



An
Bord
Pleanála

S. 4(1) of Planning and Development (Housing) and Residential Tenancies Act 2016

Inspector's Report ABP-310782-21

Strategic Housing Development

218 no. residential units (176 no. houses, 42 no. apartments), creche and associated site works.

Location

Site at Duckspool, Dungarvan, Co. Waterford.
(www.DuckspoolDungarvanSHD.com)

Planning Authority

Waterford City and County Council

Applicant

Michael Ryan

Prescribed Bodies

DAU
Irish Water
TII
Waterford Childcare Committee

Observer(s)

Brian Sandford
Caroline Russell
Cathal O'Hare and Paula da
Conceicao
Conor D. McGuinness
Criostoir O'Faolain
Duckspool Community Group c/o Neil
Renton
Eoin Cunningham
Eoin McNamara
Geoffrey Collins
Jane Fraher
Lara Gough
Lisa M.J. Dolan
Lucie Higgins
Marc O'Cathasaigh
Mary Conway
Neil Forde
Residents of Sallybrook
Seamus O'Mahony and Mairead
Forrestal
Susan Gallagher
The Residents of Tournore Court
Thomas Lineen
Tournmore Park Residents Group
Vivian Lonergan
Waterford Ladies Gaelic Football
Association c/o John Frewen

Date of Site Inspection

21st September 2021

Inspector

Elaine Power

1.0 Introduction

This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

2.0 Site Location and Description

- 2.1. The site is located on a greenfield site c. 2km east of Dungarvan Town Centre. The surrounding area is suburban in nature. It is bound to the north by Local Road (L3168), on the opposite side of the road is 2 no. schools, Scoil Gharbháin (primary level Gaelscoil) and St. Augustine's College (secondary school), a retail outlet and a commercial garage and the Cluain Garbhan estate. There is also an agricultural field which is currently subject to a planning application (Reg. Ref. 21/346) for 77 no. residential units. The local road has footpaths and cycle route along both sides of the carriageway. To the south and west the site is bound by existing low density suburban housing at Sallybrook and Tournore Estates. To the south-west there is also a rectangular greenfield site, which is also within the applicant's ownership. To the east the site is bound by an area of open space, which is overgrown and subject to flooding. Further east of the site is the R675 – Clonea Road. On the opposite side of Clonea Road is Dungarvan Harbour and the Waterford Greenway route.
- 2.2. The subject site is irregular in shape with a stated area of 8.62ha. It is generally low-lying with an elevated section in the centre of the site. There are drainage ditches at the site boundaries which discharge to the sea and provide a direct pathway to the Dungarvan Harbour SPA (site code 4032). There is also a substantial treeline and hedgerow with associated drainage ditch traversing the western portion of the site on a north/south direction. The southern, western and eastern site boundaries generally comprises mature trees and vegetation while the northern boundary with the L3168 comprises a low concrete fence with an existing vehicular / agricultural gate.

3.0 **Proposed Strategic Housing Development**

- 3.1. The proposed development comprises 218 no. residential units, 42 no. duplex units (8 no. 1-bed, 32 no. 2-bed and 2 no. 3-bed) and 176 no. terraced, semi-detached and detached houses (4 no. 2-bed, 159 no. 3-bed and 13 no. 4-bed), with the option for up to 121 no. of the 3-bed houses to have attics converted, thereby creating 4-bed houses), with ranging in height from 2 no. to 4 no. storeys. The development also includes a c. 342 sqm crèche and associated outdoor play area.
- 3.2. It is proposed to provide 2 no. new vehicular entrances at the sites boundary with the L3168, in this regard a new entrance and junction to serve the residential element of the development and a new one-way system (separate access and egress) and associated junction to serve the crèche and community car park with 36 no. spaces. An additional pedestrian and cycle entrance are proposed via new bridge to the south-west into Tournore Court.
- 3.3. The scheme includes 466 no. car parking spaces at surface level, 430 no. within the residential area for residents and visitors and 36 no. in the crèche and community car park, which include 24 no. mobility impaired spaces, 48 no. cycle parking spaces at surface level in 3 no. locations.
- 3.4. The development also includes 28,570 sqm of publicly open space areas which include footpaths and cycle paths, children's play areas, planting and the incorporation of existing hedgerows and open space.
- 3.5. The works also include all ancillary site services and above and below ground works to facilitate the development, including adjustments to site levels, signage, boundary treatments, water services and public lighting.
- 3.6. The information submitted includes the following: -
- Planning Report and Statement of Consistency
 - Statement of Response
 - Landuse Zoning Justification Report
 - Material Contravention Statement

- Architectural Design Statement
- Landscape and Visual Impact Assessment
- Landscape Design rationale
- Operational Waste Management Plan
- Construction and Demolition Waste Management Plan
- Construction and Environmental Management Plan
- Site Specific Flood Risk Assessment
- Engineering Services Report
- Environmental Impact Assessment Screening Report
- Appropriate Assessment Screening and Natura Impact Statement
- Ecological Impact Assessment
- Site Investigation Report
- Stage 1 and 2 Road Safety Audit
- Traffic Impact Assessment
- Parking Strategy Report
- Mobility Management Plan
- DMURS Compliance Statement
- Outdoor Lighting Report
- Building Lifecycle Report
- Arborist Report
- Verified Photomontage Views

4.0 Planning History

Subject Site

Reg. Ref. 17/770: Permission was refused in 2018 for the construction of 50 no. houses and all associated works on a 2.96ha site located within the western portion

of the subject site. Permission was refused for 3 no. reasons relating to (1) inadequate Flood Risk Assessment, (2) inadequate Transport Assessment and (3) excessive building height and poor quality open space would adversely impact on visual and residential amenity.

Reg. Ref. 17/771: Permission was refused in 2018 for 55 no. houses all associated site works on a 3.97ha site, generally comprising the central portion of the subject site. Permission was refused for 4 no. reasons relating to (1) inadequate Flood Risk Assessment, (2) no justification for the development of lands zoned as Strategic Residential Reserve, (3) inadequate Transport Assessment and (4) excessive building height would adversely impact on visual amenity of the area.

Surrounding Sites

Reg. Ref. 21/346: Current application for the construction of 77 no. residential units on a site located immediately north of the subject site, on the opposite side of the L3168. Further information was requested in June 2021.

5.0 Section 5 Pre Application Consultation

5.1. A Section 5 pre-application consultation took place on the 16th April 2021 in respect of development of 218 no. residential units (176 no. houses and 42 no apartments) and a creche. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. The main topics discussed at the meeting were –

1. Flood Risk
2. Appropriate Assessment and Ecological Issues
3. Land Use Zoning and Residential Density
4. Design and Layout of Development
5. Roads, Traffic and Transportation Issues. Pedestrian and Cycle Connections

Copies of the record of the meeting and the inspector's report are on this file.

5.2. In the Notice of Pre-Application Consultation Opinion dated 23rd April 2021 (ABP-308915-21) An Bord Pleanála stated that it was of the opinion that the documents submitted required further consideration and amendment in order to constitute a

reasonable basis for an application for strategic housing development with regard to the following: -

- Surface Water Drainage and Flood Risk
- Land Use Zoning

Surface Water Drainage and Flood Risk:

- Further consideration / justification of the documents as they relate to the issue of surface water drainage and flood risk, with regard to:
- A Site Specific Flood Risk Assessment (FRA) in accordance with the requirements of the Planning System and Flood Risk Management Guidelines for Planning Authorities, to address in particular any potential downstream impacts or impacts on lands outside the development site.
- The applicant is advised to take any previous flood risk assessments or modelling for these lands carried out by Waterford City and Council into consideration in the preparation of the FRA.
- A Justification Test (if required) for any residential development within Flood Zones A and B at the development site, as per The Planning System and Flood Risk Management Guidelines for Planning Authorities
- Detailed treatment of the wetland on the eastern side of the site and of adjoining watercourses, including riparian zones, such that there is no increase in flood risk, with regard to relevant guidance provided in the Inland Fisheries Ireland document 'Planning for Watercourses in the Urban Environment'.
- Detailed surface water drainage proposals for the development, to include SUDS measures where possible, and attenuation proposals with full details of proposed outfall rates, to be integrated where possible with the proposed roads design and landscaping scheme. The surface water management proposals should be considered in tandem with the FRA and specifically relate to an appropriate flood risk assessment that demonstrates that the development proposed will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk
- Landscaping scheme to provide details of the treatment of riparian zones and wetland areas within the site, along with biodiversity corridors.

- Detailed site layout and cross sections of the development, to indicate any flood zones present at the development site based on the modelling in the SSFRA.
- The applicant is advised to consult further with Waterford City and County Council Drainage Section in relation to these matters in advance of lodging an application. The further consideration of this issue may require an amendment to the documents and/or design proposals submitted relating to the design and layout of the proposed development.

Land Use Zoning

]Further consideration and justification of the proposed development of lands zoned 'R2 Residential Low' and 'R3 Residential Phased' at the development site with regard to the core strategy and the phasing provisions of the development plan. The submitted documentation in this regard should address higher level planning policy, including the adopted RSES for the region. Any references to the circumstances of Dungarvan, including those relating to the availability or otherwise in the town of housing and development land, employment, commercial or social services, should be based on verifiable facts. The prospective applicant should satisfy itself that any application complies with section 8(1)(iv)(II) of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, regarding the material contravention of the provisions of the development plan other than zoning. In addition, the prospective applicant is advised to consider incorporating the 'R1 Residential' zoned lands to the east of the site into the proposed development, within the redline boundary, and / or the inclusion of an indicative masterplan within the documentation at application stage, which provides for the future development of the R1 zoned lands. There should be no preclusion of future developments or undue impacts at adjoining R1 zoned lands.

The opinion also stated that the following specific information should be submitted with any application for permission.

1. Where the applicant considers that the proposed strategic housing development would materially contravene the relevant Development Plan or Local Area Plan, other than in relation to the zoning of the land, a statement indicating the plan objective(s) concerned and why permission should,

nonetheless, be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act 2000. Notices published pursuant to Section 8(1)(a) of the Act of 2016 and Article 292 (1) of the Regulations of 2017, shall refer to any such statement in the prescribed format

2. A site plan showing the layout of the proposed development in relation to the various zonings that apply to the site.
3. Housing Quality Assessment with regard to the standards set out in the Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities.
4. Building Lifecycle Report.
5. Existing and proposed ground levels across the site. Detailed cross sections indicating proposed FFL's, boundary treatments, road levels, open space levels, SUDS measures, etc. relative to each other and relative to adjacent lands and structures. Also, topographical details and cross sections to indicate the relationship between the development and adjacent watercourses and wetlands with regard to the protection of riparian zones as required by development plan policy.
6. A site layout plan showing which, if any, areas are to be taken in charge by the planning authority.
7. Traffic and Transport Impact Assessment, to be prepared in consultation with Waterford City and County Council and to include consideration of (i) mobility management and public transport currently available in the area; (ii) potential impacts on relevant local road junctions; (iii) cumulative impacts with traffic associated with nearby schools and residential areas.
8. Rationale for proposed parking provision with regard to development plan parking standards and to the 'Sustainable Urban Housing Design Standards for New Apartments – Guidelines for Planning Authorities' (2018). The proposed car and cycle parking provision should include areas designated for parking or drop off purposes associated with the childcare facility.
9. Stage I Road Safety Audit
10. Landscape and Visual Impact Assessment with photomontages and CGIs of the proposed development, to include, inter alia, consideration of visual impacts

on the Waterford Greenway, on adjacent residential areas and on any sensitive or designated views / prospects in the vicinity, with regard to relevant development plan landscape designations

11. Comprehensive landscaping scheme for the entire site to include (i) tree Survey, Arboricultural Report and Impact Assessment, to provide a detailed survey of trees and hedgerows at the development site and assessment of the quality and quantity of the specimens to be removed, along with measures to protect trees and hedgerows to be retained during construction; (ii) rationale for proposed public open space provision for the housing development, to include an open space hierarchy, details of play areas and detailed layouts for the public open spaces; (iii) detailed proposals for the treatment of wetlands within the site and/or any interface with adjacent wetlands or watercourses, to include ongoing maintenance and management, ecological impacts and consideration of biodiversity enhancement measures and (iv) additional landscaping details including details of hard and soft landscaping, play equipment (if provided), boundary treatments, delineation of public and communal open space provision, pedestrian and cycle facilities, public lighting, car and cycle parking areas and refuse storage areas.
12. A draft Construction Waste Management Plan, draft Construction and Environmental Management Plan and a draft Operational Waste Management Plan.
13. Ecological Impact Statement.
14. AA screening report or Natura Impact Statement, as per the guidance provided by WCCC Heritage Officer.
15. The information referred to in article 299B(1)(b)(ii)(II) and article 299B(1)(c) of the Planning and Development Regulations 2001-2018 should be submitted as a standalone document.

5.3. A list of authorities that should be notified in the event of making an application were also advised to the applicant and included:

- Irish Water
- National Transport Authority
- Transport Infrastructure Ireland

- The Minister for Housing, Local Government & Heritage
- An Taisce – the National Trust for Ireland
- An Chomhairle Ealaíon
- Fáilte Ireland
- The Heritage Council
- Inland Fisheries Ireland
- Waterford County Childcare Committees

5.4. ***Applicant's Statement***

5.4.1. A statement of response to the Pre-Application Consultation Opinion was provided in Section 9 of the Planning Report and Statement of Consistency submitted with the application, as provided for under section 8(1)(iv) of the Act of 2016. The applicant addressed the items that required consideration and specific information to be submitted with the application.

5.4.2. The Items that required further consideration are summarised below: -

Surface Water Drainage and Flood Risk

A Site-Specific Flood Risk Assessment (SSFRA) has been submitted, which is informed by OPW Flood maps and flood info, OPW Irish Coastal Protection Strategy Study, Geological Survey of Ireland Maps and a topographical survey of the site. In addition, it has been bolstered by review of the Dungarvan Stormwater Drainage – Duckspool Drainage Review (November 2018) on behalf of Waterford City and County Council.

A Justification Test was carried out and is included as part of their SSFRA. For the purposes of completeness, the Justification Test provides both a Justification Test for Development Plans, as well as a Development Management Justification Test. In addition, the Land-Use Zoning Justification Report details the limited availability of appropriately located and forthcoming residentially-zoned land, thereby supporting the proposition that the proposed development should be supported due to the application site's: underutilised nature, location within the existing settlement boundary, adjacency to existing development and community facilities, ability to support compact and

sustainable growth by ensuring that usable land is developed, appropriateness for development due to a paucity of other zoned lands that are forthcoming for development.

Mitigation measures have been incorporated into the overall design of the scheme to ensure minimal disruption to ecology in the area. The eastern boundary of the site will be in use as an 'Open Space' area and will not be developed for residential use. The treatment of the "wetland on the eastern side of the site" includes its use as open space. With respect to areas immediately adjoining watercourses (riparian zones) – those to the south and east edges of the application site – the Design Team has sought to provide the requisite 10m buffer of no built development thereat to protect ecology, provide access for maintenance and ensure flood risk is not increased. This reflects the existing wayleaves on-site, which also extend to include the drainage ditch that runs north-south along the western side of the hedgerow running the subject site. The SSFRA was conducted with reference to the Inland Fisheries Ireland document 'Planning for Watercourses in the Urban Environment'.

A detailed surface water drainage proposal has been prepared. Details are provided in the Engineering Services Report and Surface Water Network Design Layout Sheets 1 and 2 (Drawing. No's. 0501 and 0502) and Proposed Surface Water Longitudinal Sections - Sheets 1 and 2 (Drawing. No's. 0510 and 0511).

A Landscape Design Masterplan and associated drawings provide details of the treatment of riparian zones and areas adjacent to draining ditches within the site, along with biodiversity corridors

The Proposed Site Plan and CFRAM Flood Extents (Drawing No. 2801), Proposed Direct Compensatory Storage (Drawing No. 2802) and Flood Risk Zones (Drawing No. 2803) indicate any flood zones.

Numerous consultations have been undertaken with Waterford City and County Council in relation to surface water drainage on the subject site and these consultations have informed the design of the surface water drainage for the proposed development.

Land Use Zoning

A Land-Use Zoning Justification Report has been submitted. Following a review of the wording in the Waterford County Development Plan and Dungarvan Town Development Plan, this report discusses the preclusion of the development of R3-zoned lands as being 'time-bound' (although no longer), rather than 'Plan-bound'. In addition, the Report indicates the availability and capacity of water services to serve residential development on R3-zoned lands, as well as the lack of available, forthcoming R1- and R2-zoned lands in Dungarvan. It draws on the importance of regional and national policy in relation to sustainable urban development and compact growth in particular. It concludes that the residential development of the R3 lands at the application should be supported with respect to the R1-zoned lands. The Proposed Masterplan – R1 development (Drawing No. P103) provides an indicative layout and illustrates how the R1 lands to the immediate south-west of the subject site, which are currently deemed to be at risk of flooding, could be developed in the future. Importantly, it demonstrates how the development of these lands will not be precluded by way of the development as proposed scheme. The development option for these south-western lands integrates with the proposed road and footpath network and open space area to seamlessly complete the development of the entire landholding.

5.4.3. The following specific information was also submitted with regard to items 1 – 15 outlined above: -

1. A Statement of Material Contravention has been submitted.
2. A site plan highlighting the proposed development in relation to the various zonings has been submitted.
3. A Housing Quality Assessment has been submitted
4. A Building Lifecycle Report has been submitted
5. Detailed cross sections indicating proposed FFL's, boundary treatments, road levels, open space levels, SUDS measures, etc. relative to each other and relative to adjacent lands and structures have been submitted.
6. An Indicative Taken in Charge Plan drawing has been submitted.
7. A Traffic Impact Assessment has been submitted with consideration to the mobility management and public transport currently available in the area, the

potential impacts the proposed development may have on relevant local road junctions and the cumulative impacts with traffic associated with nearby schools and residential areas.

8. A rationale for the proposed parking provision has been provided.
9. A Stage 1 and 2 Road Safety Audit has been submitted.
10. A Landscape and Visual Impact Assessment, including photomontages and CGIs of the proposed development has been submitted with the purpose of considering visual impacts on the Waterford Greenway, adjacent residential areas and those sensitive / designated views in the vicinity of the proposed development. This is supported by the submitted Verified Photomontage Views.
11. An Arboricultural Assessment Report and associated drawings provide a detailed assessment of trees. A comprehensive landscaping scheme for the entire site has been detailed in the Landscape Design Rationale and associated drawings Landscape Drawings. The CGIs included in the Landscape Design Rationale document illustrate the quality, detail and hierarchy of the opens space area their relationships with residences, the creche and adjacent lands.
12. A Construction & Demolition Waste Management Plan and Construction and Environmental Management Plan have been submitted.
13. An Ecological Impact Assessment has been submitted.
14. A Natura Impact Statement (NIS) has been submitted.
15. An Environmental Impact Assessment (EIA) Screening Report has been submitted.

6.0 **Relevant Planning Policy**

6.1. ***Dungarvan Town Development Plan 2012-2018 (as extended)***

The subject site is located within the boundary of the Dungarvan Town Development Plan. The vision of the plan is to develop Dungarvan as a Town, where the wellbeing of the community is enhanced through balanced economic development, the creation of attractive places to live and work and through the sustainable management of our

natural assets as we strive to become a Green Town. The site is subject to 4 different zoning objectives.

- A narrow strip of land at the sites western boundary is zoned R1: Residential *‘To protect the amenity of existing residential development and to provide for new residential development at medium density’*. The Core Strategy of the plan indicates that R1 zoned lands are to be developed at a density of 20 units per ha.
- The remainder of the western portion of the site is zoned R2 Residential Low: *‘To protect the amenity of existing residential development and to provide for new residential development at low density’*. The Core Strategy of the plan indicates that R2 zoned lands are to be developed at a density of 10 units per ha.
- The central and eastern portion of the is zoned R3 Residential Phased: *‘To reserve land for future sustainable residential development’*. The Core Strategy of the plan indicates that these lands would not be developed in the lifetime of the plan and would be reserved for future development.
- A strip of land along the southern and eastern site boundaries is zoned OS Open Space: *‘To preserve and enhance Open Space areas and Amenity Areas for passive and active recreational uses, including the preservation of grass verges, hedgerows and tree stands’*.

Section 3.4 of the plan indicates that 38.3 ha of undeveloped lands have been zoned for R1 (medium density) and 13.3 ha of undeveloped lands have been zoned R2 (low density), with the potential to yield 896 units. An additional 96 ha of undeveloped lands have been zoned R3 (phased). The plan also states that R3 (phased) lands may be reviewed by the Planning Authority over the lifetime of the Plan where specific need arises. This shall be subject to the availability and capacity of services and where R1 an R2 lands have been developed /or committed to development by way of a grant of planning permission.

6.2. ***Waterford County Development Plan 2011 – 2017 (as extended)***

Section 3.4 of the plan indicates that 286.8 ha of undeveloped lands have been zoned for R1 (medium density) and 108 ha of undeveloped lands have been zoned R2 (low

density), with the potential to yield 6,817 units. An additional 141.4 ha of undeveloped lands have been zoned R3 (phased).

Table 4.2 identifies Dungarvan as a Primary (County) Service Centre. The plan envisioned that the population of Dungarvan would increase from 8,362 in 2006 to 11,882 in 2017.

The following development plan policies and objectives are relevant:

Policy SS1: *To ensure that development takes place in an orderly, rational and sustainable manner avoiding environmental degradation and in accordance with the recommendations of the DoEHLG publications; the Sustainable Rural Housing Guidelines (2005), the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009) and any subsequent Guidelines issued by the DoEHLG.*

Policy SS2: *'To give priority to the development in settlements with adequate wastewater and water supply infrastructure and those settlements targeted for infrastructural investment within the plan period'.*

Policy H1 *'To promote the development of sustainable communities by requiring all new residential development to comply with the principles set out in the DoEHLG publication, Quality Housing for Sustainable Communities, Best Practice Guidelines for Delivering Homes, Sustainable Communities, 2007'.*

Policy H2: *'To ensure that a mixture of house types and sizes is provided to meet the needs of different categories of households, including the special requirements of elderly persons and persons with disabilities'.*

Policy INF 20: *'The Council will require compliance with best practice guidance for the collection, reuse, treatment and disposal of surface waters for all future development proposals. Development proposals must demonstrate adequate water conservation, water quality protection, and surface water run-off rate regulation measures to prevent the increase of flooding issues in the catchment'.*

Policy ENV 16: *'It is the policy of Waterford County Council that flood risk be managed pro-actively at all stages in the planning process, by avoiding development in flood risk*

areas where possible, and by reducing the causes of flooding to and from existing and future development’.

Policy NH 3: *‘To ensure as far as possible that development does not impact adversely on wildlife habitats and species. In the interests of sustainability, biodiversity should be conserved for the benefit of future generations’.*

Policy NH 4: *‘To protect plant, animal species and habitats which have been identified by the Habitats Directive, Bird Directive, Wildlife Act (1976) and Wildlife (Amendment) Act 2000 and the Flora Protection order S.I. No. 94 of 1999.’*

Policy NH 5: *‘To encourage the retention and creation of green corridors within and between built up urban areas’.*

Policy NH 6: *‘To conserve the favourable conservation status of species and habitats within Special Areas of Conservation and Special Protection Areas’.*

Policy NH 9: *‘To ensure that development proposals in areas identified as being of nature conservation value will not impact adversely on the integrity and habitat value of the site’.*

Policy NH 11: *‘To encourage the retention and creation of sites of local biodiversity value, ecological corridors and networks that connect areas of high conservation value such as woodlands, hedgerows, earth banks and wetlands’.*

Policy NH 13: *‘To ensure that the County’s floodplains, wetlands and watercourses are retained for their biodiversity and flood protection values’.*

Policy NH 14: *‘To protect wetland sites listed in Appendix A11 and other wetlands that may be identified of biodiversity value from infilling and other developments that may affect the biodiversity value of these sites’.*

Policy NH 17: *‘To protect hedgerows in all new developments, particularly species rich roadside and townland boundary hedgerows’.*

Policy NH 18: *‘To protect and preserve existing hedgerows and seek their replacement with new hedgerows with native species of local provenance where their removal is necessary during the course of road works or other works. There will be a*

presumption against the removal of hedgerows where there is a reasonable alternative’.

Objective INF 7: *‘Require planning applications for residential, commercial, retail, community, educational and industrial developments to demonstrate the proposal’s accessibility for pedestrians and cyclists. The Council will also seek the provision of appropriate, well-designed pedestrian ways for residential development proposals to link with amenities and facilities. Such proposals shall adhere to the Guidelines on Sustainable Residential Development in Urban Areas and Urban Design Manual (DoEHLG May2009)’.*

Objective INF 6: *‘It is the objective of the Council to promote the sustainable development of safe and convenient pedestrian and cycling facilities in the towns and villages, to minimise the dependence on private motor vehicles, and to encourage an active and healthy lifestyle. New and upgraded road developments will be encouraged to integrate cycle lanes. These will include urban/village developments and short distance routes’.*

Objective ENV 8: *‘It is an objective to identify and consider flood hazard and potential risk of flooding in development applications at the earliest stages in the planning process and require the preparation of a Flood Risk Assessment where necessary’.*

Objective ENV 12: *‘It is an objective to promote the use of SUDS in mitigating the effects of flood risk in both urban and rural areas subject to flood risk’.*

6.3. Regional Spatial and Economic Strategy for the Southern Region

Dungarvan is identified as a Key Town. Key towns have a large population with an urban centre which functions as a self-sustaining regional driver. Key towns are also strategically located urban centres that play a significant role in strengthening the urban structure of the region. This is based on their strategic location and influence, record of performance and delivery, employment and service functions, potential for employment led growth, sub-regional interdependencies, and scope for collaboration. Based on capacity analysis, it is envisaged that local authorities will also plan for significant growth in these Key Towns.

Regional Policy Objective 24 sets out 8 no. objective for the development of Dungarvan, these are as follows: -

a. To strengthen the role of Dungarvan as a strategically located urban centre of significant influence in a sub-regional context and in its sub-regional role as a Gaeltacht Service Town, leveraging its strategic location along the Waterford Cork N25 route and to build upon its inherent strengths including historical, cultural and architectural heritage, digital connectivity, skills, innovation and enterprise, tourism (in particular the Waterford Greenway and its potential sustainable expansion), culture and retail services. In respect of its importance to the environment, to tourism, to fishing, and to aquaculture (niche industries supporting rural employment), this RSES supports the environmentally sustainable development and treatment of Dungarvan Harbour and coastline;

b. To seek improvements and upgrading of the N25 Waterford to Cork route, the N72 Dungarvan to Mallow and the R672 linking the Key Towns of Clonmel and Dungarvan;

c. To support the development of Dungarvan as the Gaeltacht Service Town for Gaeltacht na nDéise”

d. To support for enhanced provision of bus services to enable improved intra-regional and inter-regional connectivity to attract more passengers to public transport and away from use of private motor cars;

e. To support the continued development of cycling and walking infrastructure as part of Go Dungarvan Smarter Travel Programme and to support the accessibility of the public realm for vulnerable road/ footpath users and persons with disabilities;

f. To support the delivery of the infrastructural requirements identified for Dungarvan (including amenities and facilities for the community and voluntary sector) subject to the outcome of the planning process and environmental assessments;

g. Support the development of Dungarvan as a sub-regional centre for education and training, including lifelong learning, by building on existing links with international third-level education providers and WIT;

h. Support investment in flood defence measures

6.4. **National Planning Framework (2018)**

The National Planning Framework addresses the issue of ‘making stronger urban places’ and sets out a range of objectives which it considers would support the creation of high quality urban places and increased residential densities in appropriate locations while improving quality of life and place. Relevant Policy Objectives include:

National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

National Policy Objective 57: Enhance water quality and resource management by ... ensuring flood risk management informs place making by avoiding inappropriate development in areas at risk of flooding in accordance with The Planning System and Flood Risk Management Guidelines for Planning Authorities...

6.5. **Section 28 Ministerial Guidelines**

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Area, 2009

- Urban Development and Building Heights Guidelines, 2018
- Urban Design Manual, A Best Practice, 2009
- Design Manual for Urban Roads and Streets, 2013
- The Planning System and Flood Risk Management Guidelines, 2008

6.6. ***Applicants Statement of Consistency***

The applicant has submitted a Statement of Consistency (as part of the Planning Report) as per Section 8(1)(iv) of the Act of 2016, which indicates how the proposal is consistent with the policies and objectives of section 28 guidelines and the relevant Development Plan.

6.7. ***Material Contravention Statement***

- 6.7.1. The applicant submitted a Material Contravention Statement. The statement provides a justification for the material contravention of the Dungarvan Town Development Plan 2012 – 2018 (as extended) with regard to the development of lands zoned R3 (phased) and density. The statement is summarised below: -

R3 Zoning Objective:

- 6.7.2. The development of the R3 zoned portion of the subject site should be viewed in the wider context of the overall scheme, with a large portion of R1-zoned lands omitted from the development due to flood risk issues, therefore, the development of the R3-zoned lands is considered to be a compensatory action due to the inability of much of the R1- lands to come forward now;
- 6.7.3. The wording of both the plans indicate that the preclusion of the development of R3 lands is ‘time-bound’ and not ‘Plan-bound’. The lifetime of the plan period was only intended to run until 2018, therefore, the land-use planning period has been passed and additional lands should come forward for development now.
- 6.7.4. There is a demand for housing in the Dungarvan area.
- 6.7.5. In addition, a review of ‘R3 Residential – Phased’ zoned lands for development during the lifetime of the Plan can be facilitated subject to availability of services and where R1/R2 zoned lands have been developed or committed to another use.

- 6.7.6. The submitted Land-Use Zoning Justification Report provides an in-depth assessment and response to the availability and capacity of services for the subject site and an analysis of existing R1- and R2-zoned lands within the vicinity of the Dungarvan area. The report demonstrates that the entirety of the subject site has ample availability and capacity of services and concludes that it is both suitable and appropriate for the application site to come forward for development at the current time.
- 6.7.7. It is also important to acknowledge that the R3-zoned lands in question only comprise a minor portion of the total site area and, therefore, should be viewed in the wider context of the overall scheme.

Density

- 6.7.8. The majority of the application lands fall under the R2 land-use zoning designation that is prescribed with a low-density of 10 units per hectare. No density standards are proposed for R3-zoned lands. However, it is expected that the application of a 10 units per hectare standard would be sought. This would result in an unsustainable yield of just 60 no. units on the site. The design of the proposed development has sought to achieve a density that is respectful of adjacent existing residential densities and uses but is progressive in its sustainability and alignment with required densities that are now sought.
- 6.7.9. When all developable residential areas are considered, excluding areas at risk of flooding, the total developable site area is 6.1382 ha. The scheme provides for 218 no. units, therefore a net density of 35.5 units per hectare is proposed. The density increases to 36.2 when the area (0.1082 ha) dedicated to the crèche is omitted.
- 6.7.10. Section 3.3.4 of the County Development Plan indicates that densities specified under zoning are indicative only and act as a guide for new developments in the County. In all cases, the planning authority will assess each development on a case by case basis.
- 6.7.11. In relation to the density of the scheme, the proposed density of 35.5/36.2 is considered to be a sustainable use of the subject site. The proposed development will provide for much needed housing in the area and is appropriate for its receiving environment, in terms of uses, density, scale and massing. The Board is respectfully

referred to National and Regional policy and the Section 28 Ministerial Guidelines - Sustainable Residential Development in Urban Areas (2009) and Urban Development & Building Heights: Guidelines for Planning Authorities (2018) as mentioned above in this instance.

7.0 Third Party Submissions

24 no. third party submission were received. It is noted that a number of submissions are supportive of the application and welcome the provision of housing supply to sustain the continued economic, cultural and sporting development of the town. The concerns raised are summarised below: -

Zoning Objective

- One third of the site is zoned R3 – Strategic Land Reserve. The draft LAP has rezoned the whole site as ‘green, amenity, conservation and buffer’ clearly demonstrating what is appropriate after years of consideration. Recent legal judgements point out that strategic land reserves cannot be considered during the life time of the plan.
- The site is not sequential to the town centre
- The phasing of the project has not been adequately addressed with regard to R1 zoned lands.
- There is no evidence that there is any shortage of suitably zoned land to cater for short, medium and long term residential development in the town.

Flooding

- A number of submission include photographs which indicate that the site is subject to flooding. It is stated that the subject site is subject to flooding during periods of heavy rainfall.
- The site is called Duckspool because of the haven it provided for wildfowl before it was reclaimed and drained for farmland. It remains wet and boggy today, even though the wetland plants and myriad of small pools have been removed.
- The site is zoned for conservation, amenity or buffer space in the draft development plan, which is considered an appropriate use.

- Concerns that the development does not pass the flood risk justification test.
- There are other zoned lands that are not located in a flood zone.
- The potential impact on existing properties has not been fully assessed. The increased levels within the site would cause flooding of adjacent properties.
- Clarity required regarding drainage for each phase of development.
- Insufficient space has been provided to allow for maintenance of the flood channel to the south of the development site, at the boundary with Sallybrook estate.
- Planning permission was previously refused on this site due to flooding concerns. The previous reasons for refusal on this site, relating to flooding have not been addressed.
- Estimates on sea level rise caused by climate change are between 0.29m to a high of 2.5m by 2050 in European coastal regions. Prior to 2050 and probably in the immediate future, flooding in the Duckspool area will occur more frequently with flood water persisting in the area.
- The subject site is located 2m below the high-water mark. Should this development proceed, the local authority would be face with exceptional expenditure to increase coastal flooding protection, specifically for this development.
- The development plan is outdated and was not subject to a Strategic Flood Risk Assessment.
- The proposed use is highly vulnerable to flooding.
- The lands do not benefit from any OPW works to mitigate flood risk, rather these lands have informal defences which are infrequently maintained and do not have certified standard of protection.
- Existing ditches are not sufficient to manage the current water levels. The development would remove the natural floodplain and increase the risk of flooding off site.
- The local authority are planning to construct a new higher flood defence wall along the R675 to address coastal flooding and to provide flood attenuation structures in terms of retention ponds within Flood Zone A at Duckspool,

namely within Tournore Marshes, to deal with pluvial flooding. Any flood relief measures to be constructed by the local authority should be utilised to protect existing homes in the flood plain rather than placing additional obligations and pressures on the proposed flood relief measures, in particular the attenuation structures. Any spare capacity should be reserved for extreme weather events.

- The enormous amount of fill material (90,000m³) needed to be imported to reduce the risk of flooding within the site would reduce the capacity of the flood plain to attenuate flood waters.

Ecology

- A number of submission include photographs of light bellied brent geese and other water birds utilising the site.
- The development would have an adverse impact on qualifying interests of the SPA. It has not been adequately proven that the development would not have a significant impact on brent geese and other wildlife currently using the site.
- The construction phase of the development would not have an adverse impact on the SPA in relation to water quality and importing fill.
- Noise and light disturbance to qualifying interests of the SPA during the construction and operation phase of the development.
- It is considered that the precautionary principle should be adopted, and the application refused permission.
- There are errors in the NIS, EclA, Traffic Impact Study and Construction and Waste Management Plan regarding the omission of fill required on site and the removal of topsoil from the site.
- Having regard to the site's importance for wintering bird's concerns are raised regarding the timeframe and scope of the bird surveys.
- No detail has been provided as to how the 1.2ha of grassland would be kept and maintained for wintering birds. This area is also identified as a flood zone. Therefore, it would not always be available. This area is not compensation for the loss of the subject site as it is already available and in use by wildlife.
- While there are other greenfield sites in the area, there are no other similar grazing sites for the Brent Geese in the immediate Duckspool locality.

- There is insufficient consideration of other ecology. The one day bat survey is inadequate. There appears to be no dedicated non-volant mammal survey. Concerns regarding the timing of the habitat survey - in September 2020.

Social Infrastructure

- The proposed development would significantly increase the population of the area. there is no evidence provided in the application that there is capacity in the local schools to accommodate this population increase.

Design and Layout

- The density is excessive for this site and is a material contravention of the development plan.
- The scheme is out of character with the surrounding area and provides no sense of placemaking or community.
- There are no single storey dwellings.
- Concerns that social housing is clustered.
- The proposed houses are 2m higher than the adjacent houses. This would have a negative impact on the residential and visual amenities of existing properties. There are particular concerns regarding undue overlooking.
- The development would result in a significant permanent impact on landscape quality, character, and the nature of the Duckspool area.

Open Space

- No quality open space has been provided within the scheme. Open spaces are not overlooked and do not provide for passive surveillance of children.
- There is a lack of usable open space within the scheme. Linear open spaces contain drainage ditches and cannot be considered usable open space. This development cannot rely on the provision of open space within the adjoining R1 lands, also within the ownership of the applicant. As these lands are outside of the redline boundary and subject to flooding.
- Concerns regarding the proximity of open spaces to heavily trafficked roads.
- The quantum of open space is misleading. It should be acknowledged that half of the proposed open space (1.4ha) cannot be utilised for most of the year. The remaining open space is largely peripheral and incidental.

Transportation

- The surrounding road network is heavily trafficked and does not have the capacity to accommodate the traffic generated by the proposed development.
- There is no footpath along on side of a section of the L3168 which links to the N25. Additional traffic would make crossing the road to the footpath more dangerous.

Other issues

- Concerns are raised that the red line boundary changes on documents to include and exclude lands zoned R1 to the west of the overall site.

8.0 Planning Authority Submission

- 8.1. The Chief Executive's Report, in accordance with the requirements of Section 8(5)(a) of the Act 2016, was received by An Bord Pleanála on the 1st September 2021. The report includes a summary of the site location and description, the proposed development, relevant planning history, third party submissions, internal reports, policy context, and a summary of the views of the elected members at the Special Dungarvan and Lismore District meeting. The elected members acknowledged the requirement for additional residential units however they do not support the development for the following reasons: - excessive density, overdevelopment of the site, flooding, traffic and anti-social behaviour.
- 8.2. The key planning considerations of the Chief Executive's report are summarised below.

Zoning / Phasing: The planning authority is not satisfied that a robust case has been made to bring forward the development of the R3 lands having regard to the availability of non-strategic lands which have not been developed.

Density: Serious concerns that the density is excessive having regard to the location of the site on the periphery of the settlement of Dungarvan. While the prescribed densities of the development plan might appear low, they should be considered in the context of the sites location and having regard to the form and character of adjoining settlement. While national guidance seeks to provide for higher densities on serviced

lands regard must be had to Circular NRUP 02/2021 which acknowledges that lower densities are appropriate on the outer edge.

The proposed density does not comply with the Dungarvan Town Development Plan.

Residential and Visual Amenity: While it is acknowledged that the scheme has a high quality design, it is considered that it would be out of character with the area and the overall heights proposed and the large level of fill proposed means that the proposal would detract from the visual and residential amenities of the area.

Flooding: The current residential zoning objective as per the Dungarvan Town Plan 2021 – 2018 (as extended) was not subject to a Strategic Flood Risk Assessment and, therefore, did not pass the justification test. An independent Strategic Flood Risk Assessment was carried out to inform the draft development plan and the subject site failed to satisfy the Justification Test. Therefore, at this time it is recommended that the residential zoning be removed from the site.

Remediation works are required to address the existing and future surface water managements in the area. These works are not scheduled until after the decision date for this application.

It should be noted that the site remains in Flood Zone A /B even after flood protection has been provided. The benefits of flood protection can be assessed only after the parts 1 and 2 of the Plan Making Justification Test have been applied and passed. It must further be demonstrated that any defences are structurally sound and provide a demonstratable level of protection before they can be considered. At this time the existing defences require upgrading. A residual risk is that the defences could fail completely. Owing to the separation from the town centre it is considered that the lands would not pass Part 2 of the Justification Test at Plan Making Stage. This, therefore, means highly or less vulnerable development would not be permitted within Flood Zone A or B.

The applicant's failure to deal with the land located to the south west of the subject site and with the applicants ownership is of concern. It is indicated as potentially being developed in the future. Its low level, propensity to flooding and isolated nature means it is of no amenity value and is of low to no ecological value.

Transportation: Significant revisions are required to the road layout with particular concerns raised over the adequacy of the assessment with regard to the impact on the N25 and the absence of proper assessment around construction traffic, including the huge volumes of excavation material and subsequent fill.

There are also requirements to upgrade the road network to accommodate the development, which would require a Special Contribution to protect the flow of traffic on the N25. The Roads Section is not satisfied with the submitted documentation.

It is considered that the applicant has failed to robustly demonstrate beyond scientific doubt based on the available evidence that the development would not constitute an adverse impact on Dungarvan Harbour SPA.

Open Space: There are concerns regarding the pedestrian link to Tournore which will link into a green space, which is in private ownership.

There are concerns regarding the quality of the open space, in particular the provision of drainage ditches through a linear area of open space and the proximity of car parking to areas of open space. The open space to the east of the site is not appropriate to develop on and functions as compensatory flooding as well as a forage ground. It would have a low amenity value for future or existing residents. Of the open space provided only 33% is provided on residentially zoned lands.

Drainage: Details relating to storm water that need to be agreed with the planning authority. There are wider works to be carried out to the storm water network that would require a Special Contribution from the applicant.

Archaeology: Owing to the size of the site and its proximity to the estuary there is significant potential for archaeological remains.

The planning authority recommend that permission be refused for 4 no. reasons as outlined below: -

1. Large sections of the subject site are within both Flood Zone A and B as identified by the Office of Public Works and the Planning Authority is not satisfied that the proposed residential development would not be at risk of future flooding or that the development itself would not exacerbate flooding in the

area. The proposed residential development, a vulnerable use, would be contrary to the Flood Risk Management Guidelines and the provisions of the Dungarvan Town Development Plan 2012 – 2018, as varied and extended. It is, therefore, considered that the proposed development would be contrary to the proper planning and sustainable development of the area.

2. The Natura Impact Statement and Ecological Impact Statement have been revised by the Planning Authority and the Department of Housing Local Government and Heritage. It is considered the applicant has failed to robustly demonstrate beyond scientific doubt based on the available evidence that the development would not constitute an adverse impact on the Dungarvan Harbour SPA Brent Goose population. These species are of qualifying interest and any negative impact on same would negatively impact on the conservation objectives of the SPA itself. The proposed development therefore would be contrary to the proper planning and sustainable development of the area.
3. The proposed site includes Residential Phased / R3 zoned lands whereby these lands represent a strategic reserve of lands which may be zoned for residential use in future Development Plans if the specific need arises and all R1 and R2 zoned lands have been developed or committed and the lands are serviceable by the public services / infrastructure. Owing to the availability of suitably zoned residential lands the proposed development would be out of sequence and premature pending the completion of the current Waterford County Development Plan Review. The proposed development would be contrary to the zoning provisions of the Waterford County Development Plan 2011 – 2017, as extended, and the proper planning and sustainable development of the area.
4. Having regard to the proposed density and resultant site layout, design and height and the existing / proposed site levels, it is considered that the development does not represent an acceptable design response for the subject site with concerns regarding in particular, the existing character of the area, the quality of the public open space proposed and impacts on the wider amenities

of the area. The proposal would have a negative impact on the visual and residential amenities of the area and as such the subject development would therefore set an undesirable precedent for a similar type of development on the periphery of Dungarvan and would be contrary to the proper planning and sustainable development of the area.

9.0 Prescribed Bodies

9.1. The list of prescribed bodies, which the applicant was required to notify prior to making the SHD application was issued with the Section 6(7) Opinion and included the following: -

1. Irish Water
2. National Transport Authority
3. Transport Infrastructure Ireland
4. The Minister for Housing, Local Government & Heritage
5. An Taisce – the National Trust for Ireland
6. An Chomhairle Ealaíon
7. Fáilte Ireland
8. The Heritage Council
9. Inland Fisheries Ireland
10. Waterford County Childcare Committees

The applicant notified the relevant prescribed bodies listed in the Board's Section 6(7) opinion. The letters were sent on the 7th July 2021. A summary of the comments received are summarised below:

Irish Water

Wastewater: In order to accommodate a wastewater connection, the proposed development is subject the upgrading and provision of additional storage at Barnawee Wastewater pumping station. These works are not currently on Irish Water's investment plan. Therefore, the applicant will be required to contribute the relevant portion of the costs of these works via a Project Works Services Agreement / Major Connection Agreement for which the applicant has engaged with Irish Water regarding

and is currently at detailed scoping / costing. It is estimated that delivery of the infrastructure will be carried out by Irish Water and take approximately 3 years to complete (subject to change). Delivery of the required infrastructure will be subject to appropriate consents.

Water: In order to facilitate a connection for the proposed development an upgrade of the existing 150mm diameter watermain to 200mm diameter for a length of approximately 300m is required. Irish Water currently does not have any plans to extend or commence upgrade works to its network in this area. Should the applicant wish to progress they will be required to fund these works as part of a connection agreement.

Design Acceptance: The applicant has engaged with Irish Water in respect of design proposals within the redline boundary of their proposed development site and has been issued a Statement of Design Acceptance for the development.

Development Applications Unit

Nature Conservation: As identified in the Natura Impact Statement and Ecological Impact Assessment submitted as part of the application, 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). The site is also used by other conservation interest species of the SPA such as Curlew, Dunlin, Lapwing, Golden Plover etc.

It is established that the site is used on a regular basis by greater than 1% of the national population of Brent Geese and often by greater than 1% of the international population of Brent Geese, with more than double the 1% international population present on at least one occasion during the relatively brief 2021 assessment period.

The site is also sometimes used by greater than 1% of the national Black-tailed Godwit population. This Department is aware that the wading bird species using the Duckspool site use a range of other terrestrial sites around the SPA and accepts that the loss of this particular site while undesirable is unlikely to significantly adversely impact on the populations of these species. This however is not the case for Brent Geese which do not use a wide variety of terrestrial sites around this SPA and show

a very clear preference and fidelity to a small number of sites including this one. With well over 50% of the Dungarvan Harbour SPA Brent Goose population regularly using this ex-situ site it is fundamentally connected to the SPA and of significant importance.

The availability of suitable nearby terrestrial feeding sites is essential to maintain the favourable conservation condition of Brent Geese listed as a qualifying interest for Dungarvan Harbour SPA. The NIS and EclA supporting the application suggests that because the proposed development site consists of improved grassland that a large amount of equally suitable habitat is available locally. However, having surveyed 749 sites and 1400ha of apparently suitable habitat within the range deemed suitable by the consultants, only 10 sites could be found which were actually used by Brent Geese and of this only five used by substantial numbers of geese. Of the identified foraging sites this Department is aware that several are subject to threats and pressures such as unfavourable agricultural practises, development, disturbance and pathway development.

The NIS and EclA assessment of abundant suitable alternative habitat is in our view an over simplification of the situation in Dungarvan. It would appear that of primary importance in selecting supra tidal foraging areas is proximity to the tidal area and in the area adjoining this SPA the number of directly adjoining suitable feeding sites is limited. It is not disputed that the geese could fly further to other foraging sites or that such sites may exist or be occasionally used; however, such sites are likely to be inferior in various ways such as the energetic cost in commuting there, forage quality, proximity of retreat zones and real or perceived safety threats. These threats and costs could constitute a deterioration in habitat quality and potentially adversely affect the SPA goose population. The Duckspool site has advantages over many other sites due to its proximity to the core SPA, security from disturbance and predation, accessibility and suitable foraging. Of the ten sites identified most are subject to disturbance and therefore the population needs close alternative sites to retreat and return to on a routine basis without needing to expend significant amounts of energy.

The NIS as submitted has not in our view established beyond reasonable scientific doubt based on available evidence that the development would not constitute an adverse impact on the Dungarvan Harbour SPA Brent Goose population. If it became the case that a greater range of high quality terrestrial foraging sites adjoining the SPA

began to be regularly used in significant quantity by the Brent Goose population then this would change the Department's view of the proposal.

It is noted that the peak count of 900 Brent geese was recorded during a spring tide however it is not clear from the information provided if all counts were carried out to coincide with the high tide, if they were not then they may underestimate the numbers of birds using the site. Population trends presented in the NIS (Tables 4.2 and 6) are based on analysis from counts up to 2007/8 and IWEBS count data up to the 2015/16 season. IWEBS counts are readily available for the 2016/17 and 2017/18 seasons which indicate some reduction in Brent Goose numbers at Dungarvan from the higher numbers of 2008-2012/13.

In relation to in combination factors, the popularity of the Dungarvan Harbour area for walking (including dog walking) and the development of formal greenways and walkways within and adjoining the SPA and proposals for further development of walkways, disturbance is a concern. In these circumstances undisturbed terrestrial foraging and retreat areas close to the SPA are increasingly important.

In addition to the ecological value of the Duckspool site and its relevance to the legal protection of the qualifying interests of Dungarvan Harbour SPA, at this time of a declared national biodiversity crisis this site offers the people of Dungarvan an opportunity to be close to and enjoy highly visible significant elements of our wildlife.

Archaeology: The proposed development covers a site area of approximately 8.6288 hectares. There are no Recorded Monuments located within the confines of the proposed development site. However, taking into consideration the location of the proposed development within a greenfield site located within an estuarine landscape, the scale and nature of the proposed development and associated groundworks and the potential for previously unidentified archaeological remains to survive below ground, it is recommended that an archaeological impact assessment involving geophysical survey followed by a programme of pre-development archaeological testing (licensed under the National Monuments Acts 1930-1994) should be prepared in advance of any site preparation and/or construction works. It is recommended that archaeological conditions be attached to any grant of planning permission.

Transport Infrastructure Ireland

The proposed development shall be undertaken strictly in accordance with the recommendations of the Transport (Traffic Impact) Assessment. Any recommendations arising should be incorporated as Conditions on the Permission, if granted. The developer should be advised that any additional works required, as a result of the Assessment, should be funded by the developer.

Waterford Childcare Committee

Concerns raised that elements of the design and layout of the creche does not accord with relevant regulations and guidelines, in this regard the Quality and regulatory framework (QRF), Pre-school Service Regulations and Universal Design Guidelines. The design and layout should be amended to reflect the concerns raised.

10.0 Assessment

The Board has received a planning application for a housing scheme under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016. My assessment focuses on the National Planning Framework, the Regional Economic and Spatial Strategy and all relevant Section 28 guidelines and policy context of the statutory development plan and local plan and has full regard to the chief executive's report, third party observations and submission by prescribed bodies. The assessment considers and addresses the following issues: -

- Zoning / Phasing
- Design Approach
- Open Space
- Residential Amenity
- Transportation and Car Parking
- Water Services
- Ecology
- Material Contravention
- Chief Executives Recommendation

10.1. Zoning / Phasing

- 10.1.1. The proposed development is located on undeveloped greenfield site c. 2km west of Dungarvan town centre. The site is subject to 4 different zoning objectives. In this regard a narrow strip of land at the sites western boundary is zoned R1: Residential *'To protect the amenity of existing residential development and to provide for new residential development at medium density'*. R1 zoned lands are to be developed at a density of 20 units per ha. The remainder of the western portion of the site is zoned R2 Residential Low: *'To protect the amenity of existing residential development and to provide for new residential development at low density'*. R2 zoned lands are to be developed at a density of 10 units per ha. The central and eastern portion of the is zoned R3 Residential Phased: *'To reserve land for future sustainable residential development'*. The DTDP and the Waterford County Development Plan indicate that these R3 lands would be reserved for future development during the period 2017-2023. A strip of land along the southern and eastern site boundaries is zoned OS Open Space: *'To preserve and enhance Open Space areas and Amenity Areas for passive and active recreational uses, including the preservation of grass verges, hedgerows and tree stands.'*
- 10.1.2. The site has a stated total area of 8.62 ha. The applicants planning report considers the developable area to be 6.13 ha, which excludes the areas at risk of flooding. Having regard to the developable area Figure 7.7 of the Planning Report provides a breakdown in size of the R1, R2 an R3 zoned lands. It is noted that the creche (site 1,082 sqm) has been excluded from these calculations. Therefore, the total residential development site is indicated c. 6.03 ha. This indicates that 686 sqm (1.2%) of the subject site is zoned R1, 41,472 sqm (68.7%) is zoned R2 and c. 18,142 sqm (30.1%) is zoned R3. It is noted that no development is proposed in the areas zoned R1 or Open Space. Therefore, the majority (68.7%) of the development is located on lands zoned R2.
- 10.1.3. A rectangular parcel of land to the west of the subject site is also within the ownership of the applicant. This area is zoned R1 and has an area of c. 2ha. While a future potential layout for this site has been included as part of the application, it does not form part of the proposed development and is outside of the red line boundary. The applicant has stated that due to the location of these R1 lands in an area that is subject

to flooding it has not been included in the current application. It is noted that the proposed development would not preclude the development of these lands in the future.

- 10.1.4. Both the Waterford County Development Plan and the DTDP state that R3 (phased) lands may be reviewed by the Planning Authority over the lifetime of the Plan where specific need arises. This shall be subject to the availability and capacity of services and where R1 and R2 lands have been developed / or committed to development by way of a grant of planning permission.
- 10.1.5. I note that the planning authority are not satisfied that a robust case has been made to bring forward the development of the R3 lands having regard to the availability of non-strategic lands which have not been developed in the town. The planning authority's third recommended reason for refusal considers that owing to the availability of suitably zoned residential lands the proposed development would be out of sequence and premature pending the completion of the current Waterford County Development Plan Review and that the proposed development would be contrary to the zoning provisions of the Waterford County Development Plan 2011 – 2017 (as extended).
- 10.1.6. Third parties have also raised a number of concerns regarding the development of R3 lands, in particular it is noted that the draft Development Plan has rezoned the whole of the subject site as '*green, amenity, conservation and buffer*' and it is considered that the phasing of the scheme has not been adequately addressed with regard to the available R1 zoned lands to the west of the site which are within the applicant's ownership.
- 10.1.7. A Land-Use Zoning Justification Report was submitted with the application. Table 5.1 of the report provides details of 36 no. available R1, R2 and R3 zoned land in Dungarvan in 2010 and Table 5.2 provides details of 29 no. available R1, R2 and R3 zoned land in Dungarvan in 2021. From the information submitted it would appear that 7 no. sites zoned R1 have been developed over the lifetime of the plan, while no R2 or R3 zoned lands have been developed to date. The applicant reviewed each of the 29 remaining undeveloped zoned sites within the plan area with regard to their proximity to, what they considered to be 5 no. key locations, services, facilities, or

amenities. These key criteria / locations considered by the applicant are Grattan Square, Davitt's Quay, a childcare facility, a primary school, and a secondary school. The applicant considers that the subject site ranks better than all other residential zoned lands available in the Dungarvan environs with regard to its proximity to these 5 no. key criteria, and are, therefore, suitable for development.

10.1.8. Table 3.2 of the Development Plan envisions that the population of Dungarvan town would increase from 8,362 in 2006 to 11,600 in 2017 and would further increase to 13,400 by 2022. Table 3.4 of the DTDP indicates that there is potential for 1,026 no. housing units on lands zoned R1, R2, R3 and town centre over the lifetime of the plan. Appendix 1 of the applicants Land Use Zoning Justification Report indicated that since the making of the plan permission was granted and / or extended for c. 459 no. residential units. It is noted that this figure includes permission for 22 no. holiday homes. It is stated that work has commenced on 5 no. sites, with a total yield of 290 no. residential units completed or under construction. There is also a current application Reg. Ref. 21/346 for the construction of an additional 77 no. residential units on a site located immediately north of the subject site, on the opposite side of the L3168. These sites are located on lands Zoned R1 or Town Centre. There have been no planning permissions granted for residential developments any R2 or R3 lands within Dungarvan.

10.1.9. Having regard to the limited number of extant planning permissions in Dungarvan, it is my view that it is unlikely that the number of units (1,026) or the population growth (13,400) as envisioned in the DTDP and in the Development Plan would be achieved by 2022. It is also noted that a number of third party submissions welcome the provision of additional residential development in Dungarvan and state that there is currently an under provision of housing in the town. In my view the zoning of land and granting of planning permission alone, does not necessarily guarantee delivery of residential units and / or population growth in accordance with projected, targeted timeframes and that attention should be paid to the delivery of housing. Therefore, the long term development potential of this residentially zoned site should not necessarily be reliant on other sites being brought forward first, and can be assessed on its merits having regard to the wider objectives of the Development Plan. To reach the population targets, as set out in the core strategy of both the Waterford County

Development Plan and the DTDP, it is my view that the consideration of this particular site for development is appropriate in this instance.

10.1.10. In addition, it is noted that the site is contiguous to existing residential estates of Cluain Garbhan to the north, Sallybrook to the south and Tournore west. The subject site is zoned for residential uses, is adequately serviced, is located immediately adjacent to 2 no. schools and commercial units and is in close proximity (2km) to a variety of services and facilities in Dungarvan town centre. It is, therefore, my view that the subject scheme represents the sequential development of Dungarvan.

10.1.11. The applicant's Material Contravention Statement also argues that the wording of both the Waterford County Development Plan and Dungarvan Town Development Plan does not preclude the development of R3-zoned lands. It is acknowledged that the planning authority do not agree that a robust case has been provided for the development of R3 lands. However, having regard to the flexibility of the wording of both the DTDP and the Waterford County Development Plan, which allows for the consideration of development of R3 zoned lands, it is my opinion that the development of R3 lands is not a material contravention and should be assessed on its merits.

10.1.12. It is also noted that permission has previously been refused (Reg. Ref. 17/771) for residential development on the R3 zoned portion of the site as it was considered by the planning authority that there was no justification for the development of lands zoned as Strategic Residential Reserve. However, having regard to the evidence submitted with the application and outlined above, it is my view that this reason for refusal has been addressed by the applicant and the development of the subject site would be in accordance with the provisions of the DTDP the Development Plan in this regard.

10.2. **Design Strategy**

Density

10.2.1. The proposed development comprises the construction of 218 no. residential units and a creche. The scheme has a density 35.5 units per hectare. The applicants note that if the creche site is omitted, the site yields a residential density of 36.2 units per ha. The planning authority raised serious concerns that the proposed density is excessive

having regard to the location of the site and consider that while national guidance seeks to provide for higher densities on serviced lands, regard must be had to Circular NRUP 02/2021 which acknowledges that lower densities are appropriate on the outer edge. I note the recommended fourth reason for refusal in the Planning Authority's report.

- 10.2.2. The planning authority and third parties also note that the proposed density does not comply with the development management standards set out in Variation 1. Variation 1 of the Waterford County Development Plan 2011-2017, the Waterford City Development Plan 2013 – 2019 and the Dungarvan Town Development Plan 2012 – 2018 was adopted in 2016. Section 3.3.4 of the Variation provides general density advice, in this regard it notes that R2: Residential Low lands are to be developed at a density of 10 units per ha. No density standard for lands zoned R3: Residential Phased are provided. I would agree with the applicant's assumption that while no density standard is provided it is expected that the 10 units per hectare standard would apply to R3 lands.
- 10.2.3. Variation 1 states that the planning authority will determine the appropriate density for new residential development on a case by case basis taking into account location, context with neighbouring development, overall layout & design, access to public transport and proximity to services in accordance with the 'Sustainable Residential Developments in Urban Areas' Planning Guidelines issued by DoEHLG. The stated densities should be interpreted as indicative only, however, they will act as a guide for new development in the county area. Having regard to the flexibility of the wording of Variation 1 it is my opinion that the proposed density would not be a material contravention. The applicant submitted a material contravention statement which addressed and justified the proposed density. While I do not consider the proposed density to be a material contravention, for completeness and responding to the precautionary approach adopted by the applicant, I have addressed the issue of material contravention in Section 10.8 below.
- 10.2.4. The applicant notes that if a density of 10 units per hectare was applied to the site it would yield 60 no. units and states that the design of the proposed development has sought to achieve a density that is respectful of adjacent existing residential developments. The proposed development will provide for much needed housing in

the area and is appropriate for its receiving environment, in terms of uses, density, scale and massing.

- 10.2.5. Section 5.11 of the Sustainable Residential Development in Urban Area guidelines states that for outer suburban / 'Greenfield' sites the greatest efficiency in land usage would be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare and such densities, involving a variety of housing types where possible, should be encouraged generally. Circular NRUP 02/2021 states that *while the Sustainable Residential Development Guidelines clearly encourage net densities in the 35-50 dwellings per hectare...net densities of less than 30 dwellings per hectare, although generally discouraged, are not precluded in large town locations*. The circular further states that given the very broad extent of this range and variety of urban situations in Ireland, it is necessary for An Bord Pleanála and Planning Authorities to exercise discretion in the application and assessment of residential density at the periphery of large towns, particularly at the edges of towns in a rural context.
- 10.2.6. The planning authority consider that the subject site is located on the periphery of Dungarvan and note that while the prescribed densities of the development plan might appear low, they should be considered in the context of the sites location and having regard to the form and character of adjoining settlement. As noted above the site is located within the settlement boundary for the town and is zoned and adequately serviced. It is also located contiguous to the residential development of Dungarvan, c.2km east of the town centre and in my opinion the subject site is not considered to have a rural character. In addition, the site is bound to the north and east by high quality urban road network and adjacent to 2 no. schools and commercial units and. It is also noted that the RSES identifies Dungarvan as a Key Town, which has a large population with an urban centre which functions as a self-sustaining regional driver. Having regard to the surrounding context and to ensure efficiency in land usage, a density of 36.2 units per ha is considered acceptable and not excessive in this instance.
- 10.2.7. It is also noted that Objectives 4, 13, 33 and 35 of the National Planning Framework, Section 4.7 of the Regional and Economic Strategy for the Southern Region and SPPR 4 of the Building Height Guidelines all support higher density developments in appropriate locations, to avoid the trend towards predominantly low-density

commuter-driven developments. In addition, Policy SS1 of the Waterford County Development Plan and Policy H1 of the DTDP both seek to ensure that proposed development complies with the provisions of Sustainable Residential Development Guidelines. Therefore, the proposed density of 35.5 units per ha, or 36.2 units per hectare if the creche site is omitted, is acceptable and in line with the concept of the greatest efficiency in land usage.

Design, Layout and Height

- 10.2.8. The proposed site has been divided into two elements. The majority of the site comprises the residential development with a separate creche, and community car park (36 no. spaces) provided in the north eastern portion of the site. The creche is located on a site with a stated area of 1,026sqm and is located directly opposite the school sites. There is a pedestrian link between the creche site and the residential element of the development. However, the proposed creche / community car park is accessed and egressed via a separate (one-way system) entrance from the L3168. It is envisioned that this car park would allow for drop off / collection of children and would provide off street car parking for the wider area including visitors to the residential development and to Dungarvan Harbour / greenway to the east.
- 10.2.9. The single storey creche has a contemporary design approach. It has a stated area of 342 sqm and includes an outdoor area. The applicants Planning Report provides details of existing childcare facilities in the area, and it is my view that the proposed creche is sufficient to cater for the demand generated by the proposed development.
- 10.2.10. Concerns are raised by the Waterford Childcare Committee that elements of the design and layout of the creche do not accord with relevant regulations and guidelines, in this regard the Quality and Regulatory Framework (QRF), Pre-school Service Regulations and Universal Design Guidelines. The internal design and layout should be amended to reflect the concerns raised. In this regard it is recommended that a condition be attached to any grant of permission that the final details of the internal layout of the creche be agreed with the planning authority to ensure it complies with all relevant standards. From the information submitted it would appear that these alterations would not impact on the external appearance of the creche.

- 10.2.11. The proposed residential element of the scheme is laid out in a grid pattern. The main entrance to the site is via the L3168 and links to the proposed public open space (Open Space 5) in the centre of the site. It is generally proposed to retain an existing hedgerow that runs in a north-south direction through the site, however, a small section would be removed to provide a vehicular link between the eastern and western portions of the site. It is also proposed to provide a new pedestrian and cycle connection the adjacent Tournore Estate via a bridge over the existing drainage ditch.
- 10.2.12. The 176 no. houses comprise 4 no. 2-beds, 159 no. 3-beds and 13 no. 4-beds and the 42 no. duplex units comprise 8 no. 1-beds, 32 no. 2-beds and 2 no. 3-beds. Scheme has an overall housing mix of 8 no. 1-beds (3.7%), 36 no. 2-beds (16.6%), 161 no. 3-beds (73.8%) and 13 no. 4-beds (5.9%). A variety of residential units are proposed with 19 no. different typologies ranging in size from a 49.5sqm 1-bed duplex to a 184sqm detached house. It is noted that the 2-storey corner units (type T2) have been designed as dual aspect corner units, which allows for passive surveillance of streets and public spaces. This design feature is welcomed. I have no objection the proposed housing mix and consider it appropriate at this location. All typologies are contemporary in design with similar elevational treatments. The external materials include buff brick, light grey render and zinc clad feature.
- 10.2.13. Having regard to the established pattern of development in the adjoining developments, it is my view that the proposed scheme is generally acceptable. However, I have some concerns regarding the layout of the scheme and the visual dominance of the surface level of surface in parts of the development, which are addressed below. I also have specific concerns regarding the quality of some of the open space provision which is addressed in Section 10.3 below.
- 10.2.14. With regard to the layout, I have concerns regarding the proposed internal access road that runs parallel to the L3168 along the site's northern boundary. In my view this layout would have a negative impact on the public realm when viewed from the L3168. On the north western portion of the site this internal road is c. 170m in length and serves residential units 01-09 and 23-38 and is immediately south of Open Space 1. On the north eastern portion of the site the internal access road is c. 70m in length and serves houses 175 – 184. The internal road is also immediately south to Open Space 2. It is my view that in the event of permission being granted that a condition

would be attached to alter these sections of the internal access road to be redesigned as homezones and any residual land be allocated as private open space for houses 1- 9 and 23-34 and 175 -184. It is also recommended that additional tree planting be provided along Open Space 1 and 2 and the sites northern boundary to improve the visual amenity of the area.

- 10.2.15. I also have concerns regarding the orientation of houses 217 and 218 as the rear of the dwellings front onto Open Space 2 and the rear garden wall is located a minimum of c. 10m from the L3168. It is my opinion that to improve the visual amenity of the scheme and the provision of public open space that houses 217 and 218 be omitted. This also improves the amenity of the link between Open Space 2 and Open Space 6. It is also recommended that the design of house no. 216 be amended to allow for overlooking of Open Space 2 and the design of house no. 206 be amended to allow for overlooking of Open Space 7, at the site's southern boundary.
- 10.2.16. The proposed scheme includes 466 no. car parking spaces at surface level, 430 no. within the residential area for residents and visitors and 36 no. in the crèche development. This equates to c. 1.97 no. car parking spaces per residential unit. I have some concerns regarding the negative visual impact of this level of surface level car parking within the scheme at a number of discrete locations, in particular when viewed from the L3168 at the site's northern boundary and at the areas of public open space within the scheme.
- 10.2.17. Section 10.56 of the development plan notes that large car parking areas should not dominate the front of the buildings and appropriate landscaping should be provided to reduce any negative visual impacts. Having regard to the provisions of the development plan and to improve the visual amenity and support the creation of a high quality public realm it is recommended that car parking spaces be removed from the vicinity of the main vehicular entrance. In this regard 10 no. car parking spaces, 5 no. on either side, should be omitted immediately adjacent to the proposed main vehicular entrance and the proposed 5 no. spaces be omitted from Open Space 1 and 2 no. spaces be omitted from Open Space 2, which are immediately adjacent to the site's northern boundary with the L3168. In the interest of clarity this would result in the loss of 17 no. spaces and would result in the provision of 449 no. surface car parking spaces or 2.1 no. spaces per residential unit, when noted with the recommended

omission of 9 no. units (2 of which are noted above, and the remainder identified in section 10.3 below). This issue of car parking is addressed in further details below in Section 10.5.

10.2.18. The scheme is predominantly 2-storey in height with a maximum of 4-storeys. The 4-storey element comprises 4 no. duplex units at the main vehicular entrance, at the junction with the L3168. These duplexes are limited in scale and provide a total of 8 no. residential units. It is also proposed to provide 3-storey duplex units fronting onto the central area of open space (Open Space 5) and 3-storey houses that fronting onto an area of public open space at the site's eastern boundary (Open Space 7). The development plan and the DTDP do not set out height standards. Section 10.46 - Planning Guidance for Streetscapes of Distinctive Character of the development plan states that for new developments buildings should follow the eaves heights, roof pitches and building lines which predominate the streetscape. As the subject site is a greenfield site there are no existing buildings. However, it is noted that the building heights of the surrounding housing estates range are predominantly 2 storey with some 3-storey duplexes at the Cluain Na Greine estate to the north. It is my opinion that the site is of a sufficiently large scale to accommodate the proposed height, which is relatively limited with a maximum height of 4-storeys. I have no objection to the height and consider that the higher elements are appropriately located at the main entrance and adjacent to areas of open space. The variation in height and design creates a visual interest and allows for passive overlooking of open spaces, which is welcomed.

10.2.19. The scheme is to be developed in 4 no. phases. Phase 1 is located in the north western portion of the site and comprises 60 no. residential units, open spaces and the main vehicular access. Phase 2 is located in the central and south-western portion of the site and comprises 60 no. units and open spaces. Phase 3 is located in the eastern portion of the site development and comprises 60 no. units, the crèche and community car park and open spaces. Phase 4 includes the balance of the residential units (38 no.) and open space. It is envisioned that the scheme would be completed by 2024. It is noted that no drawing has been submitted to indicate which areas of open space are proposed in which phase, therefore, it is recommended that a condition be attached to any grant of permission that the final details of the phasing be agreed with

the planning authority to ensure adequate open space is provided with each phase of development.

- 10.2.20. Concerns were also raised by third parties regarding the potential negative visual impact of the proposed development when viewed from the Waterford Greenway. The Greenway is located c. 250m from the site's eastern boundary. The applicant submitted photomontages of the proposed development, which in my opinion provide a reasonable representation of how the development would appear. Views 8 and 10 are from the Greenway, towards the site. It is acknowledged that the scheme is visible from the Greenway. However, it is my opinion that having regard to the existing pattern of development in the area the proposed development would not have a negative impact on views from the Greenway.

Conclusion

- 10.2.21. In conclusion, while the concerns of the planning authority regarding the design strategy for the scheme are noted it is my opinion that having regard to the existing pattern of the development in the immediate vicinity of the site, the size of the site and the proximity to the urban area, that subject to the recommended conditions outlined above, the proposed density, design layout and height of the scheme is appropriate in this context and would not negatively impact on the visual amenities of the area.

10.3. Open Space

- 10.3.1. The development plan sets out a minimum standard of 15% of the site area in new residential developments be reserved for public open space. The proposed scheme incorporates 2.85 ha of public open space, which equates to 33.1% of the total site area. It is noted that c. 50% (1.4ha) of the public open space provision is located on lands zoned for public open space. If this area is excluded the scheme provides a total of c.1.4ha or c. 16% of the total site area. The quantity of public open space is, therefore, in accordance with development plan standards, and it is noted that the neither planning authority nor third parties raised concerns regarding the quantity.
- 10.3.2. The development plan also states that in new residential developments areas of passive and active open space shall be required and incidental pieces of unusable land shall not be considered to fulfil or partially fulfil the 15% requirement. I would

agree with some of the concerns raised by the planning authority and third parties regarding the quality of the spaces.

- 10.3.3. Table 7.9 of the applicants Planning Statement provides details of the proposed public open space provision. It is proposed to provide 7 no. areas of public open space throughout the scheme. Open Space 1 (1,674sqm) and Open Space 2 (2,154) are located along the site's northern boundary. They run parallel to the site's northern boundary with the L3168 and are subdivided by the main vehicular access to the site. A footpath is proposed within this area of open space. The applicant states that informal play areas would be provided in these spaces. Having regard to the limited width it is my view that these areas of open space are somewhat compromised. However, as outlined above it is my recommendation that the car parking spaces from Open Space 1 and 2 be omitted which would improve the overall amenity value of the space.
- 10.3.4. I also have concerns regarding the overall quality of Open Space 2. As noted above the rear elevation of house numbers 217 and 218 fronts onto Open Space 2 and towards the northern boundary with the L1368. It is my opinion that this layout would have a negative impact on the visual amenity of the scheme. It is recommended that if permission is granted that house no 217 and 218 be omitted and the resultant space be incorporated into Open Space 2 to provide a larger area of public open space, which would link to Open Space 6 to the east. Therefore, improving the overall amenity value within the scheme, and would following omission of the two units and link to open space 6 would ensure this open space contributes positively to the overall useable open space provision.
- 10.3.5. Open Space 3 (1,372 sqm) and Open Space 4 (4,913sqm) run in a north south direction through the site and are provided on either side of the hedgerow to be retained. Having regard to the proposed layout it is my view that Open Space 3 is incidental to the development would not provide a high value amenity space for existing or future residents and in my view predominantly facilitates the hedgerow to be retained, which is welcomed.
- 10.3.6. It is proposed to link Open Space 4, via a pedestrian / cycle bridge to the public open space in the Tournore Estate to the south. Provision is also made for Open Space 4

to connect to a future possible area of public open space on lands zoned R1, also in the applicant's ownership. This layout is indicated on the masterplan submitted for the overall site. In my view the northern portion of Open Space 4 is sufficiently large to provide high quality amenity space for future residents. In particular this area (Open Space 4) on the western side of the hedgerow, which is directly overlooked by a number of houses, also contributes positively to the scheme.

10.3.7. I also note the concerns of third parties regarding the potential for anti-social behaviour within the Tournore Estate due to the proposed pedestrian / cycle link. It is noted that the existing public open space within Tournore Estate would link to the western side of the hedgerow and an existing drainage ditch. This area of Open space 4 is c. 15m in width with no passive overlooking provided. Having regard to the height of trees and the maturity of the vegetation along the hedgerow and in response to the concerns raised by third parties regarding the potential for anti-social behaviour, I would recommend that detailed design features including some vegetation removal and lighting, etc. should be considered to address these concerns. The provision of additional connectivity and permeability is generally welcomed and having regard to the proximity of the subject site to 2 no. schools it is my view that connectivity through the site would improve journey times and support a shift to more sustainable modes of travel. While it is noted that Policy NGH9 of the DTDP encourages the retention of hedgerows it is my view that to ensure passive surveillance of this proposed pedestrian / cycle link a section of the hedgerow should be removed to allow for overlooking of the open space from houses 80 – 82. It is considered that this could be addressed by way of condition.

10.3.8. Open Space 5 (1,430sqm) is located in the centre of the development and provides the main focus for the scheme. There are visual links from the Open Space 5 to the main entrance and to Open Space 4 to the west and Open Space 6 to the east. The drawings submitted indicated that this area of open space would include a 146sqm playground and seating areas. Having regard to the central location of this area of public open space, it is my view that this area would provide the main focus for passive and activity recreation within the scheme. To improve the amenity value of this space, in respect of its size, I would recommend a number of amendments. To improve public open space amenity within this development it is my opinion that row of terrace houses

numbered 111 – 119 be omitted in their entity and be replaced by the duplex units in Blocks 29 and 30. This would result in the proposed Blocks 29 and 30 being relocated c. 15m south of Open Space 5. The remaining area should be incorporated into Open Space 5. It is also recommended that the bin storage areas be relocated to within the duplex units. In the interest of clarity this would result in the loss of 9 no terrace houses. I have no objection to the retention of the car parking to the south of the site which would serve the duplex units.

10.3.9. Open Space 6 (3,025sqm) is located to the east of the residential development and is immediately adjacent to Open Space 7 (14,002sqm). Open Space 7 is located on lands zoned for open space. Open Space 6 is overlooked by the 13 no. detached dwellings. As outlined above, it is my view that houses 217 and 218 be omitted to allow for greater connectivity between Open Space 2 and Open Space 6. It is noted that a large portion of Open Space 6 is subject to flooding. I have no objection in principle to the quantity or quality of Open Space 6, however, having regard to its peripheral location within the scheme and its susceptibility to flooding, it is my view that Open Space 5 provides the main amenity for the scheme and, therefore, the proposed increased size of Open Space 5 is justified.

10.3.10. It is proposed that Open Space 7 would be managed during wintering months to ensure no disturbance of wintering birds in this area. I note concerns raised by third parties regarding how this would be managed. The development is not reliant on Open Space 7 to achieve the development standard of 15% of the total site area. It is also noted that this area is likely to flood during winter months, when the lands are to be available for wintering birds. It is, therefore, my recommendation that this area (Open Space 7) be retained as an ecological buffer / land reservation for wintering birds. This buffer zone should provide for recreational uses that are low intensity, such as walking or cycling during summer months. It should be managed / maintained in such a way so as to facilitate any wintering birds that may utilise this site. It is considered that the concerns raised regarding the operation of Open Space 7 could be addressed by way of condition. The impact on wintering birds is addressed below in the Section 12 Appropriate Assessment.

10.3.11. While the planning authority and third party concerns regarding the quality of the open space are noted it is my view that these concerns could be addressed by way of condition as outlined above.

Trees

10.3.12. An Arboricultural Assessment was submitted with the application. It noted that the sections of the central hedgerow which subdivides that site in a north south direction would be removed at a number of points by roads and footpaths to create connectivity through the development. To facilitate this, it is necessary to remove 7 no. trees (Tree Nos.0875, 0876, 0877, 0878, 0891, 0892 & 0893) which are all early-mature Elm trees that form part of the hedge bulking. It is also proposed to remove c.30m of hedging in 3 no sections to facilitate roads and footpaths. The report also details how trees and hedgerows would be protected during the construction phase.

10.3.13. It is noted that Policy NGH9 of the DTDP encourages the retention of hedgerows, however, it is my opinion that the provision of additional connectivity and permeability between the sites would provide a wider benefit and to address concerns of potential anti-social behaviour at this link due to its isolated nature. In my view the loss is considered acceptable. However, I would recommend that additional planting be provided within the scheme to mitigate any loss of hedgerow.

10.4. Residential Amenity

Overlooking / Overbearing Impact

10.4.1. A portion of the sites western boundary is immediately adjacent to the rear and side gardens of existing 2-storey dwellings in Tournore Court and by a detached single storey dwelling 'Tournore Lodge' that fronts directly onto the L3168, and a portion of the southern boundary is immediately adjacent to the rear gardens of existing 2-storey dwellings in Sallybrook estate. The remainder of the sites southern and western boundary is immediately adjacent to a greenfield site also in the ownership of the applicant. To the north the site is bound by the L-3186 and to the east by open space.

10.4.2. Section 10.9 of the applicants Planning Report addressed the issue of residential amenity. With regard to overbearing impact and overlooking the report notes that the

residential units closest to the shared boundaries with Tournore and Sallybrook are 2 no. storeys in height and that any negative impacts have been mitigated against by providing adequate separation distances between the proposed dwellings and the existing dwellings, and significant screening along the western and southern boundaries. In addition, the existing drainage ditches also create a sense of separation and differentiation of areas. It is noted that existing hedgerows and trees are to be, where practical, retained along the southern and western site boundaries.

- 10.4.3. Drawing no. P135 shows the contiguous elevation along the site's northern boundary, including the adjacent single storey 'Tournore Lodge'. This indicates that proposed House no. 1 is c. 3m higher than the adjacent single storey dwelling. However, the front building line of proposed House no. 1 is set back from the rear building line of Tournore Lodge and, therefore, would have no undue overbearing or overlooking impact on Tournore Lodge.
- 10.4.4. No contiguous elevations have been provided for Tournore Court or Sallybrook. Therefore, the height difference or finished floor level is unclear, however, it is noted that the existing houses are 2-storeys in height, and so a significant or notable height differential between the proposed two storey and existing two storey dwellings would be anticipated. The gable walls of House no. 1 and 10 are located a minimum of 1m from the site's western boundary and a minimum of c. 30m from the rear elevation of existing houses in Tournore Court. The rear elevations of houses 20 -22 (Block 07) are a minimum of c. 15m from the site's western boundary and between c. 20m from the rear elevation of existing dwellings. Having regard to the separation distances and the limited height of the proposed houses it is my view that the proposed development would not result in any undue overlooking or overbearing impact on the adjacent properties to the west in Tournore Court.
- 10.4.5. An area of linear open space is proposed at the site's southern boundary with Sallybrook Estate, which includes a drainage ditch and mature vegetation. The front elevation of House numbers 80 - 82 (Block 25) and the side elevation of house no. 83 and 128 are located c. 17m from the site's southern boundary and a minimum of 20m from the rear elevation of existing dwellings in Sallybrook. Having regard to the separation distances and the limited height of the proposed houses it is my view that

the proposed development would not result in any undue overlooking or overbearing impact on the adjacent properties to the south, in Sallybrook.

- 10.4.6. I have reviewed the proposals and carried out a site inspection in respect of all potential impacts on the residential amenity of neighbouring properties and I am satisfied that having regard to the orientation of the existing properties relative to the development site, the height of proposed development and the separation distances proposed that the proposed development would not have an undue negative impact on the existing residential amenities of these dwellings in terms of overlooking or overbearing impact.

Daylight, Sunlight and Overshadowing

- 10.4.7. It is noted that no particular concerns have been raised by third parties or the planning authority regarding overshadowing. The applicant has not submitted a daylight and sunlight assessment. However, the applicant's Planning Report states that as the proposed development is principally sited to the north and east of the existing residential areas of Tournore and Sallybrook and is of a height of no more than 4 no. storeys, it is not anticipated that the proposed development would negatively impact on the daylight and sunlight enjoyed by residents in those housing estates. This is further underpinned by the limited height (2-storeys) and separation distances between the existing and proposed dwellings, which are consistent with Development Management Standards provided in the Development Plan.
- 10.4.8. The Development Plan does not provide any specific guidance with regard to daylight / sunlight assessments. However, the Building Height Guidelines seeks compliance with the requirements of the BRE standards and associated British Standard (although I note that BS 8206-2:2008 is withdrawn and superseded by BS EN 17037:2018), and that where compliance with requirements is not met that this would be clearly articulated and justified.
- 10.4.9. The Building Research Establishments (BRE) 'Site Layout Planning for Daylight and Sunlight – A guide to good practice' describe recommended values (eg. ADF, VSC, APSH, etc) to measure daylight, sunlight and overshadowing impact. However, it should be noted that the standards described in the BRE guidelines are discretionary

and not mandatory policy/criteria (para.1.6). The BRE guidelines also state in paragraph 1.6 that:

10.4.10. *“Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design.”*

10.4.11. The BRE note that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc. in Section 5 of the standards. In addition, industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones. The BRE guidelines state that in relation to daylight to existing buildings:

“Loss of light to existing windows need not be analysed if the distance of each part of the new development from the existing window is three or more times its height above the centre of the existing window. In these cases the loss of light will be small...” (para. 2.2.4)

10.4.12. Having regard to the proposed separation distances of between 20m - 30m from the proposed 2-storey dwellings (unit types T1 and T2) to the existing adjacent dwellings, to the limited height of the proposed dwellings (9.5m) and the location of the development to the north and east of the existing dwellings, I am satisfied that the proposed development is unlikely to have any significant impact on the sunlight or daylight currently enjoyed by residents of the existing dwellings (including their associated amenity spaces). In addition, the proposed 3 and 4 storey units / duplexes are not situated close enough to existing dwellings to the south or east to perceptibly impact daylight or sunlight levels. Therefore, no analysis of the impact of these proposed units on any existing properties is required, as the potential is negligible and can be ruled out without further testing as per paragraph 2.2.4 of the BRE guidelines.

10.4.13. Overall, I am satisfied that daylight, sunlight and overshadowing impact from the proposed development upon existing properties will be within an acceptable range for the area and not significantly harmful. I have applied the guidance within the BRE guidelines and associated BS 17037:2018 in my assessment of this issue, and particularly in light of the guidelines own assertions that numerical targets should be applied flexibly, and that natural light is only one of many factors in site layout design (paragraph 1.6).

- 10.4.14. While I note the lack of a submitted assessment with the application, I am satisfied that this does not have a material bearing on my assessment, and potential daylight/sunlight impacts upon existing residents in accordance with the criteria described in the BRE guidelines can be determined as negligible and reasonable for the location of the site. Specifically, that as a result of the separation distance to existing dwellings, the low rise height of the proposed development at those points closest to existing dwellings and the orientation of these structures, impacts upon daylight and sunlight would not be significantly harmful. Therefore, while a specific assessment has not been submitted with quantification of this impact, in my opinion the proposed development has been designed in consideration of potential daylight and sunlight impact upon existing residents and this is reflected in the scale and layout of the proposal.
- 10.4.15. I am satisfied that that proposal has a layout that reflects a standard suburban residential estate, as well as in scale and form, which will limit potential for reduced daylight and sunlight to surrounding properties. As such, I consider that the proposed development makes adequate provision for daylight and sunlight to surrounding properties in accordance with BRE considerations that I have applied.
- 10.4.16. It is also noted that no daylight and sunlight assessment has been provided for the proposed units/amenity spaces within the scheme. The proposed development in respect of 218 no. houses provides a traditional grid pattern layout, with minimum separation distances of 22m between the rear elevations of 2-storey dwellings and minimum separation distances of 15m between front and side elevations, which in a number of locations significantly exceed these separation distances. The houses are all dual aspect with generous glazing to living and kitchen spaces. Therefore, noting the design of the units and compliance with development management standards, targets identified in the BRE 209 Guidance documents would be achieved.
- 10.4.17. As noted above, the BRE guidelines are discretionary and not mandatory policy/criteria. However, I also note that the Building Height Guidelines ask that reasonable regard is had to the BRE standards.
- 10.4.18. Similar to my assessment above, I do not consider the omission of a specific daylight, sunlight and overshadowing assessment to be a critical deficit of the application

proposal given the characteristics of the proposed development. The absence of this information has had no material bearing on my assessment, given the low density traditional nature and design of the proposal, and guidance in the BRE document. The proposed development is at an appropriate scale for the site location, with properties between 2 and 4 storeys in height, limiting the extent of overshadowing that may result. Separation between blocks and dwellings is also acceptable and will limit the degree of obstruction that could result between blocks in the proposed development. All of the proposed dwellings are dual aspect, maximising available light and ventilation to both the self-contained housing and duplex units proposed. Buildings proximate to the subject site are not of a scale or height that would generate significant obstruction to light or overshadowing of areas.

10.4.19. As detailed above, the BRE guidelines are clear that access to natural light is only one of many factors in site layout design. I consider that adequate allowance has been made in the proposed design for daylight and sunlight through adequate separation between the units, relevant to the scale of the development. As such, I am content that daylight, sunlight and overshadowing conditions for the residential units within the proposed development will be within an acceptable range. While I acknowledge that the applicant has not submitted their own assessment of the numerical targets for daylight and sunlight in the proposed development, I am satisfied that considerations of daylight and sunlight have informed the proposed layout design in terms of separation distances, scale and dual aspect of units. I have also carried out my own assessment in accordance with the considerations outlined in the BRE guidelines. As such and noting that the guidelines state that numerical targets should be applied flexibly (specifically ADF values of 1% to bedrooms, 1.5% to living rooms and 2% to kitchens), and that natural light is only one factor to be considered in layout design, I consider the development to be in accordance with the BRE guidelines.

10.4.20. In addition, I note that the Planning Authority and third parties have not raised any concerns in relation to this matter. In my view, it is accepted practice within Waterford City and County Council's administrative area for schemes of a traditional character, and relatively low density, do not require the submission of a specific daylight and sunlight assessment. On this basis, it is reasonable to interpret that the proposed accommodation is within best practice limits.

10.5. Transportation and Car Parking

- 10.5.1. The subject site is located c. 650m west of the N25 and c. 400m east of the R675 and is immediately south of the L3168. There is an extensive footpath and dedicated cycle network in the immediate vicinity of the site, with cycle routes provided on the L3168 and towards the town centre on the N25 and R675. The Waterford Greenway is also located c. 1.2 km south of the subject site, at Dungarvan Harbour, which provides a link from Dungarvan to Waterford. The closest bus stop to the site is located within the town centre c. 1.4km south west of the subject site, on Sexton Street. This stop provides access to 15 no. routes. The details of the routes are provided in Section 3 of the applicants Mobility Management Plan.
- 10.5.2. The planning authority and third parties raised concerns that the surrounding road network experiences traffic congestion at peak times. The Roads Section of the planning authority consider that significant revisions are required to the road layout and raise particular concerns over the adequacy of the assessment with regard to the impact on the N25. It is noted that this does not form a recommended reason for refusal by the planning authority. However, it is recommended that a section 48(2)(c) condition be attached to require a special contribution in respect of road infrastructure for the provision of roundabout on the N25 to facilitate the development.
- 10.5.3. The scheme includes 466 no. surface level car parking spaces to be accessed via the L3168. Traffic counts were carried out on Tuesday 8th September 2020 between 0700 – 19.00. To allow for the impact of Covid, data available from the TII long term traffic counter on the N25 was incorporated into the assessment to ascertain the impact of covid on vehicular trips. The AM peak was found to be 08.15 – 09.15 and the PM peak was found to be 15.45 – 16.45.
- 10.5.4. The TRICS database was used to estimate the number of trips potentially generated by the proposed development. TRICS estimated that the development would generate 150 no. trips (51 no. arriving and 99 no. departing) in the AM peak and 120 no. trips (70 no. arriving and 50 no. departing) in the PM peak.
- 10.5.5. A Traffic Impact Assessment assessed the potential impact of the development on 3 no. junctions in this regard (1)N25/L3168; (2) L3168 / Cluain Na Greine / Tournore Court Roundabout and (3) R675/L3168 roundabout Road for the base year 2020, the

year of opening 2024 and the design year 2039. The modelling indicates that all arms of the 3 no. junctions currently (2020) operate within capacity. With regard to the opening year of 2024 the modelling indicates that the 3 no. junctions would operate within capacity with and without the proposed development.

- 10.5.6. With regard to the design year of 2039 the modelling indicates that Junction 1 would exceed capacity in the AM peak with or without the development by 2039. However, it is noted that with the development the congestion (RFC / Queue lengths) is exacerbated. To provide an alternative solution to the potential future capacity of junction 1 the applicant modelled the junction as a fully signalised junction. The analysis indicated that the signalisation of this junction would allow it to operate within capacity. The modelling also indicated that Junction 2 would operate within capacity, with and without the development. With regard to Junction 3 it is noted that the R675 north bound arm exceeds capacity in the AM peak with and without the development. It is noted that the proposed development has a negligible impact (3%) on the capacity of the junction.
- 10.5.7. It is acknowledged that by 2039 parts of the surrounding road network would reach or exceed capacity, and that the proposed development would contribute to the congestion experienced. Therefore, I agree with the planning authority that a special financial contribution should be attached to any grant of permission to provide for road infrastructure improvements to facilitate the proposed development.
- 10.5.8. Concerns were also raised by the planning authority's Roads Department regarding the absence of proper assessment around construction traffic. The TIA, the Construction and Environmental Plan and the Construction and Demolition Waste Management Plan also provide details of the potential impact on the surrounding road network during the construction phase. In my opinion, sufficient information has been submitted regarding the impact of the development on the construction phase and it is noted that peak hours of the construction phase would be outside of the AM and PM peak traffic hours. It is also considered that the onus is on the applicant and their contractors, to ensure that the construction phase is undertaken in a safe manner, in accordance with their obligations under separate codes, and I further note that the granting of permission would not relieve the applicants of their responsibilities in this

regard. The CEMP would be the subject of agreement with the PA prior to commencement of development.

10.5.9. Having regard to the information provided in the TIA it is my view that all information provided is clear, robust and evidence based and provides a reasonable assumption of the impact of the development on the capacity of the surrounding road network during both the construction and operational phases. It is also noted that TII raised no objection in their submission.

10.5.10. Concerns were also raised by third parties regarding congestion around the schools on the L3168. During my site visit on the 21st September 2021, it coincided with a school collection time. While parking congestion was observed it is noted that this was for a relatively short period. It is also noted that there is a dedicated car parking area immediately adjacent to the primary school and an unrestricted area / lay-by located directly opposite the primary school entrance. It is also noted that the L3168 is c. 6.1m in width, which allows for vehicles to pull in without impacting on traffic flows on the road network. In addition, there is a bus parking / lay-by located outside the grounds of the secondary school and c. 50m from the primary school. It was noted that after the collection time a number of vehicles remained parked on the road. If there are concerns regarding long term unauthorised car parking along the L3168, which interferes with traffic flows, it is my view that this could be addressed by the introduction of restrictive measures to be managed by the local authority. It is my opinion that the proposed development would not exacerbate overspill car parking on the L3168 due to the nature of the use, the level of car parking proposed and the proximity to the school sites.

10.5.11. It is also noted that the creche element of the development includes a community car park with 36 no. spaces and a one-way system. It is considered that these additional car parking spaces and internal access route would also remove some of the short-stay car parking from the L3168 and facilitate drop off / collection of children associated with the schools. Notwithstanding this, the proposed scheme would introduce a new direct pedestrian / cycle link from the existing Tournore housing estate, through the subject site, towards the school grounds. It is envisioned that this improve permeability should reduce the need for travel by private car and support travel by more sustainable modes.

Car Parking

- 10.5.12. The proposed scheme includes the provision of 466 no. car parking spaces, in this regard 430 no. space to serve the residential element of the development and 36 no. spaces to serve the creche use and would have a dual use as a community car park.
- 10.5.13. Variation 1 of the development plan and the DTDP sets out car parking standards for a variety of uses. There is a requirement for 2 no. spaces per traditional dwelling and 1.5 no. spaces per flat / apartment. Therefore, 352 no. spaces are required to serve the houses and 66 no. spaces are required to serve the duplexes. It is noted that the applicant applied a standard of 1 no. space per flat / apartment, however, the variation to the development plan notes that this standard relates to Waterford City Centre, (which resulted in a requirement for 44 no. spaces to serve the duplex units). There is also a requirement for 1 no. visitor space per 4 no. residential units, therefore, resulting in a requirement for 54 no. visitor spaces. Having regard to the above there is a requirement for 472 no. space to serve the residential element of the development.
- 10.5.14. For creche developments the development plan sets out a standard of 1 no. space per staff member and 1 no. space per 4 no. children. It is envisioned that the creche would employ 12 no. staff members and have capacity for 47no. children. Therefore, there is a requirement for 24 no. spaces. The applicants Parking Strategy Report notes that the 36 no. community use / creche spaces are intended as set down spaces for limited periods of time, which would not coincide with peak visitor activity to the residential developmetn which normally occurs at evenings and weekends.
- 10.5.15. As outlined above I have some concerns regard the design and layout of the scheme and recommended that 17 no. car parking spaces and 9 no. dwellings be omitted from the scheme by way of condition. These amendments would result in a total of 209 no. units (165 houses and 44 no. duplex units) and 449 no. car parking spaces. This results in 2.1 no. car parking spaces per unit.
- 10.5.16. In accordance with development plan standards, the amendments proposed would result in a requirement for 330 no. car parking spaces to serve the houses and 52 no. visitor spaces to serve the residential development. There is no alterations to the requirement for 66 no. spaces to serve the duplexes. Therefore, there is a requirement

for 448 no. car parking spaces to serve the residential element of the development. The level of car parking proposed by way of my proposed amendment is 449 no.

10.5.17. The layout, as proposed by way of the above amendments, equates to 2.1 no. spaces per unit. In my opinion having regard to the urban location this is an adequate level of car parking to serve the proposed development. It is also noted that the creche facility provides for 36 no. community car parking spaces which could have a dual use and accommodate any overspill generated by visitor car parking outside of the hours of operation of the creche.

10.5.18. A Mobility Management Plan has been submitted with the application which sets out measures and targets to support sustainable travel during the operational phase of the scheme. It is noted that the scheme does not include any provision for residential car sharing schemes for future occupants. Car sharing / car clubs can play a key role in facilitating mobility needs of future occupants without the need to own a car, and in reducing overall car use. Such schemes facilitate lower numbers of dedicated parking spaces without risk of overspill parking onto surrounding streets. While the provision of car share spaces have not been provided within the scheme it is my view that the requirement for such could be monitored by the mobility manager to be appointed to the development and implemented at a later date, if required.

10.6. **Water Services**

10.6.1. The proposed development would be connected to the existing public water mains and public sewer. Irish Water acknowledged the applicant has been issued a Statement of Design Acceptance for the development. However, to accommodate a wastewater connection, the proposed development is subject the upgrading and provision of additional storage at Barnawee Wastewater pumping station. These works are not currently on Irish Water's investment plan. Therefore, the applicant will be required to contribute the relevant portion of the costs of these works via a Project Works Services Agreement / Major Connection Agreement for which the applicant has engaged with Irish Water regarding and is currently at detailed scoping / costing. It is estimated that delivery of the infrastructure will be carried out by Irish Water and take approximately 3 years to complete (subject to change). It is also noted that delivery of the required infrastructure will be subject to appropriate consents.

- 10.6.2. The applicants Engineering Services Report acknowledges the required upgrades and includes the confirmation of feasibility issued by Irish Water which states that as an alternative to or supplementary to the upgrade at the pump station it may be possible to sufficiently reduce the hydraulic load on the network by offsetting or reducing the requirement to provide additional storage. The report also includes correspondence from Waterford City and County Council stating they have no objection to works been undertaken to remove storm water from the wastewater system serving Barnawee Pumping Station, which would increase the capacity. It is my view that subject to increased capacity at the pump station, from either upgrade works or a removal of surface water, that the proposed development could be accommodated.
- 10.6.3. In order to facilitate a connection to the public watermain an upgrade of the existing 150mm diameter watermain to 200mm diameter for a length of approximately 300m is required. Irish Water currently does not have any plans to extend or commence upgrade works to its network in this area, however this could be delivered by the developer subject to detailed agreement with IW (and appropriate conditions attached).
- 10.6.4. I am satisfied that there are no infrastructural aspects that present any conflicts or issues to be clarified.

Flood Risk

- 10.6.5. The subject site is located c. 120m west of Dungarvan Bay, c. 1km east of the Colligan River and c. 1.7km south west of the Glendine River. The site is bound to the south and east by a local watercourse identified in the OPW's South Eastern CFRAM Study as the Duckspool watercourse. This watercourse discharges to Dungarvan Bay via a culvert under the R675, to the east of the subject site.
- 10.6.6. A Site-Specific Flood Risk Assessment (FRA) was submitted with the application. The FRA notes that the levels in the site change from 0.5mAOD at the site's eastern boundary, to 1.0AOD at the western boundary, with a high point in the centre of the site at 3.0m AOD. A topographical survey is included in Appendix B of the FRA. The OPW maps indicate that, with the exception of the high point in the central portion, the site is located within a flood zone (A and B). It is noted that a number of third parties submitted photographs with their submissions indicating that the subject site is subject

to flooding. In addition, there is also a record of flooding adjacent to the site at Clonea Road (R675) and at Sallybrook estate.

10.6.7. Concerns are raised by third parties and the planning authority regarding the provision of a residential development within a flood zone and the potential negative impact on existing adjacent residential properties, that are already subject to flooding. The planning authority's first recommended reason for refusal notes that large sections of the subject site are within both Flood Zone A and B as identified by the OPW and the planning authority are not satisfied that the proposed residential development would not be at risk of future flooding or that the development itself would not exacerbate flooding in the area. It is noted that the Roads Department, who have responsibility for water services within the planning authority have not raised any concerns regarding potential flooding on the subject site.

10.6.8. Flood Risk zones are determined on the probability of river and coastal flooding only, other sources do not affect the delineation of flood risk zones. Section 2.7 of the applicants FRA acknowledges that the SEA carried out as part of the DTDP identifies the subject site as an area vulnerable to Flood Risk. The FRA also notes that a number of locations within Dungarvan identified as vulnerable to flood risk are also zoned for residential development and that multiple locations indicated on the OPW flood maps as locations of recurring flooding have not been identified in the DTDP as vulnerable to Flood Risk. The FRA notes potential sources of flooding as outlined below: -

Coastal Flooding: The site is located c. 120m west of Dungarvan Bay at Clonea Road. The OPW's Irish Coastal Protection Strategy Study (ICPSS) indicates that the predicated sea levels would extend across the subject site. Therefore, the subject site and the surrounding area are considered to be located within the potential tidal / coastal floodplain. The CFRAM mapping indicates that there is a flood defence wall located adjacent to the R675 which is not taken into account in the ICPSS mapping. Therefore, the CFRAM mapping indicates that predicated flood levels are significantly lower than the levels indicated on the ICPSS mapping.

The flooding experienced during tidal events is related to the Duckspool watercourse (fluvial flooding) located immediately south and east of the subject site, which cannot discharge to the Bay during high tide, due to a tidally locked culvert system under the

R675. The FRA considers that it is reasonable to expect that the future tidal flood risk to the site would be largely mitigated by the existing flood defences. It is noted that there is no development proposed on the areas subject to coastal flooding as indicated in the CFRAM study.

Concerns raised by third parties and the planning authority regarding the structural integrity of the flood defence wall, are addressed below.

Fluvial Flooding: The site is located immediately adjacent to a local watercourse known as Duckspool watercourse. The CFRAM mapping indicates that the southern portion of the site immediately adjacent to the watercourse is at risk from fluvial flooding. The area to the west of the site, also within the applicant's ownership and outside of the red line boundary is also indicated as being at risk from fluvial flooding. The applicants FRA notes that historic mapping indicates that this watercourse has been diverted, straightened, and widened over time. As noted above the culvert under the R675, Clonea Road is tidally locked and, therefore, it can only discharge to Dungarvan Bay when water levels are low enough to permit it.

The FRA references the Dungarvan Stormwater Drainage – Duckspool Drainage Review carried out in 2018 on behalf of Waterford City and County Council. This report included a number of amendments to the CFRAM model to take account of the recent, in progress and planned development in the area, updated topographical and bathymetrical data on the channel and the provision of a new 900mm culvert under the R675, which was completed in 2019. This report predicated flood water levels at the subject site are lower than those predicated in the OPW's CFRAM model.

Pluvial Flooding: Due to the topography of the site it is not considered to be at risk from pluvial flooding. It is proposed to change the levels within the site as part of the development and the FRA notes that the direction of overland flow will generally remain unchanged and will be directed towards the road network and towards the existing boundary watercourses.

The submitted Engineering Services report provide full details of the proposed drainage infrastructure which includes SuDS that will control the discharge rate and limit the outflow from the site to the existing greenfield scenario.

It is noted that the Dungarvan Stormwater Drainage – Duckspool Drainage Review allowed for a post development surface water discharge from the subject site to the Duckspool watercourse of 60.25 l/s. The proposed development delivers a discharge rate which is c. 25% lower than that allowed for in the Review. The site is not considered to be at risk from pluvial flooding.

Existing Infrastructure: There is an existing underground sewer located to the north of the subject site which flows in an eastward direction to an existing wastewater pumping station (Barnawee WWPS). There is also an existing pumping stations serving the Tournore estate to the east of the subject site. In addition, watermains in the local road network serving surrounding developments. Any flooding that might arise from these items of infrastructure would flow overland along the road and away from the subject site. The site is not considered to be at risk from flooding from existing drainage or watermain infrastructure.

Groundwater Flooding: The site is not considered to be at risk from groundwater flooding and no basement levels are proposed as part of the development.

10.6.9. The Planning System and Flood Risk Management Guidelines, 2009 outlines in Table 3.1 the ‘vulnerability of different types of development’. The proposed development is residential in nature and, therefore, classified as ‘Highly Vulnerable Development’. A creche is not identified as a use, however, a school is identified as a highly vulnerable development, therefore, it is my view that a creche would also be considered a highly vulnerable development. As the majority of the site is considered to be located in Flood Zone A or B, a Justification Test is required in accordance with the guidelines.

10.6.10. Section 5 of the applicants FRA addresses each of the criteria set out in Box 5.1 of the guidelines. Having regard to the concerns raised by third parties and the planning authority it is considered appropriate to address each of the criteria.

1. The subject lands have been zoned or otherwise designated for the particular use or form of development in an operative development plan, which has been adopted or varied taking account of these Guidelines.

The site is subject to 4 no. zoning objectives, in this regard R1 Residential–Medium, R2 Residential–Low, R3 Residential-Phased and OS Open Space in the DTDP. There

is no development proposed on the R1 or OS zoned lands. Residential development is generally permissible on lands zoned R2 and R3 lands. The SEA carried out as part of the DTDP notes the Planning System and Flood Risk Management Guidelines, 2009 and states that all developments in the areas identified as vulnerable to flood risk will be required to carry out a FRA. The proposed application is considered to be in accordance with criteria 1.

2. The proposal has been subject to an appropriate flood risk assessment that demonstrates:

- (i) The development proposed will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk;**

As outlined above the subject site is at risk from coastal and fluvial flooding. It is noted that the CFRAM mapping, which takes account of the flood defence wall, indicates that predicated flood levels are significantly lower than the levels indicated on the ICPSS mapping.

It is proposed to raise ground levels on the site. The FRA notes that in general raising ground levels in areas affected by tidal flooding does not impact flood risk elsewhere, however, in this particular instance as coastal flooding occurs due to a tidally locked watercourse, there is potential for fluvial flooding along the site's southern boundary floodplain, therefore, compensatory storage is considered critical.

Rationalisation of the flood extent area can be achieved by raising ground levels in the areas of the existing active floodplain and providing compensatory storage in areas outside of the active floodplain by lowering ground levels. It is noted that the Flooding Risk Guidelines allow for compensatory storage as a mitigation measure. Drawing no. R497-OCSC-XX-XX-DR-C-2802 submitted with the application details the proposed level for level compensatory storage.

It is noted that the site is not at risk from any other source of flooding. Having regard to the information submitted, which details how compensatory storage would be provided within the site, it is my opinion that the proposed development would not increase the risk of flooding elsewhere. It is noted that development is not proposed in the low lying lands that would be subject to flood risk.

It is noted that the proposed mitigation measures would not reduce the potential for flood risk outside of the subject site, which in my view is acceptable.

The proposed application is considered to be in accordance with criteria 2(i).

(ii) The development proposal includes measures to minimise flood risk to people, property, the economy and the environment as far as reasonably possible;

The applicants FRA identified the potential sources of flooding as coastal and fluvial, and recommended that appropriate mitigation measures be implemented. It is proposed to raise ground levels and provide direct compensatory storage by lowering levels within the site. Having regard to information submitted, which is robust, and evidence based, this is considered acceptable. It is also proposed to raise the finished floor levels of the proposed dwellings in 3.42mAOD. This would ensure that, in the case of failure of the flood defence wall, the proposed development would be protected, as far as reasonably possible.

With regard to risk from pluvial flooding, the FRA notes that the direction of overland flow will generally remain unchanged and will be directed towards the road network towards the existing boundary watercourses. This is considered reasonable and acceptable.

In addition, the eastern boundary of the site will be in use as open space and will not be developed for residential use. With respect to areas immediately adjoining watercourses (riparian zones) to the southern and eastern boundaries a 10m buffer has been provided to protect ecology, provide access for maintenance, and ensure flood risk is not increased. This is reflected in the existing wayleaves on-site, which also extend to include the drainage ditch that runs north-south along the western side of the hedgerow running the subject site.

In my opinion the proposed mitigation measures minimise the flood risk to people, property, the economy, and the environment, as far as reasonably possible.

The proposed application is considered to be in accordance with criteria 2(ii).

- (iii) The development proposed includes measures to ensure that residual risks to the area and/or development can be managed to an acceptable level as regards the adequacy of existing flood protection measures or the design, implementation and funding of any future flood risk management measures and provisions for emergency services access; and***

A Strategic Flood Risk Assessment (SFRA) was carried out by independent consulting engineers as part of the Draft Waterford City and County Development Plan 2022 – 2028. While it is noted that the plan is in draft form, the SFRA contains relevant and up to date flood risk data. This report is available on the council's website. Section 7.2.2 of the report notes that the Duckspool area benefits from some level of protection. This is through informal defences which are infrequently maintained and do not have a certified standard of protection. The report, therefore, considers that for the purposes of the report the Duckspool area is undefended. It also notes that the Dungarvan area is listed as one of the settlements to benefit from the OPW's 10 year investment programme, however, the timeframe of these works are unknown.

The planning authority consider that the residual risk at present is that the defences could fail completely. It is further stated that it must be demonstrated that any defences are structurally sound and provide a demonstratable level of protection. Third parties have also raised concerns regarding the structural stability of the flood defence wall. The planning authority's Roads Department who also have responsibility for storm water and flood assessment raised no objection to the proposed development. However, the Roads Department noted that it is the intention of the council to provide additional fluvial storage in the vicinity of the subject site. It is stated that all statutory approvals have been received to lower existing levels in the vicinity of the subject site, by removing c. 30,000m³ of material in the next year (2022). It is recommended that if permission is granted that a special financial contribution be attached by way of condition to contribute towards these works.

The applicants FRA notes that while the majority of the site is located within a defended area, there is a residual risk of defence failure or overtopping. Therefore, the development will be built to a minimum finished floor level of 3.42mAOD which would mitigate against the residual risk.

It is acknowledged that the SFRA carried out as part of the Draft development plan considers the Duckspool area to be undefended. However, it is noted that there is an existing flood defence wall and that the OPW CFRAM mapping considers the site to be defended. It is also noted that a new 900mm culvert was installed under the R675 in 2019. Therefore, the predicated flood water levels at the subject site are lower than those predicated in the OPW's CFRAM model. Notwithstanding the level of protection afforded via the existing flood defence measures it is noted that the applicant have incorporated mitigation measures to ensure that if the defence measures fail the proposed development would be reasonably protected.

It is my view that adequate measures have been provided as part of the development to ensure that residual risks to the area and the development can be managed to an acceptable level. It is also noted that the planning authority's Roads Department raised no objection in principle to the information provided in the applicants FRA or the principle of the proposed development.

With regard to implementation and funding of any future flood risk management measures it is recommended that if permission is granted that a special financial contribution be attached to contribute towards the fluvial storage works proposed adjacent to the site, as recommended by the planning authority's Roads Department and attached as recommended condition no. 8.

The proposed application is considered to be in accordance with criteria 2(iii).

(iv) The development proposed addresses the above in a manner that is also compatible with the achievement of wider planning objectives in relation to development of good urban design and vibrant and active streetscapes

The proposed development is located on zoned and adequately serviced land and is contiguous to existing residential developments in the Duckspool areas and c. 2km east of Dungarvan Town Centre. It is my opinion that the proposed development contributes to the wider objective of consolidating the urban environment and incorporates high quality urban design which would support and enhance this suburban development of the Duckspool area. The proposed application is considered to be in accordance with criteria 2(iv).

- 10.6.11. It is my opinion that the proposed development satisfies each of the criteria set out in the justification test, in this regard the site is zoned for a mix of town centre uses and contributes to the wider objective of consolidating the urban environment. The scheme has also been subject to a site specific FRA. The FRA includes a number of flood mitigation measures, in particular it is noted that the finished floor levels of the development would be raised above the estimated 1 in 1000 year flood level, in this regard c. 3.42mAOD and no development would occur within 10m of the southern or eastern site boundaries, adjacent to the watercourse. Having regard to the information submitted I am satisfied that the proposed arrangements would not result in a potential flood risk within the site or to any adjoining sites and I am satisfied that there are no infrastructural aspects to the proposed development that present any conflicts or issues to be clarified.
- 10.6.12. The planning authority also raised concerns regarding the applicant's failure to deal with the land located to the south west of the subject site and within the applicant's ownership. The planning authority consider that due to its low level, propensity to flooding and isolated nature means it is of no amenity value and is of low to no ecological value. However, this site does not form part of the proposed development and the proposed development does not rely on the development of this site. It is also noted that the proposed development does not impede the development potential of the adjacent site.
- 10.6.13. Third parties and the planning authority also note that the current residential zoning objective as per the Dungarvan Town Plan 2021 – 2018 (as extended) was not subject to a Strategic Flood Risk Assessment and, therefore, did not pass the plan making justification test. While this is noted, the subject application is assessed against the existing statutory plans, which have zoned the site as suitable for residential development. It is also noted that the DTDP had regard to the Flood Risk Guidelines and recommended that each site be subject to a site specific flood risk assessment. Having regard to the information outlined above, which notes the provision of a flood defence wall, the new 900mm Culvert under the R675 and the improvements to surface water management proposed by 2022, it is my view that the proposed flood risk should be assessed on its merits. It also noted that the Dungarvan area is listed as one of the settlements to benefit from the OPW's 10 year investment programme.

10.7. Ecology

10.7.1. The majority of third party submissions raised concerns regarding the impact of the proposed development on ecology. The concerns regarding qualifying interests of Dungarvan SPA, are addressed in detail in the Appropriate Assessment Section below. In addition to concerns raised regarding the impact on wintering birds, concerns were also raised regarding the bat, mammal and amphibian surveys carried out.

10.7.2. **Bats:** A bat survey was carried out on the 20th September 2020. This is considered be an appropriate period to carry out a bat survey. A Bat Fauna Assessment is provided as appendix 2 of the EclA. No evidence of bat roosts were found within the site. However, it is considered that a number of trees within the site are of bat roosting potential. Foraging activity for activity of a soprano pipistrelle and Leisler bat were noted in the proximity of the treeline area. The proposed development does not include significant tree removal. However, if permission is granted it is recommended that a pre-construction bat survey be carried out, and appropriate bat mitigation measures provided for.

10.7.3. **Mammals:** A field survey was carried out on the 30th December 2019 and an additional mammal assessment was carried out on the 13th March 2020. This is considered be an appropriate period to carry out a mammal survey. No mammal activity was noted on site. No badgers or badger activity was noted on site. Otter activity was not noted on site. However, it is noted that their presence may be possible due to the proximity of the watercourse. No hedgehogs were seen during the site visit. However, it is noted that they may be present. No protected terrestrial mammals were noted on site or in the vicinity of the site. It is recommended that if permission is granted that a pre-construction survey for mammal activity be carried out, and as applicable mitigation measures employed.

10.7.4. **Amphibians:** Site surveys were carried out on the 30th December 2019 and the 20th September 2020. This is considered be an appropriate period to carry out a survey. The common frog, lizard or smoot newt were not observed on site. However, having regard to the drainage ditches within the site it is considered that frogs may be present on site. It is considered that impacts on amphibian and reptilian species will not be of significance, as only common and widespread species are present. However, it is

recommended that if permission is granted that a pre-construction survey be carried out, and as applicable mitigation measures employed.

- 10.7.5. In addition to the pre-construction surveys, the EclA sets out a number of mitigation measures to protect ecology within the site. The measures include retention of hedgerows and trees where possible, provision of wildlife corridors to provide additional shelter, provision of a project ecologist and controlled lighting spill.
- 10.7.6. The concerns of the third parties are noted, however, having regard to the contents of the Ecological Impact Assessment, which is evidence based and robust, it is my view that sufficient information has been submitted to fully assess the impact of the development and it is considered that the proposed development would not have a significant negative impact on the biodiversity of the site.

10.8. ***Housing Tenure / Part V***

- 10.8.1. Section 8 of the applicants Planning Report states that it is proposed to provide 20 no. units, which equates to 10% of the total number of units, under Part V. Appendix 4 includes a Part V agreement from the planning authority regarding the proposed number and location of these 20 no. units. It is noted that no concerns are raised by the planning authority or third parties regarding the proposed Part V arrangements.
- 10.8.2. Notwithstanding this, Policy H5 of the development plan requires a 20% quota of social and / or affordable housing to be provided within housing developments on residentially zoned lands. It is further noted that the Affordable Housing Act, 2021 requires that land purchased on or after the 1st of August 2021 or prior to September 2015 must have a 20% Part V requirement. In this regard at least half of the Part V provision must be used for social housing. The remainder can be used for affordable housing, which can be affordable purchase, cost rental or both.
- 10.8.3. Subject to the provisions of the Regulation of Commercial Institutional Investment in Housing Guidelines, I have no objection to the ratio of social / affordable / private housing provided within the site and consider that this is an agreement to be reached between the local authority and the developer. As such, I am satisfied that it would be appropriate to attach a condition to any grant of permission that the final details of the Part V provision be agreed with the planning authority.

10.9. Material Contravention

- 10.9.1. As outlined above the proposed development would materially contravene the residential density standards set out in Section 3.3.4 of Variation 1 of the Waterford County Development Plan 2011-2017 and the Dungarvan Town Development Plan 2012 – 2018. The applicants Material Contravention Statement submitted with the application addresses and provided a justification for the material contravention.
- 10.9.2. Section 3.3.4 of Variation 1 provides general density advice, in this regard it notes that R2: Residential Low lands are to be developed at a density of 10 units per ha. No density standard for lands zoned R3: Residential Phased are provided. I would agree with the applicant's assumption that while no density standard is provided it is expected that the 10 units per hectare standard would apply to R3 lands. The proposed scheme has a density of 36.2 units per ha, when the creche site is excluded. Therefore, the proposed development exceeds the 10 unit per ha standard set out in variation 1.
- 10.9.3. Section 37(2)(b) of the Planning and Development Act, 2000 (as amended) states that where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with *paragraph (a)* where it considers that: -
- (i) the proposed development is of strategic or national importance,
 - (ii) there are conflicting objectives in the development plan, or the objectives are not clearly stated, insofar as the proposed development is concerned, or
 - (iii) permission for the proposed development should be granted having regard to the regional spatial and economic strategy for the area, guidelines under *section 28*, policy directives under *section 29*, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
 - (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

10.9.4. Having regard to the characteristics of the proposed development, Section 37 (2) (b) (i) and (iii) are considered relevant in this instance.

10.9.5. **Section 37 (2) (b)(i)**

The subject site has an area of 8.62ha and would deliver 218 no. residential units c. 2km from Dungarvan town centre. The site's location is contiguous to the development area of Dungarvan and would support the consolidation of the urban environment as outlined in within the National Planning Framework and the Regional Spatial and Economic Strategy.

During the lifetime of the DTDP and the development plan (as extended) permission has been secured on 10 no. sites, as outlined in Appendix 1 of the applicants Land Use Zoning Justification Report. To date works have commenced or completed on 5 no. sites. These sites have a yield of 290 no. residential units. The proposed development would provide an additional 218 no. units (and as amended by way of recommended condition, 209 units), which would support the population growth and number of units envisioned in the statutory plans.

It is, therefore, considered that this scheme is critical and integral to the success of national and regional policy, in addressing both housing and homelessness in the county and consolidating the urban environment. The proposed material contraventions are, therefore, justified by reference to section 37(2)(b)(i) of the act.

10.9.6. **Section 37(b)(iii)**

The Building Height Guidelines, set out standards for developments in the context of greater evidence and knowledge of current and likely future housing demand in Ireland taking account of the Housing Agency National Statement on Housing Demand and Supply, the Government's action programme on housing and homelessness Rebuilding Ireland and Project Ireland 2040 and the National Planning Framework. Accordingly, where Specific Planning Policy Requirements (SPPRs) are stated, they take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes.

SPPR 4 states that it is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure: (1) the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), titled “Sustainable Residential Development in Urban Areas (2007)” or any amending or replacement Guidelines; (2). a greater mix of building heights and typologies in planning for the future development of suburban locations; and (3). avoid mono-type building typologies (e.g. two storey or own-door houses only), particularly, but not exclusively so in any one development of 100 units or more.”

Section 5.11 of the Sustainable Residential Development in Urban Area guidelines states that for outer suburban / ‘Greenfield’ sites the greatest efficiency in land usage would be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare and such densities, involving a variety of housing types where possible, should be encouraged generally. Circular NRUP 02/2021 states that while the Sustainable Residential Development Guidelines clearly encourage net densities in the 35-50 dwellings per hectare...net densities of less than 30 dwellings per hectare, although generally discouraged, are not precluded in large town locations. The circular further states that given the very broad extent of this range and variety of urban situations in Ireland, it is necessary for An Bord Pleanála and Planning Authorities to exercise discretion in the application and assessment of residential density at the periphery of large towns, particularly at the edges of towns in a rural context

I am of the opinion that this particular area can accommodate the increased density proposed and should not be subject to a ‘blanket numerical limitation’. The design proposed has taken full account of its setting with a variety of units typologies located throughout the scheme. The number (218) of units proposed will assist in achieving national policy objectives for significantly increased housing delivery in an urban area.

Furthermore, having regard to the 8.62ha size of the site and its location contiguous to the urban area and immediately adjacent to 2 no. schools it is considered to be able to accommodate increased density, over that prescribed in Variation 1.

I am of the opinion that the layout of the units results in a high quality and coherent scheme with wider benefits such as the pedestrian link to the adjacent Tournore estate and the delivery of housing units which would support the consolidation of the urban environment in accordance with national and regional policy objectives.

In conclusion, I am satisfied that the proposed material contravention to density can be granted with respect to section 37(b)(2)(iii), having regard to SPPR4 of the Urban Development and Building Heights Guidelines, 2018.

- 10.9.7. Planning authority also considered that the proposed development would contravene the R3 zoning objective, which covers 18,142 sqm or 30.1% of the developable area of the site. The applicant's material contravention statement also addressed and justified the proposed development on Phase 3 lands.
- 10.9.8. The land use objective for R3 land as outlined in The Dungarvan Town Development Plan and the Waterford County Development Plan is *to reserve land for future sustainable residential development*, and it is acknowledged that it is envisioned in both plans that these R3 lands would not be developed in the lifetime of the plan and would be reserved for future development. However, both the Waterford County Development Plan and the Dungarvan Town Development Plan state that R3 (phased) lands may be reviewed by the Planning Authority over the lifetime of the Plan where specific need arises. This shall be subject to the availability and capacity of services and where R1 and R2 lands have been developed /or committed to development by way of a grant of planning permission.
- 10.9.9. As outlined above there are a limited number of extant permissions on R1 or R2 lands within Dungarvan and it is considered unlikely that the number of units or the population growth as envisioned in the Dungarvan Town Development Plan and the Waterford County Development Plan would be achieved by 2022. The zoning of land and planning permission alone, does not necessarily guarantee delivery of residential units and / or population growth in accordance with projected, targeted timeframes and that attention should be paid to the delivery of housing. In my opinion the long term development potential of this residentially zoned site should not be reliant on other sites being brought forward. Therefore, to reach the population targets as set out in the core strategy of both the Waterford County Development Plan and the Dungarvan Town

Development Plan it is my view that the consideration of this particular site for development is appropriate in this instance.

10.9.10. It is noted that the site is contiguous to existing residential estates, is located immediately adjacent to 2 no. schools and commercial units and is in close proximity (2km) to a variety of services and facilities in Dungarvan town centre. It is, therefore, my view that the subject scheme represents the sequential development of Dungarvan.

10.9.11. In conclusion, it is my opinion that having regard to the flexibility in the wording of both the Dungarvan Town Development Plan and the Waterford County Development, which allows for the consideration of development of R3 zoned lands, that the development of R3 lands is not a material contravention and should be assessed on its merits.

10.9.12. **Conclusion**

Having regard to the provisions of Section 37 (2) (b) of the Planning and Development Act, 2000 (as amended), I consider that a grant of permission, that may be considered to material contravene Variation 1 of the Waterford County Development Plan 2011-2017 (as extended) and the Dungarvan Town Development Plan 2021 – 2018 (as extended), would be justified in this instance under sub sections (i) and (iii) having regard to the Planning and Development (Housing) and Residential Tenancies Act 2016, by government's policy to provide more housing, as set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, the National Planning Framework, 2018, the Regional and Economic Strategy for the Southern Region, Urban Development and Building Heights Guidelines, 2018 and Sustainable Residential Development in Urban Areas (2009).

10.10. **Chief Executives Recommendation**

10.11. As noted above the planning authority recommended that permission be refused for 4 no. reasons. In the interest of clarity, the reasons for refusal are addressed outlined below.

10.11.1. **Flooding**

The planning authority's first recommended reason for refusal considered that the proposed residential development would be at risk of future flooding or that the proposed development would exacerbate flooding in the area. However, it is noted that the planning authority's Roads Department who have responsibility for water services raised no objection in principle to the proposed development.

It is acknowledged that the majority of the site is located within a flood zone. However, the subject site is zoned and adequately serviced, is located sequential to the urban area and contributes to the wider objective of consolidating the urban environment.

A Site Specific Flood Risk Assessment was submitted with the application which is in accordance with the DTDP. In my view the information provided in the FRA is robust and evidence based. The FRA details how compensatory storage would be provided within the site. The FRA includes a number of flood mitigation measures, in particular it is noted that the finished floor levels of the development would be raised above the estimated 1 in 1000 year flood level, in this regard c. 3.42mAOD and no development would occur along the southern or eastern site boundaries, adjacent to the watercourse.

In forming my opinion, regard was also had to the existing flood defence wall at the R675 to the east of the subject site, the provision of a new 900mm culvert under the R675 in 2019, the proposed improvements to surface water management in the vicinity of the site by the local authority and that Dungarvan is listed as one of the settlements to benefit from the OPW's 10 year investment programme.

It is my opinion that the proposed development satisfies each of the criteria set out in the justification test for development management in the Flood Risk Guidelines. Therefore, having regard to the information submitted I am satisfied that the proposed arrangements would not result in a potential flood risk within the site or to any adjoining sites.

In conclusion, I am satisfied that there are no aspects to the proposed development that present any conflicts or issues to be clarified.

10.11.2. **Appropriate Assessment / Ecology**

The planning authority's second recommended reason for refusal considered that the applicant has failed to robustly demonstrate beyond scientific doubt based on the available evidence that the development would not constitute an adverse impact on the Dungarvan Harbour SPA Brent Goose population. These species are of qualifying interest and any negative impact on same would negatively impact on the conservation objectives of the SPA itself.

It is acknowledged that the subject site is an important ex-situ site for Light Bellied Brent Geese and other qualifying interests of the SPA. However, as outlined below in the Appropriate Assessment section, I am satisfied that the loss of 7.4 ha of ex-situ habitat (which excludes the 1.2ha ecological buffer zone / Open Space 7) will have no adverse impact on the conservation objective attributes of "distribution" and "population trend" of the qualifying species recorded at the proposed development site. I am also satisfied that there is sufficient capacity within the ex-situ network to accommodate any increase in number of wintering birds, based on the evidence provided within the application.

In conclusion I am satisfied that the applicant has demonstrated beyond scientific doubt based on the available evidence that the development would not constitute an adverse impact on the Dungarvan Harbour SPA or any of its qualifying interests.

10.11.3. **Phasing**

The planning authority's third recommended reason for refusal considered Residential Phased / R3 zoned lands represent a strategic reserve of lands which may be zoned for residential use in future Development Plans, if the specific need arises and all R1 and R2 zoned lands have been developed or committed and the lands are serviceable by the public services / infrastructure. Owing to the availability of suitably zoned residential lands the proposed development would be out of sequence and premature pending the completion of the current Waterford County Development Plan Review.

It is acknowledged that c 30% of the subject site is zoned R3. However, having regard to the limited number of extant planning permissions in Dungarvan, it is my view that it is unlikely that the number of units or the population growth as envisioned in the

DTDP and in the Development Plan would be achieved by 2022. The zoning of land and planning permission alone, does not necessarily guarantee delivery of residential units and / or population growth in accordance with projected, targeted timeframes and that attention should be paid to the delivery of housing. In my opinion the long term development potential of this residentially zoned site should not be reliant on other sites being brought forward. Therefore, to reach the population targets as set out in the core strategy of both the Waterford County Development Plan and the DTDP it is my view that the consideration of this particular site for development is appropriate in this instance.

In addition, it is noted that the site is contiguous to existing residential estates of Cluain Garbhan to the north, Sallybrook to the south and Tournore west. The subject site is zoned for residential uses, is adequately serviced, is located immediately adjacent to 2 no. schools and commercial units and is in close proximity (2km) to a variety of services and facilities in Dungarvan town centre. It is, therefore, my view that the subject scheme represents the sequential development of Dungarvan.

In conclusion, I am satisfied that the development of R3 lands is acceptable in this instance.

10.11.4. Design Strategy

The planning authority's fourth recommended reason for refusal considered that due to the proposed density and resultant site layout, design and height and the existing / proposed site levels, the development does not represent an acceptable design response for the subject site with concerns regarding in particular, the existing character of the area, the quality of the public open space proposed and impacts on the wider amenities of the area. The proposal would have a negative impact on the visual and residential amenities of the area and as such the subject development would therefore set an undesirable precedent for a similar type of development on the periphery of Dungarvan.

While the concerns of the planning authority regarding the design strategy for the scheme are noted it is my opinion that having regard to the existing pattern of the development in the immediate vicinity of the site, the size of the site and the proximity to the urban area, that subject to the recommended conditions outlined above, the

proposed density, design layout and height of the scheme is appropriate in this context and would not negatively impact on the visual amenities of the area.

In conclusion I am satisfied that the proposed development represents a reasonable response to its context and is acceptable in this instance.

11.0 **Environmental Impact Assessment**

11.1. The applicant has addressed the issue of Environmental Impact Assessment (EIA) within an EIA Screening Report, and I have had regard to same in this screening assessment. This report contained information to be provided in line with Schedule 7 of the Planning and Development Regulations 2001. The EIA screening report submitted by the applicant, identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

11.2. Class 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and section 172(1)(a) of the Planning and Development Act 2000, as amended provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:

- Construction of more than 500 dwelling units
- Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

11.3. Class 14 relates to works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

11.4. It is proposed to construct a 218 no. residential units and a creche on a site with a stated area of 8.62ha. The site is located on a greenfield site contiguous to the urban area of Dungarvan (other parts of a built up area). The site is, therefore, below the applicable threshold of 10ha. There no demolition works proposed. There are limited excavation works and it is noted that no basement is proposed. Having regard to the relatively limited size and the location of the development, and by reference to any of the classes outlined above, a mandatory EIA is not required. I would note that the development would not give rise to significant use of natural resources, production of

waste, pollution, nuisance, or a risk of accidents. The site is not subject to a nature conservation designation. The proposed development would use the public water and drainage services of Irish Water and Waterford City and County Council, upon which its effects would be marginal. An NIS was submitted with the application. The Appropriate Assessment / NIS, noted that the proposed development individually or in combination with other plans and projects would not adversely affect the integrity of the European Sites can be excluded and that associated environmental impacts on these sites, by reason of loss of protected habitats and species, can, therefore, be ruled out.

11.5. Section 299B (1)(b)(ii)(II)(A) of the regulations states that the Board shall satisfy itself that the applicant has provided the information specified in Schedule 7A. The criteria set out in schedule 7A of the regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment that could and should be the subject of environmental impact assessment. The applicant has not directly addressed the criteria set out in Schedule 7A. However, it is my view that sufficient information has been provided within the EIA Screening Report to determine whether the development would or would not be likely to have a significant effect on the environment.

11.6. Section 299B (1)(b)(ii)(II)(B) states that the Board shall satisfy itself that the applicant has provided any other relevant information on the characteristics of the proposed development and its likely significant effects on the environment. The various reports submitted with the application address a variety of environmental issues and assess the impact of the proposed development, in addition to cumulative impacts with regard to other permitted developments in proximity to the site, and demonstrate that, subject to the various construction and design related mitigation measures recommended, the proposed development will not have a significant impact on the environment. I have had regard to the characteristics of the site, location of the proposed development, and types and characteristics of potential impacts and all other submissions. I have also considered all information which accompanied the application including inter alia:

- Architectural Design Statement
- Landscape and Visual Impact Assessment

- Landscape Design rationale
- Site Specific Flood Risk Assessment
- Engineering Services Report
- Environmental Impact Assessment Screening Report
- Appropriate Assessment Screening and Natura Impact Statement
- Ecological Impact Assessment
- Traffic Impact Assessment
- Planning Report and Statement of Consistency
- Operational Waste Management Plan
- Construction and Demolition Waste Management Plan
- Construction and Environmental Management Plan
- Site Investigation Report

11.7. Noting the requirements of Section 299B (1)(b)(ii)(II)(C), whereby the applicant is required to provide to the Board a statement indicating how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account I would note that the following assessments / reports have been submitted: -

- A Site-Specific Flood Risk Assessment that addresses the potential for flooding having regard to the OPW CFRAMS study which was undertaken in response to the EU Floods Directive.
- An AA Screening Statement and NIS in support of the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC) have been submitted with the application.
- A Preliminary Construction and Demolition Waste Management Plan has been submitted which was undertaken in accordance with the Waste Management Act, 1996 and associated regulations, Litter Act 1997 and the Eastern -Midlands Region (EMR) Waste Management Plan 2015-2021.

- 11.8. The applicants EIA Screening Report, under the relevant themed headings, considered the implications and interactions between these assessments and the proposed development, and as outlined in the report states that the development would not be likely to have significant effects on the environment. I am satisfied that all relevant assessments have been identified for the purpose of EIA Screening.
- 11.9. I have completed an EIA screening determination as set out in Appendix A of this report. I consider that the location of the proposed development and the environmental sensitivity of the geographical area would not justify a conclusion that it would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects the impact of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency, or reversibility. In these circumstances, the application of the criteria in Schedule 7 to the proposed sub-threshold development demonstrates that it would not be likely to have significant effects on the environment and that an environmental impact assessment is not required before a grant of permission is considered. This conclusion is consistent with the information provided in the applicant's EIA Screening Report.
- 11.10. A Screening Determination should be issued confirming that there is no requirement for an EIAR based on the above considerations.

12.0 **Appropriate Assessment**

- 12.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U and section 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section. The areas addressed in this section are as follows:
- Compliance with Article 6(3) of the EU Habitats Directive
 - Screening the need for appropriate assessment
 - The Natura Impact Statement and associated documents
 - Appropriate Assessment of implications of the proposed development on the integrity each European site

12.2. **Compliance with Article 6(3) of the Habitats Directive**

- 12.2.1. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).
- 12.2.2. The applicant has submitted a Screening Report for Appropriate Assessment and a Natura Impact Statement (NIS) as part of the planning application. They have been prepared by Altemar Marine and Environmental Consultancy. The Stage 1 AA Screening Report provides a description of the proposed development and identifies European Sites within a possible zone of influence (in this case 15km radius) of the development. The AA screening report concludes that acting on a strictly precautionary basis, an NIS is required in respect of the effects of the project on the Dungarvan Harbour SPA only.
- 12.2.3. Having reviewed the documents and submissions, I am satisfied that the information allows for a complete examination and identification of all the aspects of the project that could have an effect, alone, or in combination with other plans and projects on European sites.

12.3. **Screening for Appropriate Assessment - Test of likely significant effects**

- 12.3.1. The project is not directly connected with or necessary to the management of a European Site and, therefore, it needs to be determined if the development is likely to have significant effects on a European site(s).
- 12.3.2. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection

Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

12.4. Brief Description of the Development

- 12.4.1. The applicant provides a description of the project in the Stage 1 Screening Assessment (page 4). It is noted that the subject site comprises 8.6ha of greenfield land at Duckspool, Dungarvan. It is located c. 100m from Dungarvan Harbour SPA and the site is surrounding on 3 sides by drainage ditches / watercourse which run to the SPA. The site has also been observed to be a foraging area for overwintering Brent Geese, black tailed godwit, curlew, golden plover, grey plover and redshank, all of which are qualifying interests of Dungarvan Harbour SPA.

12.5. Submissions and Observations

- 12.5.1. The submissions and observations from the Local Authority, Prescribed Bodies, and third parties are summarised in sections 7, 8 and 9 of this Report. A number of objections referred to ecological and AA concerns.
- 12.5.2. The Planning Authority's second recommended reason for refusal considers that the NIS and Ecological Impact Assessment failed to robustly demonstrate beyond scientific doubt based on the available evidence that the development would not constitute an adverse impact on the Dungarvan Harbour SPA Brent Goose population. These species are of qualifying interest and any negative impact on them would negatively impact on the conservation objectives of the SPA itself. The report of the planning authority's Heritage Officer also recommends that in the context of the current Biodiversity Loss and Climate Change Emergency the proposed development should be refused on the basis of the sites proximity to roosting mudflats in the SPA and to Policy N6 of the development plan to conserve the favourable conservation status of species and habitats within the SPA. However, I would note the Heritage Officer has not submitted evidence or clarity as to this potential impact, and I note that the DAU do not appear to express concern regarding direct impact to the roosting mudflats in the SPA, but rather focus on the loss of one of the ex-situ sites.
- 12.5.3. The submission from the DAU considered that the NIS as submitted has not established beyond reasonable scientific doubt based on available evidence that the development would not constitute an adverse impact on the Dungarvan Harbour SPA

Brent Goose population by reason of loss of an ex-situ site. The submission also accepts that if it became the case that a greater range of high quality terrestrial foraging sites adjoining the SPA began to be regularly used in significant quantity by the Brent Goose population then this would change the Department's view of the proposal.

12.5.4. The third party submissions also raised a number of concerns regarding the potential negative impact that the proposed development would have on brent geese and other wildlife currently using the site. It is considered that the precautionary principle should be adopted, and the application refused permission.

12.5.5. In my opinion, having regard to the information submitted in the applicants Screening Statement for Appropriate Assessment and the Natural Impact Assessment, sufficient information has been submitted to allow for a full assessment of the impact of the proposed development on designated sites and to allow for a reasoned determination to be issued, which is outlined below.

12.6. **European Sites**

12.6.1. The development site is not located in a European site. While the proposed development site is not located immediately adjacent to a European site, it is c. 100m from Dungarvan Harbour SPA.

12.6.2. A summary of European Sites that occur within a possible zone of influence (15km) of the proposed development is presented in the table below.

<i>European Site</i>	<i>Site Code</i>	<i>Distance</i>
Dungarvan Harbour SPA	004032	100m
Helvick Head to Ballyquin SPA	004192	5.8km
Mid-Waterford Coast SPA	004193	5.8km
Glendine Wood SAC	002324	1.8km
Helvick Head SAC	000665	5.8km
Blackwater River (Cork / Waterford) SAC	002170	7.7km
Comeragh Mountains SAC	001952	8.5km

12.6.3. Table 2 of the applicant's Screening Assessment lists the Identification and Assessment of Likely Significant Effects on Natura 2000 Sites within the Precautionary Zone of Influence of the Proposed Development (15km). The features of the proposed development that have the potential to directly or indirectly impact on the qualifying interests and/or conservation objectives of the 3 no. SPA's and 4 no. SACs are located within the precautionary zone of influence are detailed. The table below summarises the findings of Table 2 of the Screening Report with respect to the sites and the features of the development that have potential for likely significant effect and for which I concur with.

<i>European Site</i> <i>Site Code</i>	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)	Connections (source, pathway receptor)	Considered further in screening Y/N
Dungarvan Harbour SPA (004032)	Great Crested Grebe (Podiceps cristatus) [A005] Light-bellied Brent Goose (Branta bernicla hrota) [A046] Shelduck (Tadorna tadorna) [A048] Red-breasted Merganser (Mergus serrator) [A069] Oystercatcher (Haematopus ostralegus) [A130] Golden Plover (Pluvialis apricaria) [A140] Grey Plover (Pluvialis squatarola) [A141] Lapwing (Vanellus vanellus) [A142]	0.1km	Yes, via surface water networks, drainage ditches and watercourses on site. Indirect hydrological link via the proposed foul drainage network / Dungarvan WWTP. The site is used as a foraging area for overwintering birds.	Yes

	<p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Wetland and Waterbirds [A999]</p>			
<p>(Helvick Head to Ballyquin SPA (004192))</p>	<p>Cormorant (<i>Phalacrocorax carbo</i>) [A017]</p> <p>Peregrine (<i>Falco peregrinus</i>) [A103]</p> <p>Herring Gull (<i>Larus argentatus</i>) [A184]</p> <p>Kittiwake (<i>Rissa tridactyla</i>) [A188]</p> <p>Chough (<i>Pyrrhocorax pyrrhocorax</i>) [A346]</p>	5.8km	Indirect hydrological link via the proposed foul and surface water network.	No
<p>(Mid-Waterford Coast SPA (004193))</p>	<p>Cormorant (<i>Phalacrocorax carbo</i>) [A017]</p> <p>Peregrine (<i>Falco peregrinus</i>) [A103]</p> <p>Herring Gull (<i>Larus argentatus</i>) [A184]</p> <p>Chough (<i>Pyrrhocorax pyrrhocorax</i>) [A346]</p>	5.8km	Indirect hydrological link via the proposed foul and surface water network.	No

Glendine Wood SAC (002324)	Trichomanes speciosum (Killarney Fern) [1421]	1.8km	No	No
Helvick Head SAC (000665)	Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] European dry heaths [4030]	5.8km	Indirect hydrological link via the proposed foul and surface water network.	No
Blackwater River (Cork / Waterford SAC (002170)	Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Perennial vegetation of stony banks [1220] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glaucopuccinellietalia maritima) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260] Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0] Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]	7.7km	Indirect hydrological link via the proposed foul and surface water network.	No

	<p><i>Austropotamobius pallipes</i> (White-clawed Crayfish) [1092]</p> <p><i>Petromyzon marinus</i> (Sea Lamprey) [1095]</p> <p><i>Lampetra planeri</i> (Brook Lamprey) [1096]</p> <p><i>Lampetra fluviatilis</i> (River Lamprey) [1099]</p> <p><i>Alosa fallax fallax</i> (Twaite Shad) [1103]</p> <p><i>Salmo salar</i> (Salmon) [1106]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p> <p><i>Trichomanes speciosum</i> (Killarney Fern) [1421]</p>			
<p>Comeragh Mountains SAC (001952)</p>	<p>Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110]</p> <p>Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitricho-Batrachion</i> vegetation [3260]</p> <p>Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010]</p> <p>European dry heaths [4030]</p> <p>Alpine and Boreal heaths [4060]</p> <p>Blanket bogs (* if active bog) [7130]</p> <p>Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>) [8110]</p>	8.5km	No	No

	Calcareous rocky slopes with chasmophytic vegetation [8210] Siliceous rocky slopes with chasmophytic vegetation [8220] Hamatocaulis vernicosus (Slender Green Feather-moss) [6216]			
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- 12.6.4. As outlined in the table above, it is considered that 6 no. designated sites can be screened out from further assessment. Glendine Wood SAC (002324) and Comeragh Mountains SAC (001952) have been screened out due to the nature of the qualifying interests of sites and the lack of hydrological connections.
- 12.6.5. Blackwater River (Cork / Waterford) SAC, Helvick Head SAC, Mid-Waterford Coast SPA and Helvick Head to Ballyquin SPA have also been screened out. It is noted that there is a potential for an interrupted and distant hydrological link to these 4 no. designated sites from the proposed development, via surface water which drains to the existing drainage ditches and the watercourse on site and via the foul wastewater from the proposed development, which would discharge to the existing public network and be treated in Barnawee Wastewater pumping station.
- 12.6.6. It is considered that there is nothing unique or particularly challenging about the proposed urban development, either at construction or operational phase. The habitats and species of these 4 no. Natura 2000 sites at Blackwater River (Cork / Waterford) SAC, Helvick Head SAC, Mid-Waterford Coast SPA and Helvick Head to Ballyquin SPA are between 5.8km and 7.7km from the subject site and water quality is not a target for the maintenance of any of the QI's within the designated sites. During the construction phase, standard pollution control measures would be put in place. Pollution control measures during both construction and operational phases are standard practices for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. In the event that the pollution control and surface water treatment measures were not implemented or failed I am satisfied that the potential for likely significant effects on the qualifying interests of Natura 2000

sites from surface water run off can be excluded given the distant and interrupted hydrological connection, the nature and scale of the development and the distance and volume of water separating the application site from Natura 2000 sites (dilution factor).

- 12.6.7. The submission from Irish Water notes that in order to accommodate a wastewater connection, the proposed development is subject the upgrading and provision of additional storage at Barnawee Wastewater pumping station. The applicants Engineering Services Report acknowledges that required upgrades and includes the confirmation of feasibility issued by Irish Water which states that as an alternative to or supplementary to the upgrade at the pump station it may be possible to sufficiently reduce the hydraulic load on the network by offsetting or reducing the requirement to provide additional storage. The report also includes correspondence from Waterford City and County Council stating they have no objection to works been undertaken to remove storm water from the wastewater system serving Barnawee Pumping Station, which would increase the capacity. It is my view that subject to increased capacity at the pump station, from either upgrade works or a removal of surface water that the proposed development could be accommodated. It is also considered that having regard to the relatively limited number of residential units proposed, that the foul discharge from the site would be insignificant in the context Barnawee, and thus its impact on the overall discharge would be negligible.
- 12.6.8. The Construction and Demolition Waste Management Plan, the Construction and Environmental Management Plan and the Operational Waste Management Plan submitted with the application state that all waste from the construction phase and the operational phase would be disposed of by a registered facility.
- 12.6.9. It is evident from the information before the Board that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on Glendine Wood SAC (002324) and Comeragh Mountains SAC (001952), Blackwater River (Cork / Waterford) SAC (002170), Helvick Head SAC (000665), Mid-Waterford Coast SPA (004193) and Helvick Head to Ballyquin SPA (004192). I am satisfied, and concur with the applicant, that there is no potential for likely significant effects on these 6 no. designated sites and they can, therefore, be screened out from further assessment.

12.6.10. I concur with the AA Screening Report that further assessment is required for Dungarvan Harbour SPA. It is considered that the proposed development could result in likely significant effects in relation to: -

- The possibility of discharge / run off of surface waters containing sediment, silt, oils and / or other pollutants during the construction phase from the proposed development site to the SPA which has the potential to impact relevant qualifying interest.
- The loss of know ex-situ inland feeding site for qualifying interests including Light Bellied Brent Geese, Black-tailed Godwit, Curlew, Golden Plover, Lapwing, Grey Plover and Redshank.

12.6.11. The applicant's Screening Report also considers there to be a potential indirect hydrological link to the SPA from the proposed foul water network. As noted above foul wastewater from the site would discharge to the public network and would be treated at Barnawee Pump House. It is my view that the foul discharge from the site would be insignificant in the context of the overall licenced discharge, and thus its impact on the overall discharge would be negligible.

12.6.12. The possibility for in-combination effects has also been considered in the Screening Report, with regard to the current application for a development to the north of the subject site. As the potential for likely significant effects has been identified arising from the project alone, in combination effects are considered in more detail in the assessment below.

12.7. **Screening Determination**

12.7.1. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in-combination with other plans or projects could have a significant effect on European Sites, Dungarvan Harbour SPA (004032), in view of the site's Conservation Objectives, and Appropriate Assessment and submission of a NIS is, therefore, required.

12.7.2. The possibility of significant effects on other European sites has been excluded on the basis of objective information. The following European sites have been screened out for the need for appropriate assessment:

- Glendine Wood SAC (002324)
- Comeragh Mountains SAC (001952)
- Blackwater River (Cork / Waterford) SAC (002170)
- Helvick Head SAC (000665)
- Mid-Waterford Coast SPA (004193)
- Helvick Head to Ballyquin SPA (004192)

12.8. **The Natura Impact Statement**

12.8.1. The application included a NIS which examines and assesses the potential adverse effects of the proposed development on Dungarvan Harbour SPA (004032). It was prepared in line with current best practice guidance and provides an assessment of the potential impacts to the designated sites and an evaluation of the mitigation measures proposed.

12.8.2. The NIS evaluates the potential for direct, indirect effects along or in combination with other plans and projects having taken into account the use of mitigation measures. The NIS utilises existing bird surveys available from the NPWS and the wintering bird survey carried out as part of the application which is attached as Appendix 1 of the NIS. The planning authority, the DAU and some third parties raised concerns regarding content of the NIS, this is addressed below where appropriate.

12.8.3. A summary of the Dungarvan Harbour SPA is provided in the NIS, which includes its qualifying interests and conservation objectives.

12.8.4. The NPWS Conservation Objectives Supporting Documentation (2011) for the Dungarvan Harbour SPA includes details of a survey carried out in 2009 / 2010 wintering bird season. It is noted that the subject site was not included in this survey as it was not listed as an ex-situ terrestrial foraging site at this time. Details of wintering bird surveys for the Dungarvan Environs over the period from 2009/2010 to 2015/2016

are also provided in Table 3 of the NIS. This is perhaps indicative of the transient and adaptable foraging/use of feeding habitats of these wintering birds.

- 12.8.5. On behalf of the applicant a comprehensive programme of Wintering Bird Surveys (WBS) were carried out within the subject site and the wider Dungarvan Area between January 2020 – March 2020 and between September 2020 and December 2020. The surveys comprised 2 no. site visits per month and involved an assessment of a number of different wintering birds observed. During December 2020 Light Bellied Brent Geese (LBBG) counts on site were above the 1% national threshold. All other wintering birds observed on the site were below the 1% of the national or international population thresholds for all wintering bird species.
- 12.8.6. As a result of the findings of the 2020 survey, which indicated that above 1% of the national threshold for LBBG were observed on the site, it was considered necessary to gather additional information on the wider use of ex-situ sites for foraging, for the qualifying interest of the SPA.
- 12.8.7. Between January 2021 and May 2021, a comprehensive series of surveys were carried out around Dungarvan and its environs. Weekly surveys were carried out to verify the nature of the sites (as identified in Figure 10 of Appendix 1 of the NIS). A total of 749 no sites were surveyed to observe what ex-situ sites were being used by the qualifying interest of Dungarvan Harbour SPA. For the purpose of the survey the subject site is also subdivided into 5 no. smaller sites (fields 1 – 5), as indicated in Figure 11 of Appendix 1 of the NIS. The NIS notes that the survey was extended into May due to unseasonably cold weather. The objectives of these surveys were as follows: -
- To estimate the number of wintering birds using the subject site.
 - To evaluate the usage of the current network of ex-situ sites.
 - To evaluate the site fidelity / transiency of LBBG and other qualifying interest among the ex-situ network of inland feeding sites.
 - To evaluate the overall carrying capacity of the network of inland feeding sites in Dungarvan area for LBBG and other qualifying interests.

- 12.8.8. As outlined above, the proposed development site has been identified as one of a network of ex-situ feeding sites for a number of bird species that are Special Conservation Interests for the SPA. Table 2 of Appendix 1 of the NIS provides a summary of the record of wintering birds on the site. It indicates that a significant number of LBBG (greater than 1% of national population and greater than 1% of the international population) and Black-tailed Godwit (greater than 1% of national population) have been recorded on the subject site.
- 12.8.9. In-combination effects are addressed in the NIS (page 9). It is noted that these related to in combination effects on water quality only. I am satisfied that no other significant in-combination effects would arise. In this regard it is noted that there is a current application with Waterford City and County Council (reg. Ref. 21/346) for the construction of 77 no. dwellings on a site located to the north of the subject site. There is a hydrological pathway from the adjacent site to the drainage ditch at the northern boundary of the subject site. Therefore, in the absence of mitigation measures there is potential for cumulative impacts on the designated site. It is recommended that the 2 no. projects should run concurrently and water entering the drainage ditch on the subject site should be monitored daily. It is noted from Appendix 1 that the adjacent site was not observed as an ex-situ site for qualifying interests of the SPA.
- 12.8.10. Having reviewed the documents, submissions and consultations I am satisfied that the information allows for a complete assessment of any adverse effects of the development, on the conservation objectives of the Dungarvan Harbour SPA (site code) alone, or in combination with other plans and projects

12.9. **Appropriate Assessment of implications of the proposed development**

- 12.9.1. The following is a summary of the detailed scientific assessment of the implications of the project on the qualifying interest features of Dungarvan Harbour SPA. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.
- 12.9.2. I have relied on the following guidance:

- DoEHLG (2009). Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities. Department of the Environment, Heritage and Local Government, National Parks and Wildlife Service.
- EC (2002) Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC
- EC (2018) Managing Natura 2000 sites. The provisions of Article 6 of the Habitats Directive 92/43/EEC

12.9.3. I have also examined the Natura 2000 data forms as relevant and the Conservation Objectives supporting documents available through the NPWS website (www.npws.ie). As noted above the main aspects of the proposed development that could affect European sites include:

- The possibility of discharge/run-off of surface waters containing sediment, silt, oils and/or other pollutants during the construction phase of the proposed development into Dungarvan Harbour which has the potential to impact relevant qualifying interests of the SPA; and
- The loss of a known ex-situ inland feeding site for LBBG and other qualifying bird species that have been recorded on the site (by the applicant during the Wintering Bird Assessment surveys) including Black-tailed Godwit, Curlew, Lapwing, Redshank, Golden Plover and Grey Plover as a result of the construction and operation of the proposed development, which has the potential to affect the achievement of the conservation objectives of those species.

12.9.4. I have summarised the submissions in section 7, 8 and 9 of this Report and will address issues raised herein.

12.10. **Dungarvan Harbour SPA**

12.10.1. The NIS (page 3) provides a detailed description of the Dungarvan Harbour SPA. The proposed development site is wholly located outside of a European site and is located c. 100m from Dungarvan SPA. The site is hydrologically linked to the SPA via drainage

ditches and the watercourse on site. The conservation objectives for the qualifying interests of the SPA are noted in the table below.

Qualifying Interest	Conservation Objective
Great Crested Grebe (<i>Podiceps cristatus</i>) [A005] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Red-breasted Merganser (<i>Mergus serrator</i>) [A069] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Lapwing (<i>Vanellus vanellus</i>) [A142] Knot (<i>Calidris canutus</i>) [A143] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Curlew (<i>Numenius arquata</i>) [A160] Redshank (<i>Tringa totanus</i>) [A162] Turnstone (<i>Arenaria interpres</i>) [A169] Wetland and Waterbirds [A999]	To maintain the favourable conservation status of all species listed

Surface Water / Hydrological Link

12.10.2. The subject site is hydrologically linked to the SPA via drainage ditches and a watercourse on site. Surface water run off associated with the construction stage and operational phase could potentially enter the SPA. Therefore, there is potential for indirect effects on surface water quality during site preparation and earthworks, including potentially contaminating material such as oils, fuels, lubricants, other construction related solutions and cement based products would be used on site during the construction phase and the accidental emission of such a material would have the potential to undermine water quality within the SPA.

12.10.3. During the operational phase there is potential for contaminated surface water run-off from fuel leaks or accidental spills to potentially to undermine water quality within the bay.

- 12.10.4. Any uncontrolled release of contaminated surface water to the SPA would likely be rapidly diluted and distributed. Notwithstanding this, the ongoing discharge of waters with high concentrations of contaminating substances could over time lead to the deposition of such contaminants, which has the potential to undermine the conservation status of the designated sites.
- 12.10.5. The NIS (page 51) recommends a number of control mitigation measures, to protect the environment from pollutants. These include the appointment of a suitably qualified ecologist to monitor the works commencing on site, temporary drainage and sediment control measures, including silt fences and the correct storage, use and maintenance of all equipment, materials and chemicals and daily monitoring of works. It is also proposed to safeguard the 1.2ha area of grassland to the west of the site by providing a fence and landscaping on this area in the initial stages of the construction phase.
- 12.10.6. Adherence to best practices methodologies during the construction phase would control the release of sediments to surface water and prevent surface and ground water pollution as a result of accidental spillages or leaks.
- 12.10.7. Operational mitigation measures have also been included in the NIS (page 55) which states that landscape and drainage works would be inspected by the project ecologist post construction. noise and activity on site could impact on foraging activity of wintering birds, therefore, human, or canine activity should not be permitted on the area of open space during wintering bird season.
- 12.10.8. It is also noted in that control measures have been incorporated into the design of the scheme, including SUDS. The provision of these features would ensure that surface water emitted from the project would be adequately treated and would eliminate any risk of polluted surface water being discharged during the operational phase.
- 12.10.9. The submitted Construction and Demolition Waste Management Plan, Construction and Environmental Management Plan and Operational Waste Management Plan also address all potentially polluting activities and includes mitigation measures for critical elements such as storage and handling of harmful materials. Having regard to the measures outlined as well as the application of best practice construction methods, I am satisfied that direct effects on the SPA can be ruled out with confidence. However,

the possibility of indirect effects on wintering waterbird species that comprise the qualifying interest of the SPA cannot be discounted.

Ex-Situ Site

12.10.10. The key species of concern are those which have been recorded at the proposed development site namely, LBBG and the Black-tailed Godwit. The Wintering Bird Assessment submitted as Appendix 1 of the NIS focuses on these species in particular. For the avoidance of any doubt, from the surveys and evidence submitted other wintering bird species (Great Crested Grebe, Shelduck, Red-breasted Merganser, Oystercatcher, Golden Plover, Grey Plover, Lapwing, Knot, Dunlin, Bar-tailed Godwit, Curlew, Redshank, Turnstone) for which the SPA sites are designated are not reliant on this ex-situ / inland site and, therefore, have been scoped/screened out of the detailed assessment.

12.10.11. The majority of the submissions from third parties, in addition to the planning authority and the DAU raised serious concerns with regard to the loss of this ex-situ inland feeding site for qualifying interests of the SPA, in particular LBBG and Black-tailed Godwit which have been recorded on the site. The table below provides a summary of Conservation Objectives for Wintering Waterbirds for Dungarvan Harbour SPA considered in the Appropriate Assessment.

Objective 1: To maintain the favourable conservation condition of the waterbird Special Conservation Interest species including Light Bellied Brent Geese, Black-tailed Godwit, Great Crested Grebe, Shelduck, Red-breasted Merganser, Oystercatcher, Golden Plover, Grey Plover, Lapwing, Knot, Dunlin, Bar-tailed Godwit, Curlew, Redshank, Turnstone.			
Parameter	Attribute	Measure	Target
Population	Population Trend	Percentage Change	Long Term population trend stable or increasing
Range	Distribution	Number and range of areas used by waterbirds	There should be no significant decrease in the numbers or range of areas used by waterbird species, other than that occurring from natural patterns of variation

Factors that can adversely affect the achievement of Conservation Objectives include habitat modification, disturbance and ex-situ factors.

Habitat modification is identified as activities that modify discreet areas or the overall habitat(s) within the SPA in terms of how one or more of the listed species use the site (e.g. as a feeding resource) could result in the displacement of these species from areas within the SPA and/or a reduction in their numbers.

Disturbance: that occurs in or near the site and is either singular or cumulative in nature could result in the displacement of one or more of the listed waterbird species from areas within the SPA, and/or a reduction in their numbers.

Ex-situ factors: several of the listed waterbird species may at times use habitats situated within the immediate hinterland of the SPA or in areas ecologically connected to it. The reliance on these habitats will vary from species to species and from site to site. Significant habitat change or increased levels of disturbance within these areas could result in the displacement of one or more of the listed waterbird species from areas within the SPA, and/or a reduction in their numbers.

12.10.12. As noted above, factors that can adversely affect the achievement of Conservation Objectives include habitat modification, disturbance and ex-situ factors. As the subject site is located outside of the SPA it is considered that there would be no modification of habitats or disturbance within the SPA. Concerns regarding disturbance and ex-situ factors are addressed below.

12.10.13. Third parties and the DAU note that the applicant has not utilised the most up to date IWEBS count data which is available for 2016/2017 and 2017/2018. The population trends presented in the NIS are based on analysis from counts up to 2007/2008 and 2015/2016. In addition, surveys were carried out by the applicant for 2020 / 2021. The DAU notes that while the most up to date counts were not utilised by the applicant the figures for the 2016/2017 and 2017/2018 period indicate some reduction in Brent Geese at Dungarvan from the higher numbers of earlier counts. While it is acknowledged that the NIS had not included all available data having regard to the extensive bird surveys carried out in the 2020 / 2021 season by the applicant I am satisfied that sufficient information is available to assess the impact of the proposed development. The omission of the figures for the 2016/2017 and 2017/2018

period is not considered to be a material or significant omission, noting that the more up to date survey figures have been used.

12.10.14. It is acknowledged by the applicant that the subject site is an important ex-situ site for LBBG and other qualifying interests of the SPA (ie Black-tailed Godwit). As noted above, weekly surveys were carried out (between January 2021 – May 2021) to observe what other ex-situ sites were being used by the qualifying interest of Dungarvan Harbour SPA. Of the 749 no sites identified within Dungarvan and environs 10 were considered to be suitable for LBBG. Significant numbers were reported at 3 no. sites, which are identified in Figure 14 of Appendix 1 of the NIS. These sites are located to the south west of the subject site and are labelled by the applicant as sites, 317 (Promenade), 318 (Cunnigar Pitch and Putt), 319 (CBS). The NIS notes that site 319 is small in size, c. 2.25ha, and surrounded by residential development and contained up to 950 no. LBBG in April 2021. The NIS also notes that the 3 no. sites (317, 318 and 319) are in close proximity to Dungarvan town centre, dense development, and human disturbance. This indicates that the geese within this area are relatively accustomed to human disturbance.

12.10.15. With regard to Black-tailed Godwit 3 no. sites were deemed suitable with a maximum of 200 no. birds observed. Full details of the peak counts of wintering birds is provided in Table 5 of appendix 1 of the NIS.

12.10.16. The NIS also addressed the site fidelity / transiency among the ex-situ network of inland feeding sites in Dungarvan and notes that the fluctuating numbers of birds across the different sites in Dungarvan tends to indicate that wintering bird numbers vary across the area and site fidelity can vary. This would appear to be consistent with the findings of the DAU as outlined in the NPWS Conservation Objectives Supporting Documentation (2011) for the Dungarvan Harbour SPA which included details of a survey carried out in 2009 / 2010 wintering bird season. It is noted here that the subject site was not listed as an ex-situ terrestrial foraging site at this time. A breakdown of the presence of wintering birds within the subject site and the 10 no. identified ex-situ feeding sites is provided in Table 6 of Appendix 1.

12.10.17. The submission from the DAU notes that wading bird species use a range of sites around the SPA and accept that the loss of this site, while undesirable is unlikely

to significantly adversely impact on the populations of wading species. However, it is stated that this is not true for LBBG which do not use a wide variety of terrestrial sites around this SPA and show a very clear preference and fidelity to a small number of sites. The DAU acknowledged that the site is a preferred site for LBBG, however, having regard to the information submitted it indicates that Black-tailed Godwit uses a wide variety of ex-situ sites and is not reliant on the subject site.

12.10.18. While I note that the subject site, in combination with other ex-situ sites, are favoured by LBBG, it is also noted that it is located outside of the SPA and on zoned lands. I also consider, that based on the survey data provided by the applicant there are other suitable and available sites within the immediate vicinity of the subject site, which would require a similar the energetic cost to the species to commute there. I further note that in 2009/2010 the site was not relied on at all for these species. I am satisfied based on the data submitted that LBBG and black-tailed Godwit are not solely dependent for winter feeding on the subject site, and have demonstrated transiency in respect of use of sites in the area, and should this site be developed, they would continue to use a wide selection of other ex-situ feeding sites within Dungarvan.

12.10.19. The proposed development site has an area of 8.62ha and would result in the loss of foraging area qualifying interests of the SPA of a notable portion of these lands. It is proposed to retain 1.2ha of open space on the eastern portion of the site for wintering birds. Concerns are raised by the planning authority, third parties and the DAU that the applicant has referred to this area (1.2 ha) of open space as compensatory lands in that this land is already available to wintering birds, and as such it is not considered by the DAU or third parties to be compensatory. I would note that there is no obligation on the part of the landowner to maintain these lands in a manner that would ensure their retention as a favourable foraging habitat. Therefore, there can be no assumption that the lands would be permanently available as a feeding ground. As such, the allocation of a portion of open space to be maintained in perpetuity for this purpose could be argued to provide a long-term permanent ex-situ site. As outlined above in Section 10.3 it is my opinion that this 1.2 ha area of open space should be retained as an ecological buffer / land reservation and physically separated from the development area with an appropriate boundary treatment. While

the site is not considered compensatory it is my view that it should be retained as foraging ground for wintering birds and to support biodiversity.

12.10.20. To maintain the favourable conservation condition of the qualifying interests of an SPA, the long term population trend should be stable or increasing. Information provided in Table 6 of the NIS combined with the surveys carried out by the applicant in 2020/2021 indicate that the population of LBBG and Black-tailed Godwit are steady or increasing over the long term. I do not consider that the loss of the 7.42 ha site ex-situ site (which excludes the 1.2ha ecological buffer / Open Space 7) would have such an effect on the population level of the qualifying interests of the SPA. Having regard to the information submitted with the application, I am satisfied that the loss of the ex-situ habitat will have no adverse impact on the conservation objective attributes of “distribution” and “population trend” of the qualifying species recorded at the proposed development site. I am also satisfied that there is sufficient capacity within the ex-situ network to accommodate any increase in number of wintering birds, based on the evidence provided within the application.

12.10.21. While I note the concerns expressed by the Planning Authority’s Heritage Officer, the DAU and third parties, I consider these to be more generic and far reaching in certain sections than would be relevant or necessary for the purposes of the NIS associated with this development. To this end, I find the survey work, analysis and evidence presented by the applicant to be more robust, site and development specific and relates to the potential impact of the development. I am further satisfied that the information submitted provides an appropriate and reasonable level of scientific evidence to support its conclusions.

12.10.22. The table below provides a summary of the Appropriate Assessment of Dungarvan Harbour SPA (004032)

Dungarvan Harbour SPA (004032)

Key issues that could give rise to adverse effects includes: -

- Habitat Loss for wintering birds
- Water Quality
- Disturbance of QI species

Conservation Objectives: to maintain or restore the favourable conservation status of habitats and species of community interest

Summary of Appropriate Assessment

Qualifying Interest feature	Conservation Objective	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
Great Crested Grebe (Podiceps cristatus) [A005]	To maintain the favourable conservation condition of Great Crested Grebe in Dungarvan Harbour SPA	The loss of ex-situ feeding ground Discharges – activities associated with construction and operation may result in the release of sediment, chemical or other waste material pollution.	Adherence to best practices methodologies during the construction phase. Phasing of project to reduce risk to ditches from contamination. A 10m buffer from watercourse.	No effect	Yes
Light-bellied Brent Goose (Branta bernicla hrota) [A046]	To maintain the favourable conservation condition of Light-	Disturbance – Construction Noise Impacts and operations impacts	Temporary construction surface drainage and sediment control measures, including silt fences.	No effect	Yes

	bellied Brent Goose in Dungarvan Harbour SPA	from human and canine disturbance	<p>Stockpiling of loose materials a minimum of 20m from watercourses</p> <p>Fuel, oil and chemical storage will be located within bunded areas, at least 50m from watercourses</p> <p>Bunds will be kept clean.</p> <p>Prior to discharge of water from excavations adequate filtration will be provided</p> <p>On-site inspections by ecologist</p> <p>Regular monitoring by Site Manger.</p> <p>Plant and equipment not stored in proximity to watercourses.</p>		
Shelduck (Tadorna tadorna) [A048]	To maintain the favourable conservation condition of Shelduck in Dungarvan Harbour SPA			No effect	Yes
Red-breasted Merganser (Mergus serrator) [A069]	To maintain the favourable conservation condition of Red-breasted Merganser in Dungarvan Harbour SPA			No effect	Yes
Oystercatcher (Haematopus ostralegus) [A130]	To maintain the favourable conservation condition of Oystercatcher in			No effect	Yes

	Dungarvan Harbour SPA.				
Golden Plover (Pluvialis apricaria) [A140]	To maintain the favourable conservation condition of Golden Plover in Dungarvan Harbour SPA			No effect	Yes
Grey Plover (Pluvialis squatarola) [A141]	To maintain the favourable conservation condition of Grey Plover in Dungarvan Harbour SPA			No effect	Yes
Lapwing (Vanellus vanellus) [A142]	To maintain the favourable conservation condition of Lapwing in Dungarvan Harbour SPA,			No effect	Yes

Knot (<i>Calidris canutus</i>) [A143]	To maintain the favourable conservation condition of Knot in Dungarvan Harbour SPA			No effect	Yes
Dunlin (<i>Calidris alpina</i>) [A149]	To maintain the favourable conservation condition of Dunlin in Dungarvan Harbour SPA			No effect	Yes
Black-tailed Godwit (<i>Limosa limosa</i>) [A156]	To maintain the favourable conservation condition of Black-tailed Godwit in Dungarvan Harbour SPA			No effect	Yes
Bar-tailed Godwit (<i>Limosa</i>)	To maintain the favourable conservation			No effect	Yes

lapponica) [A157]	condition of Bar-tailed Godwit in Dungarvan Harbour SPA				
Curlew (Numenius arquata) [A160]	To maintain the favourable conservation condition of Curlew in Dungarvan Harbour SPA			No effect	Yes
Redshank (Tringa totanus) [A162]	To maintain the favourable conservation condition of Redshank in Dungarvan Harbour SPA			No effect	Yes
Turnstone (Arenaria interpres) [A169]	To maintain the favourable conservation condition of Turnstone in			No effect	Yes

	Dungarvan Harbour SPA				
Wetland and Waterbirds [A999]	To maintain the favourable conservation condition of the wetland habitat in Dungarvan Harbour SPA as a resource for the regularly- occurring migratory waterbirds that utilise it			No effect	Yes

12.11. In Combination Effects

- 12.11.1. There is a current application with Waterford City and County Council (reg. Ref. 21/346) for the construction of 77 no. dwellings on a site located to the north of the subject site. There is a hydrological pathway from the adjacent site to the drainage ditch at the northern boundary of the subject site. Therefore, in the absence of mitigation measures there is potential for cumulative impacts on the designated site. It is recommended that the 2 no. projects should run concurrently and water entering the drainage ditch on the subject site should be monitored daily. It is noted from Appendix 1 that the adjacent site was not observed as an ex-situ site for qualifying interests of the SPA. Therefore, in-combination effects on water quality only.
- 12.11.2. The applicant's Screening Report also considers there to be a potential indirect hydrological link to the SPA from the proposed foul water network. As noted above foul wastewater from the site would discharge to the public network and would be treated at Barnawee pump station. It is my view that the foul discharge from the site would be insignificant in the context of the overall discharge and thus its impact on the overall discharge would be negligible.
- 12.11.3. With regard to the in-combination effects on water quality from the cumulative impacts on the Barnawee arising from the operational phase of the proposed development and other future developments. I am satisfied on the basis of the submission from Irish Water and the correspondence from Waterford City and County Council, submitted as part of the applicants Engineering Services Report, that subject to upgrade works or a reducing in stormwater entering the public system funded by the developer, that the pump station can accommodate the proposed development. I am satisfied that the project would have a negligible impact on the conservation objectives of Dungarvan Harbour SPA and I am satisfied that the proposed project will not have an effect individually or together with any other plan or project.

12.12. Conclusion

- 12.12.1. The proposed development has been considered in light of the assessment requirements of Section 177 of the Planning and Development Act, 2000 (as amended).

12.12.2. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on the Dungarvan Harbour SPA (004032) Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of its / their conservation objectives.

12.12.3. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site No.004032, or any other European site, in view of the site's Conservation Objectives.

12.12.4. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures and ecological monitoring in relation to the Conservation Objectives the Dungarvan Harbour SPA (004032)
- Detailed assessment of in-combination effects with other plans and projects including current proposals and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of both the Dungarvan Harbour SPA (004032).

13.0 Recommendation

Having regard to the above assessment, I recommend that Section 9(4)(a) of the Act of 2016 be applied and that permission is granted for the reasons and considerations and subject to the conditions set out below.

14.0 Reasons and Considerations

Having regard to

- a. The site's location on lands with a zoning objective for residential development;
- b. The policies and objectives in the Waterford Development Plan 2011-2017 (as extended) and the Dungarvan Town Development Plan 2012 -2018 (as extended);

- c. Nature, scale and design of the proposed development;
- d. Pattern of existing development in the area;
- e. The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- f. The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- g. Regional Spatial and Economic Strategy for the Southern Region;
- h. The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- i. The Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- j. Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in December 2020 ;
- k. The Urban Development and Building Heights Guidelines for Planning Authorities 2018;
- l. The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’) 2009; and
- m. Chief Executive’s Report; and
- n. Submissions and observations received.

It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

15.0 **Recommended Order**

Application: for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and

particulars, lodged with An Bord Pleanála on the 7th day of July 2021 by KPMG Future Analytics, on behalf of Michael Ryan.

Proposed Development: The construction 218 no. residential units, 42 no. duplex units (8 no. 1-bed, 32 no. 2-bed and 2 no. 3-bed) and 176 no. terraced, semi-detached and detached houses (4 no. 2-bed, 159 no. 3-bed and 13 no. 4-bed), with the option for up to 121 no. of the 3-bed houses to have attics converted, thereby creating 4-bed houses), with ranging in height from 2 no. to 4 no. storeys. The development also includes a 342.34 sqm crèche and associated open space play area.

It is proposed to provide 2 new vehicular entrances at the sites boundary with the L3168, in this regard a new entrance and junction to serve the residential element of the development and a new (2) one-way system (separate access and egress) and associated junction to serve the crèche and community car park. An additional pedestrian and cycle entrance are proposed via new bridge to the south-west into Tournore Court.

The scheme includes 466 no. car parking spaces at surface level, 430 no. within the residential area for residents and visitors and 36 no. in the crèche and community car park, which include 24 no. mobility impaired spaces, 48 no. cycle parking spaces at surface level in 3 no. locations.

The development also includes publicly accessible open space (28,570 sqm) areas which include footpaths and cycle paths, children's play areas, planting and the incorporation of existing hedgerows and open space.

The works also include all ancillary site services and above and below ground works to facilitate the development, including adjustments to site levels, signage, boundary treatments, water services and public lighting.

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.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

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

- a) The site's location on lands with a zoning objective for residential development;
- b) The policies and objectives in the Waterford Development Plan 2011-2017 (as extended) and the Dungarvan Town Development Plan 2012 -2018 (as extended);
- c) Nature, scale and design of the proposed development;
- d) Pattern of existing development in the area;
- e) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- f) The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- g) Regional Spatial and Economic Strategy for the Southern Region;
- h) The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- i) The Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- j) Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in December 2020 ;
- k) The Urban Development and Building Heights Guidelines for Planning Authorities 2018;

- l) The Planning System and Flood Risk Management' (including the associated 'Technical Appendices') 2009; and
- m) Chief Executive's Report; and
- n) Submissions and observations received.

Appropriate Assessment: Stage 1

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Natura Impact Statement Report submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, other than Dungarvan Harbour SPA which are European sites for which there is a likelihood of significant effects.

Appropriate Assessment: Stage 2

The Board considered the Natura Impact Statement and all other relevant submissions on the file and carried out an Appropriate Assessment of the implications of the proposed development on Dungarvan Harbour SPA (004032), in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- a) the site-specific conservation objectives for the European sites,
- b) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, and in particular the risk of impacts on surface water and ground water quality,
- c) the mitigation measures which are included as part of the current proposal.

In completing the Appropriate Assessment, the Board 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 aforementioned European Sites, having

regard to the sites' conservation objectives. In overall conclusion, the Board 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 sites' conservation objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures and ecological monitoring in relation to the Conservation Objectives the Dungarvan Harbour SPA (004032)
- Detailed assessment of in-combination effects with other plans and projects including current proposals and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of the Dungarvan Harbour SPA (004032).

Environmental Impact Assessment

The Board completed a screening determination of the proposed development and considered that the Environmental Impact Assessment Screening Report submitted by the applicant, identifies, and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- nature and scale of the proposed development, which is below the threshold in respect Class10(b)(i) and Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- the location of the site on lands zoned on lands zoned for residential development in the Dungarvan Town Development Plan 2012 – 2018. The Waterford County Development Plan 2011-2017 (as extended) and Dungarvan Town Development Plan 2012-2018 (as extended) were subject to a strategic environmental assessment in accordance with the SEA Directive (2001/42/EEC).

- The location of the site contiguous to the existing built up urban area of Dungarvan, which is served by public infrastructure, and the existing pattern of development in the vicinity.
- the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- 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 Operational Waste Management Plan, Construction and Demolition Waste Management Plan, Construction and Environmental Management Plan, Site Specific Flood Risk Assessment, Appropriate Assessment Screening and Natura Impact Statement, Ecological Impact Assessment and Site Investigation Report.

In conclusion, having regard to the absence of any significant environmental sensitivity in the vicinity and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development and that the preparation and submission of an environmental impact assessment report would not therefore be required.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that the proposed development is, apart from the parameters of Section 3.3.4 (density) of Variation 1 of the Waterford County Development Plan 2011-2017 (as extended) and the Dungarvan Town Development Plan 2012 – 2018 (as extended) is broadly compliant with the provisions of the Waterford County Development Plan 2011-2018 (as extended), Dungarvan Town Development Plan 2011 – 2017 (as extended), and would therefore be in accordance with the proper planning and sustainable development of the area.

The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the Development Plan, it would materially contravene the Section 3.3.4 of Variation 1 of the Waterford County Development Plan 2011-2017 (as extended) and the Dungarvan Town Development Plan 2012 – 2018 (as extended) which sets a density of 10 units per ha.

The Board considers that, having regard to the provisions of section 37(2)(b)(i) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Section 3.3.4 of Variation 1 of the Waterford County Development Plan 2011-2017 (as extended) and the Dungarvan Town Development Plan 2012 – 2018 (as extended) would be justified for the following reasons and considerations:

- The proposed development falls within the definition of strategic housing set out in Planning and Development (Housing) and Residential Tenancies Act 2016.
- Government's policy to provide more housing set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016

The Board considers that, having regard to the provisions of section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of Section 3.3.4 of Variation 1 of the Waterford County Development Plan 2011-2017 (as extended) and the Dungarvan Town Development Plan 2012 – 2018 (as extended) would be justified for the following reasons and considerations

The Board considers that, having regard to the provisions of section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention would be justified by SPPR4 of the Building Height Guidelines which supported increased density at appropriate locations.

In accordance with section 9(6) of the 2016 Act, the Board considered that the criteria in section 37(2)(b)(i) and (iii) of the 2000 Act were satisfied for the reasons and considerations set out in the decision.

Furthermore, the Board considered that, subject to compliance with the conditions set out below that the proposed development would not seriously injure the residential or

visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

16.0 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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows: -
 - a. The internal road serving residential units 01-09, 23-38 and 175-184 and which runs parallel to the L3168 shall be redesigned as a homezone, in accordance with DMURS. Any residual land be allocated as private open space for residential units.
 - b. Houses 111 – 119 shall be omitted in their entity. Blocks 29 and 30 shall be relocated approximate 15m south of Open Space 5, in place of houses 111-119. The resulting area shall be incorporated into Open Space 5. The bin storage areas shall be relocated to within the duplex units.
 - c. Houses 217 and 218 shall be permanently omitted
 - d. the design of house no. 216 be amended to allow for overlooking of Open Space 2 and the design of house no. 206 be amended to allow for overlooking of Open Space 7.

- e. 17 no. spaces car parking spaces shall be permanently omitted from the scheme as follows: -
- 10 no. car parking spaces, in this regard 5 no. spaces on either side of the main vehicular access from the L3168 shall be permanently omitted;
 - 5 no. car parking spaces shall be permanently omitted from Open Space 1; and
 - 2 no. car parking spaces shall be permanently omitted from Open Space 2.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity

3. Prior to commencement of development a final details of the phasing of the development including details of areas of open space and infrastructure to be provided at each phase, shall be submitted to and agreed in writing with the planning authority.

Reason: In the interest of clarity

4. Prior to commencement of development the applicant shall submit for the written agreement of the planning authority revised documentation and plans indicating the number of mature trees to be removed from the southern portion of the site to allow for passive overlooking of the proposed link to Tournore Estate. The documentation shall include details of compensatory planting proposed within the scheme.

Reason: In the interest of residential amenity and safety.

5. Prior to commencement of development final details of the proposed new pedestrian and cycle connection / bridge over the existing drainage ditch and

towards the adjacent Tournore Estate shall be submitted to and agreed in writing with the planning authority.

Reason: In the interest of permeability and safety.

6. Prior to commencement of development final details of the internal layout of the creche shall be submitted to and agreed in writing with the planning authority to ensure it complies with all relevant standards.

Reason: To ensure a satisfactory standard of development.

7. Prior to commencement of development a details of the operation and maintenance of Open Space 7, including details of an appropriate high quality boundary treatment shall be submitted to and agreed in writing with the planning authority to ensure Open Space 7 is retained as an ecological buffer.

Reason: In the interest of biodiversity

8. Mitigation and monitoring measures outlined in the plans and particulars, including the Natura Impact Statement and Ecological Impact Assessment submitted with this 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 and in the interest of public health.

9. A schedule of all materials to be used in the external treatment of the development to include a variety of brick finishes, shopfront materials, roofing materials, windows and doors shall be submitted to and agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

10. 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 housing unit, pursuant to Section 47 of the Planning and Development Act 2000, that restricts all 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.

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.

11. Details of signage relating to the creche unit shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

12. The boundary planting and public open spaces shall be landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

13. Bat and bird boxes shall be installed in the proposed development, prior to the occupation of the residential units. The number, type and location of the boxes shall be submitted to and agreed in writing with the planning authority.

Reason: To promote biodiversity.

14. Prior to the occupation of the residential units, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

Reason: In the interest of encouraging the use of sustainable modes of transport.

15. A minimum of 10% 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 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. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Public Lighting Report, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

17. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

- a. notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

- b. employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- c. provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

18. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

19. Proposals for a naming and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. 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 of locally appropriate place names for new residential areas.

20. 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.

21. The internal road network serving the proposed development, turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of amenity and of traffic and pedestrian safety.

22. Prior to commencement of development details of the new junctions with the L3168 / works to the public road, shall be submitted to, and agreed in writing with the planning authority.

Reason: In the interest of road safety

23. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

Reason: In the interest of public health and surface water management

24. The developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

25. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 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

26. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

27. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

28. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces and communal areas shall be submitted to,

and agreed in writing with, the planning authority prior to occupation of the development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

29. Prior to commencement of development, the developer 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 section 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 Bord 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.

30. 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 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 Bord Pleanála for determination.

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

31. 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 Bord 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.

32. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of requirement improvements to surface water management in the area by the enlargement of fluvial water storage. The amount of the contribution shall be agreed between the planning authority and the developer, or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

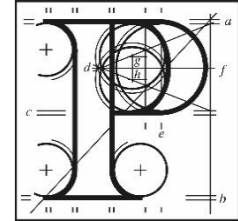
Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme, and which will benefit the proposed development.

33. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of required improvements to road infrastructure, in particular the provision of a roundabout on the N25 required to serve the development. The amount of the contribution shall be agreed between the planning authority and the developer, or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme, and which will benefit the proposed development.

Elaine Power
Planning Inspector

6th October 2021



**An
Bord
Pleanála**

Appendix 1:

EIA - Screening Determination for Strategic Housing Development Applications

A. CASE DETAILS

An Bord Pleanála Case Reference		ABP-310782
Development Summary		Construction of 218 no. residential dwellings and a creche
	Yes / No / N/A	
1. Has an AA screening report or NIS been submitted?	Yes	Stage 1 AA Screening Report and a NIS and an EIA Screening Report were submitted with the application
2. Is an IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	No
3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	Yes	<p>SEA undertaken in respect of the Waterford County Development Plan 2011-2018 (as extended) and the Dungarvan Town Development Plan 2012 - 2018 (as extended).</p> <p>A Site-Specific Flood Risk Assessment that addresses the potential for flooding having regard to the OPW CFRAMS study which was undertaken in response to the EU Floods Directive.</p> <p>An AA Screening Statement and NIS in support of the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC) have been submitted with the application.</p> <p>A Preliminary Construction and Demolition Waste Management Plan has been submitted which was undertaken in accordance with the Waste Management Act, 1996 and associated</p>

	regulations, Litter Act 1997 and the Eastern -Midlands Region (EMR) Waste Management Plan 2015-2021.
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B. EXAMINATION	Yes/ No/ Uncertain	Briefly describe the nature and extent and Mitigation Measures (where relevant)	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)			
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	No	The development comprises the construction of residential units and a creche on lands zoned for residential uses. The nature and scale of the proposed development is not regarded as being significantly at odds with the surrounding pattern of development.	No

<p>1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</p>	<p>Yes</p>	<p>The proposed development is located on a greenfield site within Dungarvan. It is intended to raise levels in some sections of the site and lower levels in other sections to provide compensatory storage for areas at risk of fluvial flooding. It is considered that this issue is minor in nature.</p>	<p>No</p>
<p>1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?</p>	<p>Yes</p>	<p>Construction materials will be typical of such urban development. Redevelopment of this greenfield site will not result in any significant loss of natural resources or local biodiversity.</p>	<p>No</p>
<p>1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</p>	<p>Yes</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p>	<p>No</p>

<p>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>Yes</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and implementation of a Construction Management Plan will satisfactorily mitigate potential impacts.</p> <p>Operational waste will be managed via a Waste Management Plan, significant operational impacts are not anticipated.</p>	<p>No</p>
<p>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>No</p>	<p>No significant risk identified. Operation of a Construction Management Plan will satisfactorily mitigate emissions from spillages during construction. The operational development will connect to mains services. Surface water drainage will be separate to foul services. No significant emissions during operation are anticipated.</p>	<p>No</p>

<p>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</p>	<p>Yes</p>	<p>Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction Management Plan.</p> <p>Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.</p>	<p>No</p>
<p>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</p>	<p>No</p>	<p>Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction Management Plan would satisfactorily address potential impacts on human health.</p> <p>No significant operational impacts are anticipated.</p>	<p>No</p>
<p>1.9 Will there be any risk of major accidents that could affect human health or the environment?</p>	<p>No</p>	<p>No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature.</p> <p>The site is located in Flood Zone A. Subject to the mitigation measures outline in the Flood Risk Assessment the development would not result in a potential flood risk within the site or to any adjoining sites.</p>	<p>No</p>

<p>1.10 Will the project affect the social environment (population, employment)</p>	<p>Yes</p>	<p>The development of this site as proposed will result in a change of use and an increased population at this location. This is not regarded as significant given the urban location of the site and surrounding pattern of land uses.</p>	<p>No</p>
<p>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p>	<p>No</p>	<p>This is a stand-alone development, comprising the development of a site and is not part of a wider large scale change.</p> <p>Other developments in the wider area are not considered to give rise to significant cumulative effects.</p>	<p>No</p>
<p>2. Location of proposed development</p>			
<p>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ul style="list-style-type: none"> 1. European site (SAC/ SPA/ pSAC/ pSPA) 2. NHA/ pNHA 3. Designated Nature Reserve 4. Designated refuge for flora or fauna 	<p>No</p>	<p>No European sites located on the site. The site is located c. 100m from Dungarvan Harbour SPA (004032) is located immediately north of the site.</p> <p>An NIS accompanied the application which concluded that subject to mitigation measures the development would not be likely to give rise to significant effects on any European Sites.</p>	<p>No</p>

<p>5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</p>			
<p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>	<p>No</p>	<p>The development of the site would result in the loss of an ex-situ site for qualifying interests of the Dungarvan SPA. It is considered that the loss of this ex-situ habitat will have no adverse impact on the conservation objective attributes of “distribution” and “population trend” of the qualifying species recorded at the proposed development site.</p>	<p>No</p>
<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>No</p>	<p>No such features</p>	<p>No</p>
<p>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</p>	<p>No</p>	<p>No such features arise in this urban location.</p>	<p>No</p>

<p>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</p>	<p>No</p>	<p>The site is bound by the Duckspool watercourse and drainage ditches. The development will implement SuDS to control surface water run-off.</p> <p>The majority of the site is located in Flood Zone A and B. Subject to the mitigation measures outline in the Flood Risk Assessment the development would not result in a potential flood risk within the site or to any adjoining sites.</p>	<p>No</p>
<p>2.6 Is the location susceptible to subsidence, landslides or erosion?</p>	<p>No</p>	<p>No risks are identified in this regard.</p>	<p>No</p>
<p>2.7 Are there any key transport routes(eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?</p>	<p>No</p>	<p>The site is served by a local urban road network. Minor improvements to the surrounding network are recommended by way of financial contribution. However, no significant contribution to traffic congestion is anticipated.</p>	<p>No</p>
<p>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?</p>	<p>Yes</p>	<p>No. The development is likely to generate additional demands on educational facilities in the area.</p>	<p>No</p>

3. Any other factors that should be considered which could lead to environmental impacts			
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	No	There is a current application with Waterford City and County Council (Reg. Ref. 21/346) for the construction of 77 no. dwellings on a site located to the north of the subject site. There is a hydrological pathway from the adjacent site to the drainage ditch at the northern boundary of the subject site. Therefore, in the absence of mitigation measures there is potential for cumulative impacts on the designated site during the construction phase. These impacts are considered to be minor.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	No trans boundary considerations arise	No
3.3 Are there any other relevant considerations?	No	No	No

C. CONCLUSION			
No real likelihood of significant effects on the environment.	Yes	EIAR Not Required	EIAR Not Required
Real likelihood of significant effects on the environment.	No	No	

D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

- nature and scale of the proposed development, which is below the threshold in respect Class10(b)(i) and Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- the location of the site on lands zoned on lands zoned for residential development in the Dungarvan Town Development Plan 2012 – 2018. The Waterford County Development Plan 2011-2017 (as extended) and Dungarvan Town Development Plan 2012-2018 (as extended) were subject to a strategic environmental assessment in accordance with the SEA Directive (2001/42/EEC).
- The location of the site contiguous to the existing built up urban area of Dungarvan, which is served by public infrastructure, and the existing pattern of development in the vicinity.
- the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- 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 Operational Waste Management Plan, Construction and Demolition Waste

Management Plan, Construction and Environmental Management Plan, Site Specific Flood Risk Assessment, Appropriate Assessment Screening and Natura Impact Statement, Ecological Impact Assessment and Site Investigation Report.

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.

Inspector: Elaine Power

Date: 6th October 2021