. The former Watch House is noted as a Boat House, with a slipway.

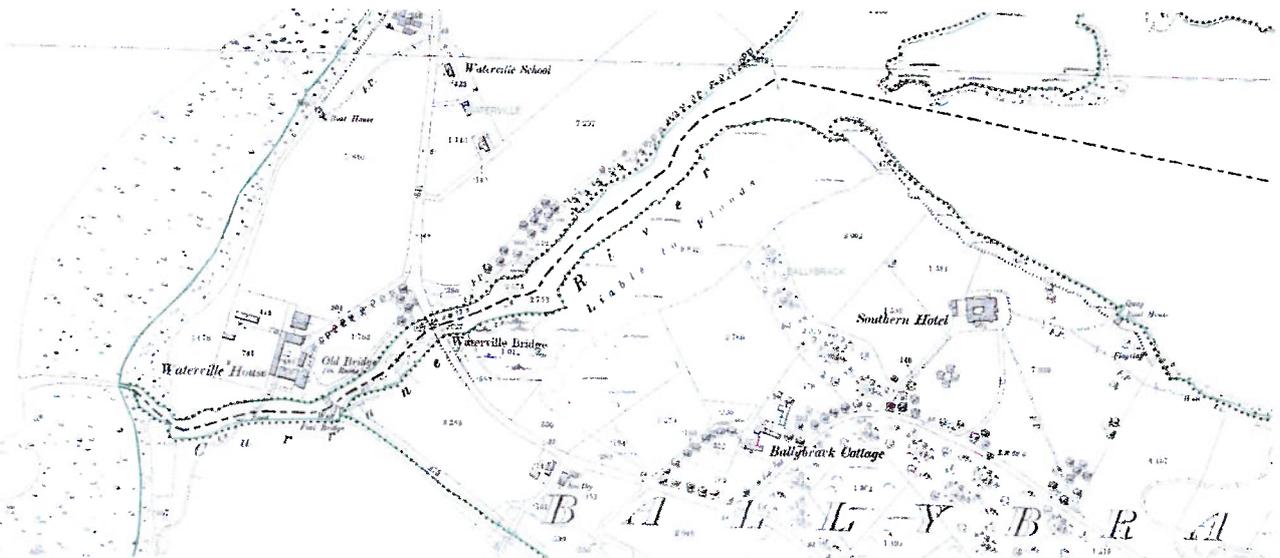


Fig 06. 25-inch OS Map -(1924).

There is very little change in this map. The house, outbuildings and gardens are indicated, along with the weir and footbridge. The ruins of the old bridge are indicated along with the former road, now part of the front garden.

## 2.3 DESCRIPTION OF WATERVILLE HOUSE AND ATTENDANT GROUNDS

### 2.3.1 The House

Waterville House is located in the townland of Waterville in the parish of Dromod in the Iveragh region, Co. Kerry.

It was constructed in 1775 by Lt. Whitwell Butler for the Butler Family. The lands on which the house is built were leased from 1738 by his father, Theobald Butler, who lived in a smaller house which was later replaced by Waterville House. It is a five bay two story house with substantial rear returns to the north; all finished in a painted render. The roof is hipped slated with pairs of chimneys to the rear. Windows are timber sliding sash, with stone sills. The main entrance door has a glazed porch.

Its interiors are simple in ornamentation, retaining key features including, internal joinery, original cornicing and marble chimneypieces.

It is currently in use as a guesthouse, and part of the Waterville Golf Club. Its plan and features have been altered over time; however, the original layout and distribution of spaces remain intact.

The house is orientated East-West, with the entrance elevation facing East looking out along the Currane River. Its vantage towards Waterville Bridge and on to Lough Currane and mountains beyond,

The site was continuously inhabited by the Butler family from when it was leased by Theobald Butler in 1738 until 1963, passing through generations of Butlers for over 230 years.



Fig.07. Waterville House, from South bank of Currane River with the Fishing Weir and footbridge in the foreground - Lawrence Collection NLI



Fig 08. Waterville House, view from far East side of the road, with Waterville Bridge on the right-hand side.  
- Lawrence Collection NLI

### Waterville House, Co. Kerry



Fig. 09. Waterville House Postcard - note the ruined footings of the old bridge to foreground and Salmon fishing weir beyond – date/ author unknown



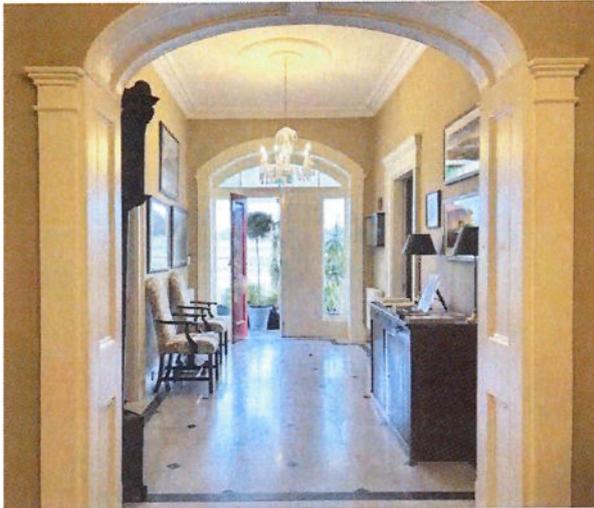
Fig 010. Waterville House, view over Currane River at Weir from South Bank showing a footbridge over the Salmon Weir in foreground and house with newer extension to right hand side - Costello, M photographer, Federation of Local History Societies (Ireland), 1990-2000, NLI



Fig 11. Waterville House, view from Waterville Bridge looking West along Currane River and the salmon weir – 2021

### 2.3.2 The House Interior

The interior of the main house retains its original layout and many original features including the main staircase, chimney pieces, joinery and corning.



Figs. 12. & 13. Waterville House interior, entrance hallway, with original plasterwork, archway, panelled embrasure and staircase.



Figs. 14 & 15. Waterville House dining room and drawing room, with original marble chimneypieces and corning.

### 2.3.3 Designed Landscape

#### Attendant Grounds

Waterville House sits within a designed landscape. It is located at the mouth of Ballinskelligs Bay, taking advantage of the beautiful natural setting of south Kerry, with the Atlantic Ocean to the west and the Kerry mountain ranges to the east. The views to and from the house are part of the designed landscape. It is bounded on the south by the Currane river, with its historic medieval fishing weir, which is an integral part of the estate. The Waterville bridge forms a boundary to the east.



Fig. 16. View looking East from Waterville House over the garden towards Waterville Bridge with the mountains in the distance.

**Waterville Bridge** (KY-N70-039.00)

Waterville bridge carries the N70 across the Currane River. It replaced an earlier bridge and dates to the late 19<sup>th</sup> Century. It is a triple arch stone road bridge with swept arch openings and cut stone voussoirs. It has rubble parapets with stone-on-edge copings and 'V' shaped cutwaters. There are concrete scour skirts to parts of the upriver.



Fig. 17. View of the bridge from the garden.  
Note the fish counter, installed by Inland Fisheries Ireland (IFI). It is used to capture salmon for tagging purposes.

**Boundary walls**

Dry stone walling is synonymous with the Irish rural landscape. The N70 is lined with random rubble walls, built with local old red sandstone stone with a soldier course capping. These form an important part of the local landscape.



Figs. 18 & 19. Local random rubble walls along the N70.

## Weir

The weir is located Southeast of Waterville House on the River Currane at the confluence of the Finglas River. The Salmon Weir is a Recorded Monument. The following description details its function and construction:

*Near the mouth of the Currane River in a pasture area to the South of Waterville House. .... According to local information, this is the original weir, with some later minor modifications, built on the Currane River.*

*It consists of a curving, sloping, paved area (L c. 15m) across the river and three well-constructed piers (L c. 5m; Wth 3-3.8m), built with large semi-dressed blocks of stone and with rounded projections on both the upstream and downstream sides.*

*The piers carry a wooden footbridge over the four down-sloping fish traps (Wth c. 1.5m), which are between the piers.*

*According to the local informant, in the past the two middle fish traps were used to catch salmon for the owners of Waterville House and the fish were stored in a rectangular tank (4.2m x 2m) of water, which is no longer in use, on the N bank of the river.*

*The fish trap on the S side was opened only from noon on Friday to noon on the following Monday to allow fish to get up to Lough Currane.*

*The gate on the trap at the N side was normally closed and it was used to relieve floods. Fish counters and cameras are now used to track the movements of fish up and down the river and the fish traps are no longer closed.<sup>1</sup>*



Fig 20. Salmon Weir at Waterville House, view looking east along Currane River with Waterville Bridge in the background – Lawrence Collection NLI

<sup>1</sup> Archaeology.ie

## The Currane River

Within the curtilage of Waterville House, is the Currane River, flowing from Lough Currane to Ballinskelligs Bay, a length of approximately half a mile, where the Waterville System drains into the Atlantic Ocean. All fish entering the system must pass through this short fishery.

It is one of Ireland's earliest recorded salmon rivers. There is a grant from James I, dated February 1604, to Donell Donough McCarthye, '2 caractes with a salmon weir upon the river Currane'.<sup>2</sup>

It is mentioned in the Civil Survey 1684/6 as the 'river of Currane is one of the two notable rivers in the barony [Iveragh]'.<sup>3</sup>

Further written evidence from Friar O'Sullivan, Muckross Abbey, at the end of 17<sup>th</sup> century remarks that the 'the river Currane was very remarkable for salmon fishing'.

In 1738 Theobald Butler signed a 999-year lease for the 'town and lands of Currane' which included the fishery at a cost of £40 a year. A descendant, James Edward Butler, bought out the freehold in 1899 for £792. It continued in the ownership of the Butler family until 1963, when Waterville House, adjoining land and fishing rights were sold to the current owner.<sup>3</sup>

The river became a popular spot with various written accounts highlighting the quality of the location and catch. In 1754 Charles Smith in the *History of Kerry (1754)* referred to the excellent 'white trout's [Sea Trout]' and salmon in the river as did the author of *The Angler in Ireland (1834)*. In 1897 the author of *The Sportsman in Ireland* gave information on the produce from the weirs "in four traps it is not uncommon to take 500 to 600 fish, nightly in the salmon season".

One account by W Peard in 1855 notes:

*'the present lessee of the fishery, with the most far-seeing literally allows strangers to angle on the river below the weirs – in fact he lays open to them his whole run of fish. All he asks in return is, that any early salmon taken by the rod shall be placed in the "pond" or, if retained to be paid for at market price. So, he gives all that a true sportsman can desire and only requires that his property and interests may not suffer for his kindness.'*<sup>4</sup>

The Currane River remains of immense angling importance, primarily for salmon fishing, but trout is also fished. There are many references to the famous 'Butler's Pool', which is located near the mouth of the river. The four main lies of the salmon are the Butlers Pool, the fast water just below the weir, a pool about 30 yards above the weir, and then, importantly, a pool just below the N70 bridge. All of these are within the ownership of Waterville House.

<sup>2</sup> West, Arthur, *Historical notes on the fisheries of the Waterville (Currane) River in County Kerry* Journal of the Cork Historical and Archaeological Society 1974, Vol. 79, No.230

<sup>3</sup> *ibid*

<sup>4</sup> *ibid*

### 3.0 STATEMENT OF SIGNIFICANCE

**3.1** Waterville House was constructed in 1775 by Lt. Whitwell Butler. It replaced an earlier house built by his father in 1738.

Waterville House is of architectural and social significance.

It is a five bay two story house, dating to the Georgian period and distinctive to that style and era.

It retains its overall form, and while it has been negatively impacted by 20<sup>th</sup> Century extensions, it retains much of its original layout. Internally, it retains a fine central staircase, along with original joinery, chimney pieces and corncing.

The house appears on the first edition Ordnance Survey map of 1842 and an earlier 1811 map by the engineer, Nimmo.

The attendant grounds are of architectural and social significance.

The designed landscape provides the setting for the house and incorporates the Currane River and the bridge, with Ballinskelligs Bay to the west and the mountains to the east.

The House and attendant grounds make a significant contribution to the local area.

The site was continuously inhabited by the Butler family for more than 230 years. The Butler's were a well-respected family in the Iveragh region, and very much associated with Waterville. A prominent family member was James E. Butler who contributed significantly to the development of the village and its intended railway. A memorial fountain was erected in his honour in the town of Waterville in 1887.

Of immense social and cultural value is the fisheries on the River Currane, which lies within the curtilage of Waterville House and is an integral part of the cultural landscape. Granted in 1738 on 999-year lease to Theobald Butler, the lands, river and rights to fishing were included. The weir is a recorded monument and the first known written account of it dates to 1604. There has been fishing in this location for over 500 years. It is remarkable that the weir is extant and still in use.

The site is of importance in respect of the development of fisheries. Its position between Lough Currane and Ballinskelligs Bay plays an important role in the lifecycle of Salmon and Sea Trout in the Waterville system giving passage to the breeding of these species. Butler's Pool and the River Currane have afforded anglers a prime location for sport fishing of salmon and sea trout for generations. The Butler family gave access to this location, and that continues under the current owners, reinforcing the social value of the weir and associated fishing to the angling community.

Waterville Bridge is of architectural significance. It was built in c.1899, replacing an earlier bridge. It retains its original form, cut stone voussoirs, rubble parapets and cutwaters. It is a typical bridge found all over Kerry and rural Ireland. It makes a positive contribution to the local area.

The rubble boundary walls along the N70 are of architectural and social significance. They form an integral part of the rural landscape and form an important part of our intangible cultural heritage.

### 3.2 PROTECTED STATUS OF WATERVILLE HOUSE AND ATTENDANT GROUNDS

It is noted that Waterville House and attendant grounds is not included on the Record of Protected Structures. It should be included and should be listed on the National Inventory of Architectural Heritage (NIAH) as identified in the Statement of Significance.

Likewise, Waterville Bridge should be listed on the NIAH and should be added to the Record of Protected Structures.

Below is a sample of houses on the RPS and NIAH in the area of South Kerry that are similar in scale and date :

<b>NIAH</b>	<b>KCC RPS No.</b>	<b>Name</b>	<b>Town / townland</b>	<b>Rating</b>	<b>Categories of Special Interest</b>
21308701	RPS-KY-0847	Belle Ville *	Portmagee	Regional	Architectural, Artistic
21307904	RPS-KY-1246	Glanleam House	Valencia Island	Regional	Architectural, Historical, Social
21306503		Churchtown House	Churchtown	Regional	Architectural, Artistic, Historical, Social Technical
21306507	RPS-KY-0139	Beaufort House	Beaufort	Regional	Archaeological, Architectural, Technical
21306611	RPS-KY-0364	Lakeview House	Maulagh	Regional	Architectural, Artistic, Historical, Social
21310605	RPS-KY-0859	Westcove House	Coad	Regional	Architectural, Artistic, Historical,
21306305		Glenbeigh House	Glenbeigh	Regional	Architectural, Artistic, Social

\* Butler Family House with close ties to Waterville House

Below is a sample of bridges on the RPS and NIAH in the area of South Kerry that are similar in scale and date :

<b>NIAH</b>	<b>KCC RPS No.</b>	<b>Name</b>	<b>Townland</b>	<b>Rating</b>	<b>Categories of Special Interest</b>
21306201	RPS-KY-0183	O'Connell Bridge	Gleensk	Regional	Architectural, Technical
21308402	RPS-KY-0500	Galway's Bridge	Derrycunihy, Gortroe	Regional	Architectural, Technical
21309202	RPS-KY-0389	Blackwater Bridge	Derreenafoyle, Dromore	Regional	Architectural, Technical
21401104	RPS-KY-0870	Sneem	Drinnaghbeg, Inchinallega East	Regional	Architectural, Technical

## 4.0 SUMMARY OF PROPOSED DEVELOPMENT AND IMPACT ASSESSMENT

### 4.1 INTRODUCTION

This assessment addresses the impact that the proposed development will have on Waterville House and attendant grounds, including Waterville Bridge and the medieval salmon weir and their setting.

### 4.2 CRITERIA USED FOR IMPACT ASSESSMENT OF PROPOSED WORKS

The extent of potential and predicted impacts on the architectural heritage has been defined with reference to the list given below, which is taken from Section 5: Glossary of Impacts contained in the *Guidelines on the Information to be Contained in Environmental Impact Statements* prepared by the Environmental Protection Agency (May 2022), and to Directive 2011/92/EU (as amended) on the assessment of the likely effects of certain public and private projects on the environment. Comment is given below on what these definitions might imply in the case of architectural heritage. The definitions from the EPA document are in italics.

*Imperceptible Impact:* An impact capable of measurement but without noticeable consequences. The definition implies a small but measurable change in the character of heritage structures or in the character of their setting, capable of detection, but not readily noticeable.

*Slight Impact:* An impact which causes noticeable changes in the character of the environment without affecting its sensitivities. For this definition to apply, a development would be noticeable and would also bring about a change in the character of heritage structures or in the character of their setting. However, apart from the development itself, the sensitivity of the remaining monuments or structures should remain unchanged. Appropriate mitigation will reduce the impact.

*Moderate Impact:* An impact that alters the character of the environment in a manner that is consistent with emerging trends. In this case, a development must bring about a change in the character of heritage structures or in the character of their setting; and this change must be consistent with a pattern of change that is already taking place or emerging.

Impacts are probably reversible and may be of relatively short duration. Appropriate mitigation is very likely to reduce the impact.

*Significant Impact:* An impact which, by its character, magnitude, duration or intensity alters a sensitive aspect of the environment. This implies an impact which would materially change the character of heritage structures or the character of their setting. Appropriate mitigation is likely to reduce the impact.

*Profound Impact:* An impact which obliterates sensitive characteristics. A profound impact would result from the demolition of heritage structures, or from there being changes beyond recognition.

Mitigation is unlikely to remove adverse effects.

*Significant positive:* a beneficial effect that permanently enhances or restores the character and/or setting of the architectural heritage in a clearly noticeable manner.

*Moderate positive:* a beneficial effect that results in partial or temporary enhancement of the character and/or setting of the architectural heritage and which is noticeable and consistent with existing and emerging trends.

*Slight positive:* a beneficial effect that causes some minor or temporary enhancement of the character of architectural heritage or local or regional importance which, although positive, is unlikely to be readily noticeable.

*Imperceptible positive:* a beneficial effect on architectural heritage of local importance that is capable of measurement but without noticeable consequences.

The range of possible impacts listed above deal largely with the extent of impact; and the extent of the impact of a development is usually proportional to the extent to which that development directly affects a structure or to the extent to which it is visible in the context of the setting of a structure. This proportionality may be modified by the extent to which the development is seen as culturally or socially acceptable. Whether an impact is positive, negative or neutral depends on the interaction between the proposed development and the receiving environment.

### 4.3 DESCRIPTION OF PROPOSED DEVELOPMENT

The proposed development, the N70 Waterville to Ballybrack Road Improvement Scheme is described as 'A 1.4km online improvement of the N70 to an all-purpose road with a shared use cycle and pedestrian facility including bridge and all ancillary and consequential works in the townlands of Waterville, Ballybrack and Eightercua in County Kerry.'

It is noted that Kerry County Council's Planning and Environmental Considerations Report (PECR) Chapter 11: **Archaeology** assesses the existing archaeological, architectural and cultural heritage environment. This is very brief and only provides a summary of the study undertaken. A full and comprehensive AHIA was not submitted in support of the proposed development. It does not mention Waterville House and attendant grounds and there is no mention of the medieval salmon weir. Notably, both are not indicated within figure 11-1 of the PECR which identifies the study area of the assessment despite the adjacency to the scheme.



Fig. 21. Photomontage from Kerry County Council PECR (Figure 2-4) of Proposed Bridge for Shared Cycle & Footbridge (on Western Side of Waterville Bridge)

### 4.4 IMPACT ASSESSMENT

The positioning of the new proposed bridge and cycle/foot path on the Western side of the N70 will have a Significant Impact. 'An impact which, by its character, magnitude, duration or intensity alters a sensitive aspect of the environment.'

The proposal will materially change the character of the House, the garden, the weir, the bridge and the character of their setting.

The installation of infrastructure of this magnitude will negatively impact on the historic structures and the designed landscape. The view from Waterville House will be negatively affected.

It will affect the setting of Waterville House, a 250-year-old house of architectural and social significance. It will affect the privacy of the house by effectively providing a viewing platform into the house and gardens.

The vantage along the River Currane looking East is of social importance given the history of fishing along this stretch of river. Waterville Bridge will be negatively impacted in respect of its visual character when viewed from the Salmon Weir and Butler's Pool.

Regarding the realignment of the N70, the affected rubble boundary walls should be photographed, surveyed and rebuilt to exactly match existing. In the photomontages, views 3 and 4 in particular, the rebuilt walls as illustrated, look incorrect and incongruous. They look like a generic boundary wall, with non-local stone used as a facing. The style, materials and detailing are incorrect and if constructed in this manner would have a significant impact on the character of the local landscape.

The proposal would have a Profound Impact on the fishing pools and the medieval salmon weir. 'An impact which obliterates sensitive characteristics.'

It would be in contravention of KCDP policy 8-27:

*'Ensure that development (including forestry, renewable energy developments and extractive industries) within the vicinity of a recorded monument, zone of archaeological potential or archaeological landscape does not detract from the setting of the feature and is sited and designed appropriately and sympathetically, with the character of the monument/feature/ landscape and its setting.'*

The fishing pools are of immense social and cultural significance and will be profoundly negatively affected. The proposed bridge will physically impede on rod fishing activity of Fishermen. Furthermore, the salmon could be fished out of it easily from the proposed pedestrian and cycle bridge. It would also be possible to cast from this bridge down to the next pool above the weir, which is probably the best salmon lie of the whole river.

Illegal fishing from the new bridge will be detrimental to anglers on the river. This stretch of river is very special to anglers. There would be reputational damage to the owner, Waterville House. Angling is all about the tranquillity, secrecy, silence, and camouflage. This cannot happen if someone is watching over the angler, disturbing the tranquillity or making noise.

### **Mitigation**

Mitigation is unlikely to remove adverse effects.

## **4.5 ALTERNATIVE PROPOSAL**

The proposed development as submitted by the Council provides a shared surface pathway of 3.0m in width on the western side of the N70 over its entire length and includes a single span prefabricated bridge structure over the Currane River. Given the likely negative impacts associated with this proposal, the alternative proposal developed by MHL Consulting Engineers on behalf of Waterville Links Ltd relocates the 3.0m shared surface pathway to the eastern side of the roadway together with utilisation of the existing historic bridge structure with the signalisation of the N70 on both approaches to the Waterville Bridge. This also includes the reduction of the trafficked carriageway to 3.25m along the bridge section, providing for one way traffic only and a reduction in the speed limit through the bridge to 30kph.

This is a safe and cost-effective option that will have a greatly reduced impact on the local area.

In terms of heritage and visual impact, this proposal provides a simpler and less intrusive alternative, while safeguarding the intrinsic value of the medieval fishing weir, the historic structures and the rural landscape.

## Impact

The alternative proposal would have Imperceptible Impact: 'An impact capable of measurement but without noticeable consequences.'

This alternative provides no negative impact on Waterville House and demesne.

There will be no change to the curtilage of the designed landscape.

It will have no impact on Waterville Bridge. There will be no visual intrusion of a new structure to the west side of the bridge.

There will be no changes to preserved views and prospects in this visually sensitive area.

Most importantly, there will be no negative impact on the river, the salmon weir and the fishing pools, by ensuring there is no illegal access to fishing from a new platform.

Overall, it is in keeping with the conservation principles of minimal intervention.

## 5.0 CONCLUSION

### 5.1 SIGNIFICANCE

Waterville House and attendant grounds are of architectural, artistic and social significance and make an important contribution to the local area. Of immense social and cultural value is the medieval weir and the fisheries on the River Currane, which lie within the curtilage of Waterville House and is an integral part of the cultural landscape.

Waterville Bridge is of architectural significance. The house and bridge are worthy of protection. The rubble boundary walls are of architectural and social significance. They form an integral part of the rural landscape and form an important part of our intangible cultural heritage.

The site is also associated with the Butler family, who lived and fished here for more than 230 years. The Butler's were a well-respected family in the Iveragh region, and very much associated with Waterville.

### 5.2 21<sup>ST</sup> CENTURY

Purchased in 1963 by its current owners from the Butler family, the estate has continued to evolve. The house has been extended and converted to a guest house. While the extensions have not enhanced the architectural quality of the house, the historic building retains its original form, layout and original internal features. The setting of the house and its attendant grounds are part of the story of the site.

Waterville House and golf course is a destination and an important part of the social fabric of the area. The golf course is one of the top links courses in the country, ranked as No.7 in 2025<sup>5</sup>. The fishing on the River Currane remains one of the top angling spots in the country. The viability of Waterville House is important for tourism in the south Kerry region and for the town of Waterville.

As a well-known golfing destination, it has been continuously maintained a high standard and most recently rejuvenated in 2000 by renowned course designer Tom Fazio reopening in 2004.

There is general recognition for the need to provide for better and safer pedestrian and cycling along the N70. However, the proposal presented for planning appears to be over designed and without due consideration given to the sensitive location. The proposed development, as submitted to An Coimisiún Pleanála will have a significantly negative impact on Waterville House and its curtilage, on the medieval fishing weir and pools, and on the heritage and social value of the cultural landscape. It will threaten local fishing and the future viability of Waterville House.

The alternative proposal is a better and simpler solution. It will provide safer walking and cycling in the area for both locals and tourists. It will not negatively impact on the built heritage, the fishing weir and associated fishing, or on this important historic landscape.

