

An
Coimisiún
Pleanála

Direction
CD-021812-26
ABP-321838-25

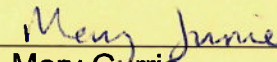
The submissions on this file and the Inspector's report were considered at a meeting held on 23/01/2026.

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

Planning

Commissioner:

Date: 28/01/2026


Mary Gurrie

DRAFT WORDING FOR ORDER

Reasons and Considerations

- 1) The largest portion of the site, and where it is proposed to locate 218 residential units is vulnerable to flooding and has been zoned HA - High Amenity in the Waterford City and County Development 2022 – 2028 for which the objective is *to protect highly sensitive and scenic location from inappropriate development that would adversely affect the environmental quality of the locations* and where residential is listed as a use that is "not permitted". This zoning objective has been informed by the sites vulnerability to flood risk as demonstrated in the Strategic Flood Risk Assessment as set out in Appendix 13 of the Waterford City and County Development Plan 2022 – 2028. This zoning objective is considered reasonable. The proposed Strategic Housing Development would, therefore, contravene

materially the zoning objective for the site as set out in the current development plan and be contrary to the proper planning and sustainable development of the area.

- 2) The site is vulnerable to flood risk as demonstrated in the Strategic Flood Risk Assessment (SFRA) that is set out in Appendix 13 of the Waterford City and County Development Plan 2022 – 2028. The SFRA locates the SHD site (identified as Area 2) within Flood Zone B save for a small section within the centre of the site that is outside the flood zone. The Development Plan Justification Test explicitly recommended that new, large-scale development within Flood Zones A and B not be permitted. Further, notwithstanding the Site Specific Flood Risk Assessment submitted with the application, the proposed SHD development fails to satisfy the Justification Test for Development Management as prescribed in Box 5.1 of the Planning System and Flood Risk Management Guidelines (2009). The proposed development is therefore contrary to the Planning System and Flood Risk Management Guidelines (2009) and the Waterford City and County Development Plan 2022 – 2028.
- 3) The proposed development site is currently an important feeding and loafing site for Brent Geese and to a lesser extent Black-tailed Godwit, both of which are qualifying interests for the adjacent Dungarvan Harbour Special Protection Area (site code 004032). Brent Geese which do not use a wide variety of terrestrial sites around this SPA show a clear preference and fidelity to a small number of sites including this development site. The availability of suitable nearby terrestrial feeding sites, including this site, is essential to maintain the favourable conservation condition of Brent Geese listed as a qualifying interest for Dungarvan Harbour SPA. This development site is therefore fundamentally connected to the Dungarvan Harbour SPA and is of significant importance as an ex-situ winter feeding habitat. In addition there is a lack of clarity with regards to the volumes of topsoil to be removed off site and fill material to be imported onto the site to reduce the risk of flooding within the site and the Natura Impact Statement (NIS) has not adequately assessed the significance of the potential indirect or secondary effects arising from the construction stage of the proposed development, in terms of a

reduction in water quality, noise and dust. As a result, the mitigation measures proposed in the NIS cannot be considered sufficient to avoid significant impacts on Dungarvan Harbour SPA. On the basis of the information provided with the application, including the Natura Impact Statement and the Ecological Impact Statement the Coimisiun is not satisfied that it has been demonstrated beyond reasonable scientific doubt that the development would not constitute an adverse impact on the Dungarvan Harbour SPA Brent Goose population and that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of Dungarvan Harbour Special Protection Area (Site Code 004032), in view of the site's Conservation Objectives. In such circumstances, it would not be appropriate to grant planning permission.

Notes:

- 1) The Commission noted the Inspector's third recommended reason for refusal in relation to traffic. Noting that the Roads Section of the Planning Authority did not object in principle to the development, and that the inspector's main concern related to the lack of assessment of traffic impacts during the construction phase of the development, which by their nature are temporary and time bound, the Commission considered that the construction traffic impacts could be adequately managed by condition and that this was not grounds for refusal in itself.
- 2) Having regard to the passage of time since the application was lodged, and in particular the adoption of a new County Development Plan in 2022, the Commission considered whether the parties to this case ought to have been invited to make further submissions to address the reasons for refusal above, and in that regard to hold an Oral Hearing as provided for under the SHD legislation in order to do so. However, having regard to the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended) which requires lands for Strategic Housing Developments (SHD) to be zoned residential (in full or in part), the Commission agreed with the Inspector, as set out in Section 18.85 of the Inspector's report, that the material change in the zoning of the lands, the subject of this application, between the old and new development plans is so fundamental to the consideration of this SHD application that to hold an Oral Hearing to address

this would place an unnecessary burden on the applicant, would be unfair to all parties and would ultimately be futile, and considered further that the issues raised on the second and third reasons for refusal had already been substantially ventilated and assessed in the application.