

Planning and Development Act 2000, as amended

Planning Authority: Waterford City and County Council

Planning Register Reference Number: 25/60097

Appeal by John McGrath of Foulouse, Clonea Road, Abbeyside, Dungarvan, County Waterford against the decision made on the 16th day of April, 2025 by Waterford City and County Council to grant subject to conditions a permission to S and K Carey Limited care of MDP and Partners of 2-3 Colbeck Street, Waterford, in accordance with plans and particulars lodged with the said Council:

Proposed Development: The construction of 155 number dwellings comprising (a) five number two-storey four-bedroom detached houses all with optional attic conversion, (b) 48 number two-storey three bedroom semi-detached houses 30 number with optional attic conversion, (c) 10 number two-storey four bedroom semi-detached houses seven number with optional attic conversion, (d) six number two-storey four-bedroom terraced houses all with optional attic conversion, (e) 35 number three-bedroom two-storey terraced houses 23 number with optional attic conversion, (f) eight number three-storey four bedroom semi-detached houses, (g) one number three-storey four-bedroom terraced house, (h) 42 number apartments in four number three-storey duplex apartment blocks with 24 number one bedroom

and 18 number two-bedroom units and a three-classroom single-storey creche, on an application site of 5.065 hectares (4.366 hectares net). The proposed development will include alterations along the existing public road frontage, a spine road with footpaths and cycle access from the public road (LR3168) to serve the proposed development, adjacent lands including existing GAA grounds, lands zoned for new residential, residential strategic reserve and community infrastructure. The proposed development also includes all internal roads and footpaths, bicycle and car parking, public open spaces, foul and surface drainage services and connections, water services and connections; street lighting; landscaping, boundary treatments, alterations of site levels and all ancillary site development works at Duckspool, Dungarvan, County Waterford.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

The Commission performed its functions in relation to the making of its decision, in a manner consistent with the Climate Action and Low Carbon Development Act 2015, as amended; the Climate Action Plan 2024 and Climate Action Plan 2025, and had regard to the following:

- (a) Policies and objectives set out in the National Planning Framework 2040 (First Revision, 2025) and the Regional Spatial and Economic Strategy for the Southern Region 2020-2032.
- (b) Policies and objectives set out in the Waterford City and County Development Plan 2022 – 2028, including the location of the western portion of the site on lands subject to Zoning Objective New Residential where the objective is to provide for new residential development in tandem with the provision of the necessary social and physical infrastructure and where the eastern portion of the site is zoned Community Infrastructure where the objective is to provide for and protect civic, educational, religious, community, health care and social infrastructure.
- (c) Housing for All, A New Housing Plan for Ireland, 2021.
- (d) National Biodiversity Plan 2023-2030.
- (e) Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities, 2024.
- (f) Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2023.
- (g) Urban Development and Building Heights, Guidelines for Planning Authorities, 2020.

- (h) Design Manual for Urban Roads and Streets, 2013, updated 2019.
- (i) Childcare Facilities, Guidelines for Planning Authorities, 2001.
- (j) Planning System and Flood Risk Management, Guidelines for Planning Authorities, 2009.
- (k) Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities, 2021, updated 2023.
- (l) Development Management, Guidelines for Planning Authorities, 2007.
- (m) The nature, scale and design of the proposed development.
- (n) The availability in the area of a range of social, community, and transport infrastructure.
- (o) The pattern of existing and permitted development in the area.
- (p) The planning history at the site and within the area.
- (q) The reports of the planning authority.
- (r) The submissions received by the planning authority from observers and prescribed bodies.
- (s) The grounds of appeal and observations on the appeal.
- (t) The report and recommendation of the planning inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment, environmental impact assessment, and water status impact assessment.

Appropriate Assessment (AA)

The Commission noted that the proposed development is not directly connected with or necessary to 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 European Sites, taking into account the nature, scale, and location of the proposed development adjoining the serviced urban area, the nature of the receiving environment, the distances to the nearest European sites and the hydrological pathway considerations, the Appropriate Assessment documentation submitted with the application, the incorporation within the proposal of best-practice standard measures which have not been designed or intended to avoid or reduce any harmful effects of the project on a European Site, the submissions and observations on file, the reports of the planning authority, and the planning inspector's report.

In completing the screening for Appropriate Assessment, the Commission accepted and adopted the screening assessment and conclusion in the planning inspector's report in respect of the identification of the European site which could potentially be affected, and the identification and assessment of potential significant effects of the proposed development, either individually or in combination with other plans or projects, on this European site in view of the site Conservation Objectives and that a Stage 2 Appropriate Assessment is not, therefore, required.

The Commission was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on European Site; Dungarvan Harbour Special Protection Area (Site code: 004032) or any other European site, in view of the site's Conservation Objectives.

This screening determination is based on the following:

- (i) the conservation objectives for the European Site,
- (ii) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, and
- (iii) the distance from the proposed works.

Environmental Impact Assessment (EIA):

The Commission completed an environmental impact assessment screening of the proposed development. Having regard to:

- (a) The nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(iv) and Class 13 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) the location of the site on lands governed by Zoning Objective New Residential and Zoning Objective Community Infrastructure of the Waterford City and County Development Plan 2022 – 2028 and the results of the Strategic Environmental Assessment of the Waterford City and County Development Plan 2022 – 2028 undertaken in accordance with the SEA Directive (2001/42/EC),
- (c) the greenfield nature of the site and its location at the edge of town location at Dungarvan which is served by public services and infrastructure,

- (d) the existing use on the site and pattern of development in surrounding area,
- (e) the planning history relating to the wider area of the site,
- (f) the absence of any significant environmental sensitivity in the vicinity,
- (g) the location of the development outside of any sensitive location specified in article 109(4)(a) of the 2001 Regulations,
- (h) the criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- (i) the features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction Environmental Management Plan,

it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not, therefore, be required.

Water Status Impact Assessment Screening

The Commission completed a Water Status Impact Assessment screening exercise with regard being had to the objectives of Article 4 of the Water Framework Directive, taking into account the nature of the proposed development, site and receiving environment, the hydrological and hydrogeological characteristics of proximate waterbodies, the absence of any meaningful pathways to any waterbody, the standard pollution controls and project design features, the information and reports submitted as part of the application and appeal, and the planning inspector's report.

In completing the screening exercise, the Commission adopted the report of the planning inspector, and concluded that the proposed development would not result in a risk of deterioration to any waterbody (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any waterbody in reaching its Water Framework Directive objectives, and that a Water Status Impact Assessment would not, therefore, be required.

Conclusions on Proper Planning and Sustainable Development

The Commission considers that, subject to compliance with the conditions set out below, the proposed development would be consistent with the applicable Zoning Objective New Residential and Zoning Objective Community Infrastructure and other policies and objectives of the Waterford City and County Development Plan 2022 – 2028, would result in an appropriate density of residential development, would constitute an acceptable mix and quantum of residential development, would provide acceptable levels of residential amenity for future occupants, would not seriously injure the residential or visual amenities of property in the vicinity, would not cause adverse impacts on or result in serious pollution to biodiversity, lands, water or air, would be acceptable in terms of pedestrian, cyclist and traffic safety and convenience, and would be capable of being adequately served by water supply, wastewater and surface water networks without risk of flooding. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Mitigation and monitoring measures outlined in the Natura Impact Statement submitted with the application shall be carried out in full, except where otherwise required by conditions attached to this permission

Reason: In the interest of protecting the environment.

3. Mitigation and monitoring measures outlined in the plans and particulars, including Ecological Impact Assessment, Site-Specific Flood Risk Assessment and Construction Environmental Management Plan submitted with the application shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interests of protecting the environment, public health and clarity.

4. (a) The construction of the dwellings permitted herein shall proceed in accordance with the submitted phasing plan and shall ensure that the appropriate section of access road, footpath, lighting, open space, landscaping and infrastructural services benefitting the particular dwellings are fully completed prior to those dwellings being occupied.
- (b) The Spine Road and associated services permitted herein shall be constructed in Phase 1 as per submitted details and when completed to an acceptable standard as Part of Phase 1 shall be Taken in Charge by Waterford City and County Council.
- (c) The creche permitted herein shall be constructed in Phase 3.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

5. (a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant residential units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

6. Prior to commencement of development, proposals for a development name and numbering scheme, and associated signage shall be submitted to and agreed in writing with the planning authority. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme. No advertisements/ marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use for new residential areas.

7. Details of the materials, colours, and textures of all the external finishes to the proposed development and boundary treatments shall be as submitted with the application, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

8. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, 0800 to 1400 hours on Saturdays, and not at all on Sundays and 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 residential amenities of property in the vicinity.

9. (a) Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall take account of trees within Landscape Layout Drawing Number LA001, submitted to the planning authority as further information on the 20th day of December 2024.
- (b) The design of the lighting scheme shall be approved of by a suitably qualified bat specialist. The details of the lighting scheme, including written evidence indicating approval by the bat specialist, shall be submitted to and agreed in writing with the planning authority prior to commencement of development/ installation of lighting.
- (c) The agreed lighting system shall be fully implemented and operational prior to the making available for occupation of any residential unit.

Reason: In the interests of amenity and public safety.

10. Prior to the commencement of development, the developer shall enter into Connection Agreements with Uisce Éireann (Irish Water) to provide for service connections to the public water supply and/or wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

11. The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: To prevent flooding and in the interest of sustainable drainage.

12. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

13. Prior to commencement of development and/ or occupation of the residential units, as applicable, final Road Safety Audit(s) and/ or Quality Audit(s) of the development, including the main entrance, internal road, pedestrian/ cycle path layouts, shall be submitted to and agreed in writing with the planning authority.

Reason: In the interests of traffic, pedestrian and cyclist safety, and sustainable transport.

14. (a) The internal road network serving the proposed development, including carriageway widths, corner radii, turning bays, junctions, set down/ drop off area(s), parking areas, footpaths, kerbs, pedestrian crossings, raised tables, and cycle lanes shall be in accordance with the detailed construction standards of the planning authority for such works, and design standards outlined in the Design Manual for Urban Roads and Streets and the National Cycle Manual issued by the National Transport Authority. In default of agreement the matter(s) in dispute shall be referred to An Coimisiún Pleanála for determination.
- (b) A raised pedestrian crossing point shall be provided by the developer across the entrance to the site and shall be subject to the agreement of the planning authority.
- (c) Prior to the commencement of development, the final location, design and specification of pedestrian crossing to the south of the site traversing the L3168 shall be agreed with the planning authority. The details shall include public lighting requirements. Unless otherwise agreed in writing, the works shall be carried out by the developer to the satisfaction of the planning authority.

Reason: In the interest of traffic and pedestrian safety.

15. A minimum of 20% of all car parking spaces shall be provided with functioning electric vehicle charging stations/ points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points/ stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/ points have not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted to and agreed in writing with the planning authority prior to the occupation of the development.

Reason: To provide for and/ or future proof the development such as would facilitate the use of electric vehicles.

16. All links / connections to adjoining lands shall be provided up to the site boundary to facilitate future connections subject to the appropriate consents.

Reason: In the interest of permeability and safety.

17. A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

Reason: In the interest of environmental protection residential amenities, public health and safety and environmental protection.

18. A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

Reason: In the interest of sustainable transport and safety.

19. (a) An Operational Waste Management Plan (OWMP) containing details for the management of waste within the development, the provision of facilities for the storage, separation, and collection of the waste and for the ongoing operation of these facilities, shall be submitted to and agreed in writing with the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed OWMP.
- (b) The OWMP shall provide for screened bin stores for the duplex buildings, apartment blocks, and the childcare facility, the locations, and designs of which shall be as indicated in the plans and particulars lodged within the application unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage for the proposed development.

20. Prior to the commencement of development, a Resource Waste Management Plan (RWMP) as set out in the EPA's 'Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects' (2021) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of proper planning and sustainable development.

21. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

22. (a) Prior to commencement of development the developer shall retain the services of a suitably qualified licensed archaeologist at the developer's expense to advise regarding the archaeological implications of the development site. Notification of these arrangements shall be submitted to and agreed with the planning authority prior to commencement of any development.
- (b) The developer shall employ the archaeologist to test the site prior to development. The testing programme will be undertaken as outlined in the Archaeological Assessment (August 2024). Facilities such as may be required shall be available to the archaeologist for this purpose.
- (c) The archaeologist shall submit a report to the planning authority outlining the results of the investigation.
- (d) If, in the opinion of the planning authority, significant archaeological remains are uncovered, and in so far as these remains are subject to disturbance by foundations for pilecaps, walls, floors, drainage, then archaeological preservation of the site (either in-situ or by record) will be required.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

23. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and sections 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Coimisiún Pleanála for determination.

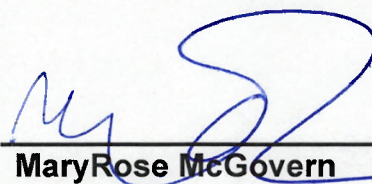
Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

24. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority and/ or management company of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Coimisiún Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

25. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Coimisiún Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



Mary Rose McGovern

**Planning Commissioner of An Coimisiún
Pleanála duly authorised to authenticate
the seal of the Commission**

Dated this 22nd day of August 2025

