

An
Coimisiún
Pleanála

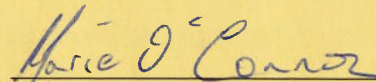
Direction
CD-022216-26
ABP-319843-24

The submissions on this file and the Inspector's report were considered at a meeting held on 25/05/2026.

The Commission decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Planning

Commissioner:


Marie O'Connor

Date: 25/05/2026

DRAFT WORDING FOR ORDER

Reasons and Considerations

The Commission performed its functions in relation to the making of its decision in a manner consistent with Section 15(1) of the Climate Action and Low Carbon Development Act 2015, as amended by Section 17 of the Climate Action and Low Carbon Development (Amendment) Act 2021, consistent with Climate Action Plan 2024 and Climate Action Plan 2025 and the national long term climate action strategy, national adaptation framework and approved sectoral adaptation plans set out in those Plans and in furtherance of the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State.

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

(a) European Union legislation including in particular:

- Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC (Birds Directives) which set out the requirements for Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union,
- Directive 2011/92/EU (The EIA Directive) as amended by Directive 2014/52/EU as implemented by Article 94 and Schedule 6 (paragraphs 1 and 2) of the Planning Regulations as amended,
- Directive 2000/60/EC, the Water Framework Directive and the requirement to exercise its functions in a manner which is consistent with the provisions of the Directive, and which achieves or promotes compliance with the requirements of the Directive.

(b) National Legislation including in particular:

- Section 177AE of the Planning and Development Act 2000 (as amended) which sets out the provisions in relation to local authority projects which are subject to Appropriate Assessment (AA).

(c) National, Regional Policy and Guidance in particular:

- Project Ireland 2040 National Planning Framework, First Revision 2025 which supports tourism and the sustainable development of the maritime economy (NPO 34 and NPO 49),
- National Marine Planning Framework which supports sports and recreation in the coastal and marine environment (Sports and Recreation Policy 1, 3 and 4),
- Regional Spatial & Economic Strategy for the Southern Region 2020-2032 which seeks to support tourism development RPO 53 and 54, as well as growth of the marine economy in RPO 76 and RPO 80, and
- Irelands 4th National Biodiversity Plan 2023-2030.

(d) Local Planning Policy including in particular:

- The provisions of the Kerry County Development Plan 2022-2028.
- The provisions of the Corca Dhuibhne Electoral Area Local Area Plan 2021-2027.

(e) The following matters:

- the nature, scale and design of the proposed works as set out in the application for approval and the existing character of the area,
- the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on European sites,
- the Natura Impact Statement dated September 2025 prepared by Malachy Walsh and Partners (MWP)
- the submissions and observations made to An Coimisiún Pleanála in connection with the application,
- the further information response received from the applicant on the 08th September 2025,
- the report and recommendation of the Inspector as well as the specialist environmental report for the Commission relating to same.

Appropriate Assessment Stage 1:

The Commission noted that the proposed development is not directly connected with or necessary for the management of a European Site. The Commission completed an appropriate assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the Screening Report for Appropriate Assessment submitted with the application and the report and screening assessment completed by the Inspector. The Commission agreed with the Inspector's assessment and conclusion that the European Sites for which there are potential for significant effects are the Tralee Bay and Maharees Peninsula, West to Cloghane SAC (002070), Magharee Islands SAC (002261), Tralee Bay Complex SPA (004188), Dingle Peninsula SPA (004153) and Magharee Islands

SPA (004125). The Commission concluded, in agreement with the Inspector, that Appropriate Assessment is required for those European Sites.

Appropriate Assessment Stage 2:

The Commission considered the Natura Impact Statement and associated documentation submitted with the application, the mitigation measures contained therein, the submissions and observations on file, and carried out an Appropriate Assessment of the implications of the proposed development for European Sites in view of the conservation objectives for the Tralee Bay and Maharees Peninsula, West to Cloghane SAC (002070), Magharee Islands SAC (002261), Tralee Bay Complex SPA (004188), Dingle Peninsula SPA (004153) and Magharee Islands SPA (004125). The Commission considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment and to allow it to reach complete, precise and definitive conclusions for Appropriate Assessment. In completing the assessment, the Commission considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and
- iii. the conservation objectives for the European Sites.

In completing the appropriate assessment, the Commission accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the integrity of the aforementioned European Sites, having regard to the Sites' conservation objectives.

In overall conclusion, the Commission was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of European Sites, in view of the Site's conservation objectives and there is no reasonable scientific doubt as to the absence of such effects.

This conclusion is based on a complete assessment of all aspects of the proposed project, both alone and in combination with other plans and projects of relevance and took into account all submissions received during the course of the application.

The Commission considered the information submitted which included an Environmental Impact Assessment Screening and concluded definitively that the proposed development was not a class for the purposes of EIA and that there is no real likelihood of significant effects on the environment arising from the proposed development and EIA is not required.

The Commission were satisfied that the development will not impact on the attainment of the objectives of the Water Framework Directive nor will it lead to a deterioration in status of relevant waterbodies.

Proper Planning and Sustainable Development

It is considered that, subject to compliance with the conditions set out below, the proposed development would not have significant negative effects on the environment or the community in the vicinity, would not pose a risk to water quality, would not be detrimental to the visual or landscape amenities of the area, would not adversely impact on the cultural, archaeological and built heritage of the area, and would not interfere with the existing land uses in the area. It is considered that due to the particular disposition of the structure and its height and scale it would not seriously injure the amenities of property in the vicinity and the proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, on the 31st day of May 2024 as amended by the further plans and particulars submitted on the 8th day of September 2025, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity and the proper planning and sustainable

development of the area and to ensure the protection of the environment.

2. The mitigation measures contained in the Natura Impact Statement dated September 2025 shall be implemented in full. Prior to the commencement of development, details of a time schedule for implementation of mitigation measures and associated monitoring shall be prepared by the local authority and placed on file and retained as part of the public record.

Reason: To protect the integrity of European Sites.

3. A suitably qualified ecologist shall be retained by the local authority to oversee the site set up and construction of the proposed development and implementation of mitigation measures set out in the NIS. The ecologist shall be present during site construction works. Upon completion of works, an ecological report of the site works shall be prepared by the appointed ecologist to be kept on file as part of the public record.

Reason: In the interests of nature conservation and biodiversity

4. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

5. The bin store shall be suitably roofed and ventilated.

Reason: In order to protect the residential amenities of property in the vicinity and in the interest of protecting the environment.

6. The local authority and any agent acting on its behalf shall ensure that all plant and machinery used during the works should be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

Reason: In the interests of nature conservation and mitigating ecological

damage associated with the development.

7. (a) The wastewater treatment system and raised percolation area hereby permitted shall be installed and maintained in accordance with the details received on the 08th September 2025 and shall be in accordance with the EPA Code of Practice for Domestic Wastewater Treatment Systems 2021.

(b) The existing septic tank and foul drainage system shall be cleaned down, desludged and decommissioned as outlined in the Outline Construction Environmental Plan (OCEMP) dated August 2025

Reason: In the interest of public health and to prevent water pollution.

8. All stormwater as well as saltwater washdown from the external coldwater showers shall be conveyed to the proposed stormwater soakpit in accordance with the details received on the 08th September 2025.

Reason: To prevent water pollution

9. Prior to commencement of works, the local authority, or any agent acting on its behalf shall prepare a final Construction Environmental Management Plan (CEMP), which shall be adhered to during construction. This plan shall reflect all required mitigation for the project and provide details of intended construction practice for the development, including noise and dust management measures and off-site disposal of construction/demolition waste. The CEMP shall be placed on file and retained as part of the public record.

Reason: In the interest of the proper planning and sustainable development of the area and to ensure the protection of the environment.