



An
Bord
Pleanála

Inspector's Report

ABP-311406-21

Development	46 mixed storey dwellings, boundary walls, new entrance, connections to public services and all associated site development works.
Location	Mweelahorna, An Rinn, Co. Waterford
Planning Authority	Waterford City and County Council
Planning Authority Reg. Ref.	20576
Applicant(s)	Shinebright Limited.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Shinebright Limited.
Observer(s)	Tomás and Áine Uí Chéilleachair, Senator Lorraine Clifford Lee, Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media and Conradh na Gaeilge

Date of Site Inspection

5th of May 2022.

Inspector

Stephanie Farrington

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1.0 Site Location and Description

- 1.1. The appeal site is located on the south-western edge of the settlement Maoil a'Choirne, An Rinn, Co. Waterford. The site, which has a stated area of 3.31 ha, is currently undeveloped and primarily located to the south of existing dwellings which front onto the R674 Regional Road. Site levels range from 55m to the north to 66m to the south.
- 1.2. A portion of the site has frontage to the R674 and an agricultural entrance is provided to the site from a local road to the east. This cul de sac road provides access to a number of existing residential dwellings which front onto the site. The eastern and southern site boundaries are defined by mature hedgerows

2.0 Proposed Development

- 2.1. The proposed development comprises construction of 46 no. residential units on a 3.31ha site. Access to the development is proposed via the creation of a new entrance from the R674. The development includes all connections to public services and associated site development works.
- 2.2. Table 1 below details key figures associated with the proposal.

Table 1: Key Figures	
Site Area	3.3ha
No. of Residential Units	46
Unit Mix & Dwelling Type	- 12 no. 4 bed 2-storey detached dwellings, - 2 no. 4 bed 2-storey semi-detached dwellings, - 28 no. 3 bed 2-storey semi-detached dwellings - 4 no. detached 2 bed elderly units. New 2m high concrete block site boundary walls to perimeter of the site with localized
Density	13.9 units per hectare
Public Open Space	5,221 sq.m., c.15.8%

The following documentation was submitted in conjunction with the application:

- Architectural Drawings, Engineering Drawings, Architects Design Statement, Design Impact Statement, Civil Engineers Drainage Report and Development Impact Assessment.

FI Response

The FI response was accompanied by the following documentation:

- Linguistic Impact Statement
- Architects Design Statement
- Development Impact Assessment

3.0 Planning Authority Decision

3.1. Decision

Waterford City and County Council issued a notification of decision to refuse permission for the development in accordance with the following reasons and considerations:

1. Policy CS 19 of the Waterford County Development Plan 2011-2017, as varied and extended states that it shall be the policy of the planning authority to, inter alia, protect and sustain the linguistic and cultural heritage of the Gaeltacht area and to focus residential development on accommodating the natural growth of the indigenous populations. It is considered that the scale of proposed development would be in excess of what is required to meet the needs of the indigenous Irish speaking population and would therefore be likely to have an adverse effect on the Irish language and culture of this linguistically vulnerable Gaeltacht area. The proposed development would therefore materially contravene stated development management objective of

the statutory development plan for the area and would be contrary to the proper planning and sustainable development of the area.

2. Having regard to existing deficiencies in the public waste water network at this location which are not likely to be addressed in the short term, it is considered that the proposed development would be premature pending the required upgrading of the sewer network servicing this location and would be prejudicial to public health and would, therefore, be contrary to the proper planning and sustainable development of the area.
3. Having regard to the proposed site layout, house designs and the existing/proposed site contour levels, it is considered that the development would result in a loss of privacy and residential amenity for the existing residential units to the north of the site which would consequently result in a depreciation in the value of those existing residential properties. It is therefore considered that the proposed development would be contrary to the proper planning and sustainable development of the area.
4. The applicant has failed to demonstrate that the required sightlines and forward stopping distances can be achieved at the proposed access/exit to the subject site on the R674 Regional Road. It is considered that this proposed access, serving a substantial number of dwellings, would be substandard and would likely to result in unsafe turning movements and give rise to a potential for traffic hazard for both residents leaving the development and other road users. It is therefore considered likely that the proposed development would be contrary to the proper planning and sustainable development of the area.
5. The applicants have failed to demonstrate sufficient legal interest to outfall/discharge storm water to 3rd party lands on the opposing side of the R 674 Regional Road. As such the applicant has failed to demonstrate that surface water disposal can be properly managed, and it is considered that the proposed development would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Initial Planner's Report (October 2020)

The initial planner's report recommends a request for further information. The following provides a summary of the points raised.

Principle

- The principle of residential development must be carefully considered in terms of any potential negative impact on the Gaeltacht. WCCC will only support development which provides an appropriate scale having regard to the existing settlement and Gaeltacht criteria as set out in the Development Plan.
- The proposed density at 14 units per ha is over the recommended density for existing residential zoned lands of 10 units per ha on the site. However, national guidance advocates a density of 15-20 units per ha on an edge of village/small settlement.
- Reference is made to the guidance relating to the growth of small towns/villages as set out within the Guidelines for Sustainable Residential Development in Urban Areas 2009. The proposal does not represent an appropriate scale of development in this context. Particular reference is made to the location of the site within a Gaeltacht area where a balance needs to be struck between appropriate growth and protection and promotion of the Irish Language.
- The Planning Authority is committed to protecting and enhancing the Gaeltacht and to prevent the dilution of its unique linguistic and cultural environment through the influx of non-Irish speakers. A Linguistic Impact Statement is recommended.
- Policy CS19 promotes the natural growth of indigenous populations. Compliance with this policy should be demonstrated.

Design and Layout

- The quantum of development is excessive in numbers.
- The design of the dwellings are generally well considered, proportioned and good quality of materials are proposed.

- The level difference between site 1 and the existing dwellings to the north has not been addressed. Concerns are raised in relation to the visual impact of the proposal. Greater consideration is required in relation to the transition from north to south into the site and having regard to the existing residential to the north, the absence of a western boundary treatment and location of the site within the buffer of a Scenic Route and in a Visually Vulnerable designation.
- A revised layout should be provided which addressed quantum and quality of private open space and overlooking within the development. No concerns are raised in relation to overshadowing.

Access

- Sightlines at the site entrance cannot be achieved without alteration to 3rd party roadside boundaries.

Recommendation

- The planner's report recommends a request for further information on 14 no. items. These relate to the principle of the development within a Gaeltacht Area and compliance with Policy CS19, submission of a Linguistic Impact Statement, demonstration of infrastructure capacity, design, transport and accessibility issues.

Planner's Report (August 2021)

The planner's report prepared in response to the applicants FI response recommends that permission is refused for the development on grounds of principle of proposal, infrastructure deficiencies, surface water proposals and traffic hazard at the proposed site entrance. The following provides a summary of the points raised:

- The applicant has failed to demonstrate that the proposal for 46 no. units would not detrimentally impact on the settlement in which it is located and the wider Gaeltacht.
- The Linguistic Impact Statement is not sufficiently robust or grounded in information specific to the Gaeltacht Area. There are concerns over whether the person retained was appropriate to prepare the standard of LIS required.

- Irish Water explicitly state that it may not be possible to service the development with adequate wastewater infrastructure until 2026. The proposal is therefore premature.
- The revised proposals are noted. In design terms there remain outstanding concerns in terms of level difference and impact on the residential amenity of adjacent residential properties.
- Concerns relating to overlooking of private amenity space appear unresolved.
- It does not appear that sightlines can be achieved without revision to 3rd party boundaries.
- The concerns raised within the District Engineers report remain unresolved.
- There is no capacity for the proposal in the sewer network. The proposal is premature.
- Surface water proposals outfall to 3rd party lands. The applicant hasn't demonstrated sufficient legal interest for the proposals.

3.2.2. Other Technical Reports

Irish Officer (22nd of September 2020)

- Reference is made to the policies and objectives of the WCDP which seek to protect and support the Gaeltacht (including Policy CS19).
- Lack of affordable and social housing in the area is an issue. Young people who wish to remain in the area are being priced out of the market, thus further diluting the number of Irish speakers in the Gaeltacht.
- There is a strong demand for private housing in the area.
- A Linguistic Study of the Gaeltacht undertaken in 2007 identified the percentage of daily Irish speakers needed to ensure the survival of an Irish speaking community to be 67% or greater.
- The ongoing unavailability of affordable housing for local Irish speakers is the greatest threat to the continued survival of Gaeltacht na nDeise as an official Gaeltacht area.

- The loss of Gaeltacht status would be catastrophic in terms of cultural, social and economic loss.
- If the status of An Rinn is to be protected, local housing needs must be addressed and large-scale development which would impact on the ratio of Irish and English speakers should not be permitted. Planning policies should address the natural growth of the indigenous population of this small, vulnerable Gaeltacht.
- There is no evidence to show that this development of 46 no. houses is required to meet the housing needs of the local population. The number of houses proposed exceeds local demand and would have a huge impact on the local community and the Irish language as the language of this community.
- In order to properly assess the impact of the development, the developer should furnish a Linguistic Impact Statement prepared by a Language Planner/organisation that is qualified in this area.
- In the instance that permission is granted a strong occupancy condition is recommended in accordance with the requirements of Development Objective 1 of the Waterford County Development Plan 2011-2017.
- The occupancy of the development on an ongoing basis by Irish speakers must be monitored and strictly implemented.
- The local community development group, Comhlucht na nDeise is currently starting into its third year of implementing a 7-year Language Plan. It is reasonable for the Gaeltacht community to expect the support of the local authority in the implementation of this Language Plan to ensure the future sustainability of the Irish language as the community language in this area.
- The Language Plan and the Council's general obligations towards the Gaeltacht must be taken into account when assessing this planning application.

Irish Officer (16th of August 2021):

- Concerns are raised in relation to the submitted Linguistic Impact Statement. There is an overreliance on national policy and lack of an in depth understanding of the situation on the ground.
- It is spurious to justify a development of this scale as having an “imperceptible impact” on the use of the Irish language in An Rinn because the percentage of Irish speakers in the area increased by 1.2% between 2011 and 2016, when Table 1 of the LIS shows an increase in 12.5% in the percentage of people in the area with no ability to speak Irish in the same period, a figure which more accurately reflects the increasing pressure on Irish language as a community language in Gaeltacht na nDeise.
- The Linguistic Impact Statement fails to address the Deise Language Plan (Plean Teanga na nDeise 2018-2024) which is the most comprehensive language document that accurately reflects Gaeltacht na nDeise. This includes a detailed breakdown of the Census figures and figures obtained through a comprehensive local survey undertaken in 2015 which would have better informed the Linguistic Impact Statement.
- The applicant was requested to reduce the proposed number of units within the request for further information. This request has not been addressed and without a reduction the proposal would have a disproportionate impact on the vulnerable Gaeltacht area. A large-scale development is not in proportion to the pattern and grain of the existing development within the area.
- The LIS does not demonstrate how a development of the proposed scale and nature would support the natural growth of the indigenous population of this small vulnerable Gaeltacht area. While there is a need for affordable and social housing locally, allocating 67% of new developments to fluent Irish speakers would not necessarily preserve the current generations local to An Rinn.
- The lack of affordable and social housing within the area could be viewed as the single most challenging threat to the continued survival of the Gaeltacht area.

- The Linguistic Impact Statement shows very limited understanding of the area and the challenges facing the survival of Irish as a community language. The LIS does not appear to have any input from “*Irish speakers and a person qualified in sociolinguistics*” as requested in the FI request. Nor does there appear to have been any consultation undertaken with the PA to ensure that an appropriate person was retained for the preparation of the LIS.
- The proposal for the allocation of 27 units within the development for Irish speaking members of the community does not meet the planning authority’s 60% minimum requirement. At least 28 units or more should be provided in order to exceed the minimum requirement. Should non-native, non-Irish speakers purchase the remaining 19 units there would be a large influx of non-Irish speakers into the small Gaeltacht area.
- Clarification from the developer that the proposed 27 units would be reserved for local Irish speakers would be welcome.

The planner’s reports dated October 2020 and August 2021 include summaries/ of correspondence from internal departments in Waterford City and County Council. The planning authority confirmed via correspondence dated the 6th of October 2022 that the summary in the reports is on the basis of verbal consultation with internal departments.

District Engineer (Planners Report October 2020):

- Sightlines do not seem to be achievable on ground.
- There are long straight sections of road and sweeping bends within the development which may increase traffic speeds.
- The public open space is surrounded by an internal road and may not encourage play areas.
- Reference is made to the lack of consent for the proposed pedestrian link to the east. The lane does not have the right infrastructure to act as a pedestrian link.
- There is no footpath or public lighting along the Regional Road connecting the site to the settlement.

- No capacity is demonstrated for surface water proposals.

District Engineer (Planners Report, August 2021):

- There was no contact with the District Engineer as requested. The applicant's response fails to address the points raised within the FI request.

Water Services (Planners Report, August 2021):

- It is not possible to service the development and may not be possible until 2026.

3.3. Prescribed Bodies

Transport Infrastructure Ireland (September 2020)

- No objection to the proposal.

Transport Infrastructure Ireland (August 2021)

- Position remains as per previous correspondence.

3.4. Third Party Observations

Observations on the application were submitted during the initial consultation period and on receipt of the FI response. The issues raised primarily reflect those raised within the observations on the appeal. The following provides a summary of the key points raised.

Submission on Original Application

- Concerns are raised in relation to the impact of the development on the Irish language. Additional housing should be to address local need and not to the detriment of the local community and Gaeltacht.
- Requirement for a Linguistic Impact Statement.
- The proposal is contrary to local and regional policy provisions.
- Layout: The scale and density of the proposal does not reflect the character of development in the area. The proposal has a density of 14 units per ha and the Development Plan advocates a density of 10 units per ha.

- Impact on Residential Amenity: Concerns relating to loss of light, overlooking (on the basis of level differences) and overbearing impact on existing houses.
- The demand for the houses is questioned on the basis of residential vacancy levels in An Rinn; there are unfinished developments within An Rinn.
- Infrastructural Constraints: Insufficient capacity in the sewage treatment plant.
- The applicant does not have sufficient legal interest to use the lane to the east.
- Traffic: A Traffic Impact Assessment should be submitted, sightlines are insufficient.

Submissions on FI Response

The applicants FI response was deemed significant and readvertised. The following provides a summary of the key points raised within submissions on the FI response.

- The FI response fails to address the concerns raised by WCCC.
- Concerns are raised in relation to the content and scope of the submitted Linguistic Impact Statement. The author of the Linguistic Impact Statement is not independent, and their qualifications are questioned and misrepresented. The figures presented in Table 2 of the LIS are questioned. No reference is made to Plean Tenga na nDeise 2018-2024.
- The Planning Authority has a statutory duty to protect the Gaeltacht and if granted the proposed development would be in breach of the Planning and Development Act 2000 and the Gaeltacht Act 2012 and be contrary to the Waterford County Development Plan 2011-2017.
- The proposal is contrary to the objectives for housing within the Gaeltacht Area as set out within the Draft Waterford City and County Development Plan 2022-2028.
- The local schools do not have the capacity to support the development.
- The waste water network does not have the capacity to support the development.

- There is a requirement for more homes to be built in the area to meet local demand.
- A language provision should be proposed on 80% of the houses in the instance of a grant of permission.
- Concerns are raised in relation to the impact of the proposal on the residential amenity of adjoining dwellings. The proposal will result in overlooking, overshadowing and surface water run-off.
- The applicant does not have consent to discharge surface water into a watercourse on 3rd party lands. The submission from the landowner refuses to give permission for the proposed outfall.
- The development builds over an existing right of way on the site.
- The owner of the access laneway to the east confirms that the developer has no legal right to use the laneway and requests that this is omitted from the proposed layout.

4.0 Planning History

The following provides a summary of the planning history pertaining to the site.

- PA Ref 11/104 – Planning permission refused by WCC in April 2011 for extension of duration of permission of PA Ref: 05/862. The reason for refusal outlined that the planning application was made after the expiration of the appropriate period and the planning authority is precluded from considering the application.
- PA Ref 07/770, ABP Reference PL24S.226928 – Planning permission refused by An Bord Pleanála in August 2008 for 49 no. dwellings on site in accordance with the following reasons and considerations.
 1. The proposed development would be premature by reference to the existing deficiency in the provision of water supplies and sewage treatment facilities in the area and the period in which the constraints involved may reasonably be expected to cease.

2. The proposed development, by reason of its density and suburban style layout, would be out of character with the established pattern of development in this rural Gaeltacht area. The proposed development would seriously injure the amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.
- PA Ref: 07/545: Planning permission refused by WCC in December 2007 for construction of 12 no. semi-detached houses on site on grounds of prematurity in the absence of the provision of adequate potable water and stormwater facilities.
 - PA Ref: 05/861, ABP Reference PL24.215257 planning permission granted in November 2005 for the erection of 17 no. dormer style dwellings (outline ref: PD 03/568) roadway and ancillary works with access from roadway granted under ref; 04/125.
 - PA Ref: 04:125: Planning permission granted by WCC in July 2004 for construction of a roadway to serve proposed development comprising 17 no. dormer style dwellings, access roadway and ancillary works (ref no. PD 03/568).
 - PA Ref: 03/568: Planning permission granted by WCC in June 2004 for 17 no. dormer style dwellings, access roadway and ancillary works.

Other Residential Site to the East

PA Ref: 21/164: Planning permission refused by WCCC in February 2022 for the construction of 6 houses in place of the permitted 3 within the development permitted under PA Ref: 04/1282 and 15/402. The planning authority's reasons for refusal related to the unfinished nature of existing development on site and impact on the residential amenities of existing and future residents, impact on the visual amenities of the area and existing Scenic Route, intensification of the access would result in a traffic hazard, impact on residential amenity as a result of the quality of the public open space.

5.0 Policy Context

5.1. Development Plan

Waterford City and County Development Plan 2022-2028

- 5.1.1. The application was assessed by Waterford City and County Council in accordance with the policies and objectives of the Waterford County Development Plan 2011-2019 (as varied and extended). The Waterford City and County Development Plan 2022-2028 was adopted by Waterford City and County Council on the 7th of June 2022 and came into effect on the 19th of July 2022. I have assessed the proposal in accordance with the policies and objectives of the operative Development Plan namely the Waterford City and County Development Plan 2022-2028.

Zoning

- 5.1.2. The site is zoned for Objective R1 purposes with an objective to *“Provide for new residential development in tandem with the provision of the necessary social and physical infrastructure”*. Dwelling is listed as a use which is “permitted in principle” on lands zoned for R1 purposes.

Settlement Hierarchy

- 5.1.3. Table 2.2 of the WCCDP sets out the settlement hierarchy and typology for settlements within the County. Gaeltacht na nDéise (inc. Sean Phobal) is designated as a Class 4A Rural Town. The following is noted in respect of the classification of these towns:

“Rural towns and villages less than 1,500 pop and the wider rural region. While rural in scale these towns provide a range of employment along with commercial, cultural and community services”.

- 5.1.4. Section 2.9 of the Plan sets out the following guidance for the expansion of rural settlements within the settlement hierarchy:

“The identified settlement boundaries will control the expansion of the settlements while allowing settlement cores to be developed in a manner consistent with existing character of each individual location. In determining the quantum of housing units that can be delivered during the life of the Development Plan within these rural settlements the following should be noted:

- *4A Rural Towns (500 -1500 Pop): These settlements which have developed historically as strong rural market towns serving their immediate rural hinterlands can support a maximum of c.20 houses during the life of the Development Plan subject to compliance with the policies and standards of the Development Plan”.*

- 5.1.5. Section 2.9 of the Development Plan outlines that during the lifetime of the Development Plan, the planning authority will monitor the level of development across these rural settlements and where development is not forthcoming in any particular settlement additional development in neighbouring settlements may be facilitated.
- 5.1.6. Section 2.11.1 of the plan relates to residential density and outlines that due consideration has been given to the core considerations of the NPF, RSES, and all relevant S28 Ministerial Guidelines which support compact growth. The Plan outlines that where lower densities are identified within settlements, the rationale for so doing is based on the requirement to meet the housing needs for both urban and rural areas, with particular focus on providing a real alternative to urban generated development in the open countryside, and providing scope and choice within the housing market which supports the diversity and consolidation of rural and urban settlements and the achievement of a balanced housing type and tenure mix, as required by the Housing Strategy. Table 2.4 Core Strategy Table identifies the target residential density for Gaeltacht na nDeise and 4A and 4B zoned lands as 20 units per hectare.
- 5.1.7. Section 2.11.2 of the Development Plan refers to the provision of a Tiered Approach to Zoning within the Plan. This outlines that R1 zoned lands are designated for Phase 1 and Phase 2 purposes. The Plan outlines that 3.97 ha of land is designated for Phase 1 purposes within An Gaeltacht nDeise and 3.38ha is designated for Phase 2 purposes. The appeal site is designated as Phase 2 lands as illustrated in Figure 2.5. The development plan sets out the following guidance in this regard:
- “The method of land use zoning employed in this Development Plan focuses on delivering the strategic outcomes and priorities of the NPF for Waterford City and County. The approach taken considers the provisions of NPO 72(a), (b) & (c) of the NPF4 , paying particular attention to the infrastructural services available, thereby*

adopting a Tier 1 and Tier 2 approach to the release of land for residential development during the life of the plan. This has avoided the inappropriate zoning of land for development where such land cannot be serviced during the life of the plan.

.....Section 6 and SPPR DPG 7 of the consultation draft Development Plans: Guidelines for Planning Authorities (August 2021) identifies how lands which are suitable for residential development can be tiered/phased or prioritised in the Development Plan. This sequential approach develops further the Tiered Approach to Zoning and gives due cognisance to the principles of compact growth and utilisation of existing infrastructure as set out in the NPF and RSES”.

5.1.8. Appendix 17 outlines that the Waterford County Development Plan 2011 - 2017 included c.33 ha of zoned land for residential purposes in Gaeltacht na nDéise, none of which has been developed under the lifetime of the plan. Table 10.2 of A17 includes a Site Specific Infrastructure Assessment of the appeal site. This identifies that the site is served by water and wastewater supply, road, footpath and public transport but does not support co-ordinated development and compact growth.

5.1.9. Section 2.18 sets out Core Strategy Policy Objectives. The following are of relevance:

- CS 03 Compact Growth: In a manner consistent with NPO 34 and 35, we will promote and support an efficient, equitable and sustainable pattern of residential and other development that delivers compact growth and critical mass for sustainable communities in Waterford, by managing the level of growth in each settlement.
- CS 08 Local Area Planning: To supplement the land use zoning objectives and other policy objectives of this Development Plan, through the provision of Local Area Plans (LAPs) for areas of Waterford City, Dungarvan/ Ballinroad, Tramore, Dunmore East, Portlaw, Lismore and Gaeltacht na nDéise (including Sean Phobal).
- CS 10 Gaeltacht na nDéise We recognise the cultural and socio-linguistic significance of Gaeltacht na nDéise within Waterford and the Southern Region, and will collaborate with Údaras na Gaeltachta and other bodies to proactively enhance the linguistic viability of the Gaeltacht, with a view to

achieving the 67% viability threshold in time and thereby develop a sustainable future for the area and its community.

- CS 16 Rural Towns and Villages In addition to compliance with other policy objectives and development management standards of the Development Plan, development proposals for all land use types within rural towns and villages (Class 4 & 5 in Table 2.1) will be required to demonstrate that:
 - The scale of a proposed housing development is consistent with the number of housing units appropriate to the class/ typology of the settlement as set out in Section 2.9 and Table 2.2.
 - The proposal is compatible with the context of the site in terms of character, scale and density.
 - The proposal will contribute to the visual and general/residential amenity of the settlement and its built quality.
 - The proposal avoids any transgression onto land used or intended for use as public amenity. The proposal is accompanied by a program for developing out the site in terms of access to public water/, innovative solutions to wastewater such as integrated constructed wetlands and other services along with a completion timeframe; and,
 - The proposal will not prejudice the future development of land in its vicinity and the expansion of public amenities or community land uses such as schools.
 - Site selection should be informed by a sequential approach to development and the avoidance of development within flood zones. Development within flood zones should be for water compatible uses only.

In order to avoid a situation where permitted residential development may sterilise other development proposals during the lifetime of the Development Plan, we may specify the lifetime of a planning permission having regard to the program for implementing the development identified in the proposal.

5.1.10. Chapter 4 of the Plan relates to Economy, Tourism, Education and Retail. Economic Policy Objective ECON 15 is of relevance and seeks to “support the implementation

of Plean Teanga na nDéise 2018 – 2024 in collaboration with Údarás na Gaeltachta, Comhlucht Forbartha an nDéise”, and the broader community by a range of measures including the following:

- Facilitating a mix of social and affordable housing that supports the aim of the Language Plan.
- The Council will require all proposals for commercial development in Gaeltacht na nDéise to be accompanied by a Language Impact Assessment which should demonstrate that the proposal will not have a negative impact on the linguistic viability of the area.

Specific Development Objectives

5.1.11. Appendix 2 of the Waterford City and County Development Plan sets out specific development objectives for Gaeltacht na nDeise. The following is of relevance:

- *GDDO1 – It is an objective of the Council to protect and promote the linguistic heritage of the Gaeltacht through the use of occupancy conditions restricting the sale or occupation of dwellings to those who have demonstrated reasonable fluency of the Irish Language and/or person’s native to the Gaeltacht.*

Transport and Mobility

5.1.12. The R674 An Borthar Rinn is identified as a Strategic Regional Route in Table 5.6 of the Waterford City and County Development Plan. Policy Objective Trans 45 is of relevance as follows:

“Protect strategic regional roads listed in Table 5.6 against development where a maximum speed limit applies, except in exceptional circumstances, in order to protect the carrying capacity and safety of such roads. On these and other regional roads we will resist the creation of new vehicular accesses where the maximum speed limit applies”.

5.1.13. A number of exceptional circumstances are identified. The following is of relevance to the proposal:

- Developments of a strategic, local, regional or national importance, where there is a significant gain to the county through employment creation or other economic benefit having regard to: the safety, capacity and efficient operation

of the regional road; any plans for future upgrades of the road; and the suitability of the location compared to alternative locations.

Policy Objective 45 furthermore outlines that in all circumstances proposed development should not cause drainage issues by allowing additional water onto the public road, or impact on the drainage of the location.

Housing

5.1.14. Section 7.13 relates to Housing in Gaeltacht na nDeise. This outlines that the Planning Authority are committed to ensure that the unique needs of Gaeltacht na nDéise are considered when determining proposals for housing development in the Gaeltacht area as defined in the Development Plan in order to ensure that the viability of the Gaeltacht as a linguistic community is protected. In this regard the Development Plan seeks to ensure that development proposals will avoid any significantly negative impact, directly or otherwise, on the use of the Irish language as the primary spoken language of the community.

5.1.15. Policy Objective H 34 outlines that:

“When authorising proposals for two or more house developments on land zoned for residential use we will require all of the following:

- *A Language Enurement Clause (LEC) shall be applied requiring a minimum of 80% (rounded up) of the occupants of the proposed development be capable of using the Irish Language on a daily basis.*
- *The LEC will be for a duration of 15 years from the date of first occupancy of the unit; and,*
- *The balance of the units proposed may be made available to occupants who have a local or other need to reside in the Gaeltacht”.*

Landscape Character

5.1.16. The appeal site is located within a low sensitive character area. Appendix 8 of the City and County Development Plan relates to Landscape Character Areas. The Plan outlines that these areas have potential to absorb a wide range of new developments subject to normal planning and development control procedures.

5.1.17. The R674 is identified as a Scenic Route.

Development Management

5.1.18. Volume 2 of the Waterford City and County Development Plan sets out Development Management Standards. Section 3 relates to Residential Development.

Development Management DM 04 outlines that: Applications will be required to adhere to the guidance contained in the 'Urban Design Manual - A Best Practice Guide' (Department of the Environment, Community and Local Government, 2009).

Section 3.2 Residential Density:

5.1.19. The Plan outlines that in assessing applications for residential development, the Planning Authority will seek to implement the density standards set out in the ministerial guidelines 'Sustainable Residential Developments in Urban Areas' (DoEHLG 2009), the Specific Planning Policy Requirements (SPPR) of the Urban Development and Building Heights Guidelines for Planning Authorities (2018) and Circular Letter NRUP02/2021 along with those provided in the Core Strategy of this Development Plan. In all instances the following will be taken into consideration:

Development Management DM 05

- Proximity to public transport bus stops.
- Proximity to neighbourhood and district centres.
- The extent to which the design and layout follows a coherent design brief resulting in a high-quality residential environment.
- Compliance with qualitative and quantitative criteria.
- The extent to which the site may, due to its size, scale and location, propose its own density and character, having regard to the need to protect the established character and amenities of existing adjoining residential areas.
- Existing topographical, landscape or other features on the site.
- The capacity of the infrastructure, including social and community facilities, to absorb the demands created by the development.
- Where the opportunity exists to increase density and building heights in pursuit of compact, regeneration, sequential and transit-oriented development, and where it can be demonstrated that the development management standards set out in the Development Plan may in certain

circumstances be counter to achieving these principles of sustainable urban development, we will consider such proposals on their own merits having regard to the relevant S28 Guidelines in place at the time.

5.1.20. The following Development Management Requirements are also of relevance:

- Public Open Space: minimum of 15% of the total site area.
- Private Open Space: In accordance with the requirements set out within Table 3.2. Minimum Private Open Space - 3 bedroom houses – 60 sq.m., 4 bedrooms or more 75 sq.m.
- Minimum Separation Distance – 22m between opposing first floor windows. Reduced separation distances can be achieved in innovative design approach.
- Car Parking Standards Table 7.1 – House/Dwelling/Apartment – 2 spaces per dwelling
- Table 8.1 sets out Minimum Sightline Requirements: 50 kmph built up areas – 70m at a set-back of 4.5m

5.2. **Plean Teanga na nDeise 2018-2024**

5.2.1. Plean Teanga na nDeise 2018-2024 is a seven-year plan which sets out targets to strengthen the status of Irish and increase its use in the Gaeltacht of west Waterford. The Plan details strong use of the Irish language in the Gaeltacht and sets out a range of wide-ranging objectives to strengthen the vitality of the Irish language in the area.

5.2.2. The Plan aims is to improve the current infrastructure and provide more services and supports in particular to those raising children through Irish. Proposed measures range from setting up a crèche, publishing a directory of local businesses, developing all-Irish signage in the area and establishing a youth centre.

5.3. **Planning and Development Act 2000 (as amended)**

5.3.1. Section 10 (2) (m) requires development plans to include objectives for *“the protection of the linguistic and cultural heritage of the Gaeltacht including the promotion of Irish as the community language, where there is a Gaeltacht area in the area of the development plan”*.

5.4. **National Planning Framework**

- 5.4.1. National Policy Objective 29: Support the implementation of language plans in Gaeltacht Language Planning Areas, Gaeltacht Service Towns and Irish Language Networks.

5.5. **Sustainable Residential Development in Urban Areas (2009)**

- 5.5.1. Chapter 6 of the Guidelines relates to development within small towns and villages. The Guidelines define a smaller town or village as having a population ranging from 400 to 5,000 persons.
- 5.5.2. Section 6.3(e) advises that the scale of new residential schemes in small towns and villages 'should be in proportion to the pattern and grain of existing development' and suggests that the development of these settlements may be controlled, for example that no single proposal should increase the housing stock by more than 10-15% or that, for villages of under 400 in population, any individual scheme for new housing should not be larger than about 10-12 units due to an absence of a sufficiently developed local infrastructure such as schools and community facilities to cater for development.
- 5.5.3. Section 6.8 of the Guidelines refers to layout and design considerations. This outlines that *"the primary consideration, in respect of layout design and space standards, is that new development relates successfully to the structure of the smaller town or village"*.
- 5.5.4. Section 6.11 relates to densities for edge of centre sites. This outlines that the emphasis will be on achieving successful transition from central areas to areas at the edge of the smaller town or village concerned. Development of such sites tend to be predominantly residential in character and given the transitional nature of such sites, densities to a range of 20-35 dwellings per hectare will be appropriate including a wide variety of housing types from detached dwellings to terraced and apartment style accommodation.
- 5.5.5. In relation to densities applicable in the edge of small town/village Section 6.12 of the Guidelines outlines that in order to offer an effective alternative to the provision of single houses in surrounding unserviced rural areas, it is appropriate in controlled circumstances to consider proposals for developments with densities of less than 15

- 20 dwellings per hectare along or inside the edge of smaller towns and villages, as long as such lower density development does not represent more than about 20% of the total new planned housing stock of the small town or village in question.

5.6. Natural Heritage Designations

5.6.1. The following designated sites are located within the vicinity of the appeal site.

- Dungarvan Harbour pNHA – 0.4km
- Dungarvan Harbour SPA- 0.7km
- Helvick Head to Ballyquin SPA- 1.7km
- Helvick Head pNHA – 1.8km
- Helvick Head SAC- 1.8km
- Ardmore Head SAC – 13.4km
- Blackwater River (Cork/Waterford) SAC – 4.3km
- Comeragh Mountains pNHA – 14.2km
- Comeragh Mountains SAC – 14.2km
- Glendine Wood SAC – 7.8km
- Mid-Waterford Coast SPA – 9.1km

5.7. EIA Screening

5.7.1. An Environmental Impact Assessment Screening report was not submitted with the application. The proposed development falls within the categories of ‘Infrastructural Projects’, under Schedule 5, Part 2 of the Planning and Development Regulations 2001-2020, where mandatory EIA is required in the following circumstances:

10(b)

- (i) Construction of more than 500 dwelling units.
- (iv) 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. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

- 5.7.2. The proposal is for 46 no. residential units on a site of 3.3ha. The proposed development falls below the development threshold and mandatory EIA is therefore not required. The site is located at the edge of an existing settlement. The development will not have an adverse impact in environmental terms on surrounding land uses.
- 5.7.3. I have given consideration to whether sub-threshold EIA is required. The introduction of a residential development on a zoned site within the settlement boundary of Maoil a'Choirne, An Rinn will not have an adverse impact in environmental terms on surrounding land uses. The site is not designated for the protection of the landscape or of natural or cultural heritage. No Appropriate Assessment Screening was submitted in support of the application. I consider potential impacts on Natura 2000 sites further in Section 7 of this report.
- 5.7.4. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Waterford City and County Council, upon which its effects would be marginal.
- 5.7.5. Having regard to: -
- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
 - The location of the site within the existing settlement boundary of Maoil a'Choirne, An Rinn which is served by public infrastructure,
 - The location of the site outside of any sensitive location specified in Article 109 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), and
 - The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

5.7.6. I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination a sub-threshold environmental impact assessment report for the proposed development was not necessary.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal was submitted in respect of Waterford City and County Council's notification of decision to refuse permission for the development. The following provides a summary of the grounds of appeal:

- The scale and density of the proposal is entirely consistent with the extent of residential zoning and development plan objectives for the area.
- The development will provide much needed housing within this Gaeltacht location and will help to sustain and increase the Irish speak population of the area. The number of units to be set aside for Irish speakers is a matter for the planning authority in terms of policy and implementation. It is standard practice to address this by means of a condition. Reference is made to ABP Ref. 306489-20 Rathcairn Gaeltacht in Co. Meath in this context.
- The site is one of only 2 sites zoned for residential development within the Local Service Centre. There is no reference in the WCCDP to a density limit of 10 units per ha.
- The development is plan led and results in a compact form of development and will offer an alternative to one off housing development. A phased delivery of housing is proposed to provide an incremental growth of the village (Phase 1: 19 units, Phase 2: 18 units, Phase 3: 9 units).
- The required upgrading of the sewer network servicing this location is deliverable by Irish Water within the life of the permission and there are no issues regarding prematurity.
- The development will not in any way have an adverse impact on the amenities of the existing residential units to the north of the site. All of the proposed

back gardens at this location are in excess of 11m. The separation distance to the nearest dwelling to the north is over 30m.

- Adequate sightlines and forward stopping distances can be achieved at the proposed access/exit to the site as demonstrated on the application drawings. The Council's assessment appears to be based on a site visit and is not supported by any evidence or drawings.
- Storm water will discharge to a manhole proposed on the public road and does not require any third-party consent.

6.2. Planning Authority Response

- None received.

6.3. Observations

4 no. observations were submitted in respect of the appeal. The following provides a summary of the issues raised.

Tomás and Áine Uí Chéilleachair

- Validity of Appeal - the appeal should be invalidated as the incorrect address was used;
- Scale of Development - an excessive number of houses is proposed for this rural area;
- Traffic Impact - reduced traffic is needed in this area;
- Impact on Irish Language - there would be impacts on the Irish language, as only 60% of the houses would be reserved for Irish speakers, instead of 100%; an independent examiner should be engaged to oversee persons purchasing houses in Gaeltacht developments;
- Infrastructural Constraints - there is already significant pressure on wastewater treatment and water in this area and the proposed development would add to this;

Senator Lorraine Clifford-Lee

- Background to observation - connections with the area outlined;

- Impact on Irish Language
 - The Planning Authority plays an important role in the development of the Irish language and in preserving this as the first language.
 - The proposed development should be refused permission due to its impact on the linguistic heritage of the area;
 - This Gaeltacht area experienced an increase in the number of Irish language speakers during the 2011-2016 period and care should be taken not to interfere with this;
 - inability to assess the Irish language proficiency of future occupants of the proposed houses;
 - The houses may not be used as main residences in the future, or they could be used as holiday homes;
 - The Board has a legal duty to protect the Irish language and should refuse to grant permission for the proposed development;
- Scale of Proposal - while there may be demand for housing in the area, the scale of housing would be excessive with respect to local demand, as reflected in the Planning Authority decision.

Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media

- Background to Observation: The role of the Department and Údarás na Gaeltacht with regard to planning is outlined, including the legislative requirement for consultation;
- Reference is made to the two previous submissions on this application and these refer to the need for the Irish language to be considered when assessing applications;
 - submission dated 20th day of August, 2021, refers to the Department welcoming the provision of 60% of the houses for Irish speakers;
 - submission dated 22nd day of September, 2020, refers to the need for a report to be submitted assessing the impact of the proposed development on the Irish language.

- Impact on Irish Language: A language condition should be applied requiring a significant proportion of the houses (60%) to be provided for Irish speakers in the instance of a grant of permission;

Conradh na Gaeilge

Impact on Irish Language:

- the Waterford Gaeltacht area features 71% Irish speakers, which is well above the national average, although there was a very slight decrease in the percentage of Irish speakers over the 2011-2016 period;
- efforts are being made to increase the number of Irish speakers in this area and the subject development could reduce the proportion of Irish speakers in this Gaeltacht area;
- section 10(2)(m) of the Planning and Development Act 2000, as amended, requires the Board to preserve the Irish language in the Gaeltacht;
- sociolinguistic analysis of the impact of the development is required;
- Waterford City and County Council Language Scheme 2018-2021 addresses measures to support and protect the cultural and linguistic heritage of the Gaeltacht;
- the Déise Language Plan 2018-2024 recognises the importance of Irish as the language of this community, and refers to various policies aimed at supporting an increase in Irish language speakers in the Gaeltacht area;
- a language condition should be applied to permissions for residential development consisting of two or more houses;
- Waterford County Development Plan 2011-2017 refers to the need for linguistic impact statements and the attachment of a language condition requiring 60% of houses in developments to feature restricted ownership for those with a reasonable fluency in Irish;
- policy CS19 of the Development Plan refers to the measures to promote and sustain Irish in the Gaeltacht area;
- the Draft Waterford County Development Plan 2022-2028 requires the attachment of a 15-year language clause for developments consisting of two or more houses on zoned residential land, requiring a minimum of 80% of

occupants being capable of using the Irish language on a daily basis.

Permission should be refused if this cannot be achieved;

- in *Connolly et al v Galway County Council*, expert advice highlighted the negative social and economic impact of rapid urbanisation on a minority language and these impacts would be even more profound given the proportion of daily Irish speakers in the Déise Gaeltacht;
- an independent language impact assessment, restricted sale and occupation of the houses, and a 'B2' or higher standard in spoken Irish of future occupants is required;
- persons with a 'B2' or higher proficiency in Irish should be considered as having a local housing need;
- language conditions should not impact on persons native to the area;
- a sufficient number of Irish speakers at Teastas Eorpach na Gaeilge (TEG) level B2 would be unlikely to purchase these houses, therefore compliance with a language condition would not be possible;
- the proposed houses would have to be sold to non-Irish speakers, thereby reducing the percentage of daily Irish speakers in the area, severely damaging the sociolinguistic heritage of the area and in breach of the Planning and Development Act 2000, as amended, the Gaeltacht Act 2012 and Waterford County Development Plan 2011-2017.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Procedural Matters
- Principle and Scale of Development
- Impact on Irish Language
- Density, Layout and Design
- Impact on Visual and Residential Amenity

- Water, Wastewater and Surface Water
- Traffic and Transportation
- Other Issues
- Appropriate Assessment

7.2. Procedural Matters

- 7.2.1. The site is located within the administrative boundary of Waterford City and County Council. At the time of the assessment of the application, the Waterford County Development Plan 2011-2017 was the operative development plan for the area. The application was assessed by Waterford City and County Council in accordance with the policies and objectives of this plan.
- 7.2.2. The Waterford City and County Development Plan 2022-2028 was adopted by Waterford City and County Council on the 7th of June 2022 and came into effect on the 19th of July 2022. I have assessed the proposal in accordance with the policies and objectives of the operative Development Plan namely the Waterford City and County Development Plan 2022-2028.

7.3. Principle and Scale of Development

- 7.3.1. The proposed development comprises the construction of 46 no. houses on greenfield lands to the west of the settlement of Maoil O' Chroine. The site is zoned for Objective R1 purposes to *"Provide for new residential development in tandem with the provision of the necessary social and physical infrastructure"* within the Waterford City and County Development Plan 2022-2028. Dwelling is listed as a use which is "permitted in principle" on lands zoned for R1 purposes. The principle of a residential development on the site is therefore acceptable.
- 7.3.2. A tiered approach to zoning is set out within the Waterford City and County Development Plan which is consistent with the approach advocated within the National Planning Framework. The site is designated as a Phase 2 Residential Lands within Figure 2.5 of the Waterford City and County Development Plan 2022-2028. Appendix 17 of the Development Plan identifies that the site is served by water, wastewater, access and transport services. The designation of the site as Phase 2 lands is on the basis of its distance from the core of the settlement. In this regard the Individual Site Assessment set out within Appendix 17 outlines that the

site would not support compact growth or co-ordinated development within the settlement. The appeal site is the only site designated for Phase 2 purposes within the settlement. I note that the principle of residential development has previously been accepted at this location and have no objection to the principle of the development of the site in this regard.

- 7.3.3. The appeal site is located within a Gaeltacht area of Waterford on the Ring Peninsula, southeast of Dungarvan. Waterford City and County Council's first reason for refusal outlines that the scale of proposed 46-unit residential development would be in excess of what is required to meet the needs of the indigenous Irish speaking population and would therefore be likely to have an adverse effect on the Irish language and culture of this linguistically vulnerable Gaeltacht area. The Council's decision outlines that the proposal would materially contravene Policy CS19 of the Waterford County Development Plan 2011-2017 in this regard. The observations on the appeal raise concern in relation to the scale of the proposed development relative to the size of the settlement and its location within a Gaeltacht area. I consider that the scale of residential development on the site is an important consideration both in terms of the designation of the area within the settlement hierarchy and its potential impact on the Irish Language.

Settlement Hierarchy

- 7.3.4. Table 2.2 of the Waterford City and County Development Plan 2022-2028 sets out the settlement hierarchy and typology for settlements within the County. Gaeltacht na nDéise (inc. Sean Phobal) is designated as a Class 4A Rural Town. Section 2.9 of the Plan sets out the following guidance for the expansion of rural settlements within the settlement hierarchy:

"The identified settlement boundaries will control the expansion of the settlements while allowing settlement cores to be developed in a manner consistent with existing character of each individual location. In determining the quantum of housing units that can be delivered during the life of the Development Plan within these rural settlements the following should be noted:

- *4A Rural Towns (500 -1500 Pop): These settlements which have developed historically as strong rural market towns serving their immediate rural hinterlands can support a maximum of c.20 houses during the life of the*

Development Plan subject to compliance with the policies and standards of the Development Plan”.

- 7.3.5. Policy Objective CS 16 of the Waterford City and County Development Plan relates to development proposals for rural towns and villages and outlines that development proposals for all land use types within rural towns and villages (Class 4 & 5 in Table 2.1) will be required to demonstrate compliance with a range of criteria including the following:
- The scale of a proposed housing development is consistent with the number of housing units appropriate to the class/ typology of settlement as set out in Section 2.9 and Table 2.2.
 - The proposal is compatible with the context of the site in terms of character, scale and density.
- 7.3.6. The proposed development comprises the construction of 46 no. dwellings on greenfield land to the west of the settlement. The applicant provided a justification for the proposal on the basis of the zoned nature of the site within a designated local service centre, compliance with national guidance, lack of alternative zoned sites within the area and limited delivery of housing within the settlement. A phased delivery of housing is proposed to provide an incremental growth of the village (Phase 1: 19 units, Phase 2: 18 units, Phase 3: 9 units).
- 7.3.7. I accept the case made by the applicant that limited residential development has been provided within the settlement under the previous Development Plan. This is confirmed within Appendix 17 of the 2022-2028 Waterford City and County Development Plan which outlines that no residential development was permitted in at this location under the 2011-2017 Waterford County Development Plan.
- 7.3.8. However, the need for the quantum of development proposed within the current application is not justified in the context of the settlement hierarchy. The scale of the development is significantly over and above the quantum of units (c.20) identified for level 4A Rural Towns as identified within settlement hierarchy as set out within Section 2.9 and Table 2.2 of the recently adopted Waterford City and County Development Plan 2022-2028.

Impact on Irish Language

- 7.3.9. Waterford City and County Council's first reason for refusal outlines that it is considered that the scale of proposed development would be in excess of what is required to meet the needs of the indigenous Irish speaking population and would therefore be likely to have an adverse effect on the Irish language and culture of this linguistically vulnerable Gaeltacht area. The reason for refusal outlines that the proposed development would therefore materially contravene Policy CS19 of the Waterford County Development Plan 2011-2017 which states that it shall be the policy of the planning authority to, inter alia, protect and sustain the linguistic and cultural heritage of the Gaeltacht area and to focus residential development on accommodating the natural growth of the indigenous population.
- 7.3.10. Concerns relating to the scale of the development within the settlement and non-compliance of the proposal with Policy CS19 of the Waterford County Development are reflected within the observations on the appeal. The first party appeal outlines that compliance with Policy CS19 can be addressed by an appropriately worded condition.
- 7.3.11. I note that Policy CS19 is not carried forward within the recently adopted Waterford City and County Development Plan 2022-2028. Specific Development Objective GDDO1 outlines that: *"It is an objective of the Council to protect and promote the linguistic heritage of the Gaeltacht through the use of occupancy conditions restricting the sale or occupation of dwellings to those who have demonstrated reasonable fluency of the Irish Language and/or person's native to the Gaeltacht"*.
- 7.3.12. Policy Objective H 34 of the Development Plan which outlines that a Language Enurement Clause (LEC) shall be applied requiring a minimum of 80% (rounded up) of the occupants of the proposed development be capable of using the Irish Language on a daily basis and the balance of the units proposed may be made available to occupants who have a local or other need to reside in the Gaeltacht.
- 7.3.13. In considering the principle of the proposal, I question that the delivery of one large suburban housing development could be managed to ensure that the linguistic distinction of this village would be protected. Legislative and national and local policy provisions seek to promote and enhance the Irish Language with Gaeltacht areas.
- 7.3.14. I refer to the grounds of appeal which relates to the provision of an appropriately worded condition and I note the requirements of Specific Development Objective

GDDO1 and Policy Objective H 34 of the Waterford City and County Development Plan 2022-2028 in this regard. However, it is also important to consider these requirements in conjunction with other safeguards and provisions set out elsewhere within the Development Plan. I consider that such safeguards include the provision of a maximum of 20 units within designated rural towns and villages as stipulated within the settlement hierarchy as specified under Policy Objective CS 16. I consider that this would promote small scale and incremental growth of the rural Gaeltacht area.

- 7.3.15. The issue of the impact of the proposal on the use of Irish Language within the Gaeltacht was raised within Waterford City and County Council's request for further information. A Linguistic Impact Statement was submitted which concluded that *"the provision of an additional 46 no. units at this location will not have an adverse impact on the linguistic integrity of the area due to population levels and numbers of Irish speakers in the vicinity"*.
- 7.3.16. Concerns relating to the scope and content of the study and the qualifications of the author are raised by the planning authority within the Irish Officer's report and within the observations on the appeal. These outline that the report is heavily focused on national statistics, has very little local baseline information, and includes no reference to the Gaeltacht na nDeise Language Plan.
- 7.3.17. On review of the assessment, I agree with the conclusions of the planning authority that the LIS is not sufficiently robust or grounded in information specific to the Gaeltacht Area. The LIS outlines that the proposed development will cater for local housing requirements in line with the relevant national, regional and local policy context and will strengthen the identity of the community and the Irish Language in An Rinn. However, as earlier noted the scale of the proposal is not provided for designated 4A Rural Towns within the recently adopted Waterford City and County Development Plan 2022-2028. The applicant, in my opinion, has failed to demonstrate that the proposal for 46 no. units would not detrimentally impact on the linguistic integrity of the area.

Conclusion

- 7.3.18. I consider that the scale of any future development at this location must be carefully considered in terms of any potential negative impacts on the Gaeltacht and that a

balance needs to be struck between appropriate growth and protection and promotion of the Irish Language. It is my view that the development of a large-scale housing estate within the village would have the potential to dilute the linguistic and cultural distinctiveness of this Gaeltacht community. I consider that the scale of the proposal is excessive in terms of the designation of the settlement as a Tier 4A Rural Town within the Waterford City and County settlement hierarchy and contrary to the requirements of Policy Objective CS 16 of the Waterford City and County Development Plan 2022-2028 which outlines that *“the scale of a proposed housing development is consistent with the number of housing units appropriate to the class/typology of settlement as set out in Section 2.9 and Table 2.2”* .

7.4. Density, Design and Layout

Density

7.4.1. The Sustainable Residential Development in Urban Area Guidelines identify densities of 20 to 35 units per ha for edge of centre sites in small towns and villages. The proposed density is 14 units per ha. Table 2.4 Core Strategy Table identifies the target residential density for Gaeltacht na nDeise and 4A and 4B zoned lands as 20 units per hectare. The Sustainable Residential Development in Urban Area Guidelines acknowledge the potential for low density development at edge of village locations to provide for an alternative to one-off-rural housing (i.e. less than 15-20 units per ha), as long as such lower density development does not represent more than about 20% of the total new planned housing stock of the small town or village in question. In the instance of the proposal I note that a maximum housing stock of 20 is identified for the settlement within the Waterford City and County Development Plan 2022-2028. The proposal at 46 units is significantly in excess of the total allocation proposed for the settlement.

7.4.2. Notwithstanding the above, I consider that density is just one of many factors which influence the quality of a development. I refer to the guidance set out in Section 6.8 of the Sustainable Residential Development in Urban Area Guidelines which outlines that: *“the primary consideration in respect of layout, design and space standards, is that new development relates successfully to the structure of the small town or village”*.

Design and Layout

- 7.4.3. Waterford City Council's third reason for refusal raises concern in relation to the design and layout of the proposal. A rationale for the layout and design of the proposal is set out within the Architectural Design Statement submitted in support of the application. Section 5 of the Design Statement relates to the design strategy and outlines that the proposal incorporates and develops the site design, road layout and site access of the previously approved application of 2005.
- 7.4.4. The scheme is arranged in two clustered areas of housing centred on two larger open space play areas. The applicant's design statement outlines that the mix of housing types and designs within the development will create a sense of place rather than a typical suburban housing layout. In terms of unit mix the development includes 16 no. detached units and 30 no. semi-detached units. The development includes detached, semi-detached, single storey, two storey and dormer designs. The design statement outlines that this ensure that the development will successfully integrate with the existing one-off houses in the immediate vicinity.
- 7.4.5. The settlement is a small-scale village with existing residential properties following a linear pattern along the approach road. The proposed housing development presents itself as a suburban housing estate in form, character and layout. I consider that the proposed development by reason of its scale and suburban form and layout would be out of character with the established pattern of development in this rural Gaeltacht area.
- 7.4.6. I note that the proposal includes a significant level of site cutting to integrate the proposal with existing residential development. The levels on site increase from c. 55m on the R674 to the north of the site to 66m along the southern site boundary. The site is located along a scenic route and adjacent to lands zoned for high amenity purposes to the south and west. The 3D views submitted in support of the application are limited to views within the scheme. I do not consider that the applicant has sufficiently demonstrated that the development would not impact on the overall visual amenities of the area.
- 7.4.7. In conclusion, I consider the proposal to be contrary to the requirements of Policy Objective CS16 of the Waterford City and County Development Plan 2022-2028 which outlines that proposals should be compatible with the context of the site in terms of character, scale and density.

7.5. Impact on Residential Amenity

- 7.5.1. WCCC's 3rd reason for refusal outlines that it is considered that the development would result in a loss of privacy of and amenity for the existing residential units to the north of the site which would subsequently result in a depreciation in the value of those existing properties.
- 7.5.2. Concerns relating to the interface of the proposal with existing dwellings to the north were raised within WCCC's request for further information. It was stated that the design/layout as proposed did not have regard to the difference in levels between the appeal site and dwellings to the north. Revised proposals were submitted which included reduced finished floor levels for units 1 to 13 to reduce potential impact. The applicant made a case that the proposal would not impact on residential amenity by reason of dropped site levels, separation distances and proposed boundary treatments. The planning authority contend that concerns relating to overlooking of private amenity space are unresolved within the revised layout.
- 7.5.3. The Waterford City and County Development Plan 2022-2028 details a 22m separation distance between first floor windows in opposing properties. Compliance with this standard is achieved and exceeded in most instances within the development as illustrated within the site layout plan. The proposed permitter boundary treatment includes a 2m high concrete wall finished in render. A number of the proposed houses and existing dwellings to the north are also separated by an existing overgrowth pathway which the applicant outlines would act as a buffer between the existing and proposed development.
- 7.5.4. I note that while unit 10 maintains a separation distance of 26m from the nearest dwelling to the north, a 5m separation distance is provided to the site boundary. I consider there to be potential for overlooking of private open space associated with the bedroom 4 window along this boundary which would directly overlook existing private amenity space. This bedroom is dual aspect and I consider that concerns relating to overlooking could be addressed via the omission of the north facing window on bedroom 4 in dwelling 10.
- 7.5.5. I note the reference in the planning authority's decision to the devaluation of existing property to the north as a result of the proposal. Having regard to the considerations

set out above I see no evidence to substantiate this claim on the basis of the proposed development.

- 7.5.6. Notwithstanding the above, as earlier noted, the proposal includes a significant level of site cutting to integrate the proposal with existing residential development. I do not consider that the applicant has sufficiently demonstrated that the development would not impact on the overall visual amenities of the area.

7.6. **Water, Waste Water and Surface Water**

Water and Waste Water

- 7.6.1. Waterford City and County Council's second reason for refusal relates to deficiencies in capacity within the wastewater network which are not likely to be addressed within the short term and prematurity of the development pending the required upgrading of the sewer network. Concerns relating to infrastructural deficiencies are also raised with the observations on the appeal.

- 7.6.2. A gravity foul sewer system is proposed within the site which is proposed to connect to the existing foul sewer along the R674 at the entrance to the site. The issue of capacity within the sewer network was raised by Waterford City and County Council within the request for further information. Item 12 of the FI request specifically outlined that any residential development on the site would be considered premature in the absence of confirmation from Irish Water that it is possible to service the development with both the public water supply and wastewater disposal network.

- 7.6.3. The applicant's FI response includes correspondence from Irish Water dated the 22nd of January 2021 which outlines that:

- Connection to water supply is feasible.
- The waste-water connection may be feasible, subject to upgrades. The foul network would connect to the Mota Wastewater Pumping Station which is planned to be upgraded by 2026. This 45-unit development cannot connect until upgrade works are complete.

- 7.6.4. The FI response outlines that upgrade works are required to the nearby Mota Wastewater Pumping Station and Irish Water currently has a project underway in their current investment plan which will provide the necessary upgrade and capacity-

to be completed by the end of 2026. The 1st party appeal outlines that the required upgrading of the sewer network servicing this location is deliverable by Irish Water within the life of the permission and there are no issues regarding prematurity. A phased delivery to housing is proposed.

- 7.6.5. I refer to the planning history of the site wherein there is a history of refusals on grounds including infrastructural constraints i.e lack of sewage capacity. The applicant's FI response refers to the planning history pertaining to the site (PA Ref: PL07/770) wherein planning permission was granted by WCCC for 49 units on site on the basis of a phased delivery of housing work pending the completion of the upgrade works to the Irish Water Pumping Station. However, I would highlight that this application was subsequently refused by An Bord Pleanála (PL24S.226928) in August 2008 on grounds including prematurity pending upgrade to waste water system.
- 7.6.6. I consider the proposal to be premature in the absence of adequate sewage treatment to cater for the entire proposal. This has been a long-term objective for the area and has not been delivered to date. I refer to the R1 zoning objective pertaining to the site and which seeks to *“Provide for new residential development in tandem with the provision of the necessary social and physical infrastructure”*. I do not consider that the necessary physical infrastructure is provided within the short term in tandem with the proposed residential development to serve the development. I recommend that planning permission is refused for the development broadly in accordance with Waterford City and County Council 2nd reason for refusal.

Surface Water

- 7.6.7. The proposed surface water layout is illustrated on Proposed Foul and Storm Layout Drawing no. 100 prepared by Bryan McCarthy and Associates. Surface water proposals include a gravity sewer network on site which will outfall to an existing stream at the opposite side of the R674. The FI response prepared by Bryan McCarthy and Associates confirms that run off associated with the development will be restricted to match current greenfield rate at 8.3 litres/second which is below the watercourse capacity of 480 litres/second. Based on the proposed attenuation flows, the application documentation outlines that there is capacity in the storm water sewer and watercourse/stream to accommodate the proposal.

- 7.6.8. Waterford City and County Council's 5th reason for refusal outlines that the applicants have failed to demonstrate sufficient legal interest to outfall/discharge storm water to 3rd party lands on the opposing side of the R 674 Regional Road. The planner's report which informs the decision of WCCC to refuse permission for the development outlines that *"the applicants lands do not currently discharge to these lands via any direct pipework and therefore a proposed pipework network/ new outfall is proposed. Regardless of the stated capacity of same if this watercourse is on private lands the applicant must demonstrate sufficient legal interest and they have failed to do so"*. I refer to the observation on file from the stated owner of the lands at the opposite side of the R674 which outlines that the applicant has not received consent for the proposed outfall to the watercourse.
- 7.6.9. The first party appeal outlines that all of the public infrastructure and proposed manholes are located on the public road and there is no requirement for third party consent on this basis. Attenuation measures are proposed which are designed to prevent flooding of the watercourse and are based on studies of the watercourse.
- 7.6.10. On review of the information submitted in conjunction with the application and appeal, I consider that the principle of surface water proposals are acceptable. I note that under section 34(13) of the Planning and Development Act 2000, as amended, a person shall not be entitled solely by reason of a permission to carry out any development'.

7.7. Traffic and Transportation

- 7.7.1. Access to the development is proposed via the R674 located to the north of the site. The R674 An Borthar Rinn is identified as a Strategic Regional Route in Table 5.6 of the Waterford City and County Development Plan. Policy Objective Trans 45 of the WCCDP seeks to protect strategic regional roads listed in Table 5.6 against development where a maximum speed limit applies, except in exceptional circumstances, in order to protect the carrying capacity and safety of such roads. On these and other regional roads we will resist the creation of new vehicular accesses where the maximum speed limit applies. A number of exceptional circumstances are listed under Trans Objective 45 including where a development is of national, local or regional significance. In this regard, I note that the site is zoned for residential purposes within recently adopted Waterford City and County Development Plan

2022-2028 and the principle of access from the R674 has previously established. I have no objection to the principle of an entrance on this basis.

- 7.7.2. Waterford City and County Council's 4th reason for refusal relates to the proposed access arrangements and outlines that the applicant has not demonstrated that required sightlines and forward stopping distances can be achieved at the proposed access/exit to the subject site on the R674 Regional Road. Concerns relating to unsafe traffic movements are raised and it is stated that the proposal would result in a traffic hazard.
- 7.7.3. The planner's report which informs the decision of the Council to refuse permission for the development outlines that from on-site inspection it appeared that sightlines would be impeded by existing 3rd party lands and sightlines cannot be achieved without alteration to the adjoining 3rd party roadside boundaries.
- 7.7.4. This point was raised within Item 8 of the planning authority's request for further information and the applicant was requested to submit a section from each sightline. This is illustrated on drawing no. 766-RFI-206 submitted in response to the FI request. The FI response outlines that the sightlines can be achieved without any requirement for adjustment of adjacent landowners' boundaries and therefore landowner consent is not required.
- 7.7.5. The R674 runs in a straight alignment in the vicinity of the site and operates at a speed limit of 60km. DMURS identifies a requirement for sightlines of 59m at 2.4m at such locations. Drawing no. 766-AP-206 Rev B (Proposed Sightline Requirements) submitted in support of the application illustrates compliance with the required standards of 90m from a 4.5m set back. I am satisfied sightlines in accordance with the requirements of DMURS can be achieved at the proposed site entrance. In this regard, I do not consider that the proposed access would result in unsafe turning movements or give rise to potential for traffic hazard.
- 7.7.6. Concerns relating to traffic impact associated with the development are raised within the observations on the appeal. Having regard to the scale of the development, the proposed parking provision and the location of the site within the settlement footprint I do not consider that the development would generate substantial traffic movements on the adjoining road network.

7.7.7. The development as originally proposed included a pedestrian link to the east via 'a part public and part private lane. This connection was removed in response to the planning authority's FI request on the basis that the applicant does not have sufficient legal interest to access same. I refer to the submission on file from the stated owner of the lane which requests the proposed link to be omitted from the development. Concerns are also raised in relation to the restricted width, lack of footpaths and lighting on this lane to accommodate increased pedestrian footfall. I consider that the principle of enhanced permeability to the site would be welcome subject to necessary consents and lane upgrade works.

7.8. **Other**

Procedural Matters/ Validity of Application

7.8.1. An observation on the appeal questions the validity of the application on the basis of incorrect address within the public notices. In terms of procedural matters and the alleged insufficiencies of the public notices I note that the notices were considered acceptable by the planning authority. I am satisfied that this did not prevent the concerned party from making representations.

7.9. **Appropriate Assessment (New Issue)**

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

The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

No Screening report is submitted in support of the application. This assessment is therefore considered de novo.

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

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).

7.9.3. *Submissions and Observations*

The planner's report which informs the decision of Waterford City and County Council to refuse permission for the development includes the following Screening Assessment:

“Having regard to the location of the subject site and the nature of the proposed development, and the intervening distance with the identified Natura 2000 sites, I consider that no appropriate assessment issues arise in this case. In my opinion the proposed development either individually or in combination with other plans or projects, would not be likely to have a significant effect on a Natura 2000 site”.

7.9.4. European Sites

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. 700m from Dungarvan Harbour SPA.

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

European Site Site Code	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)
Dungarvan Harbour SPA (004032)	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]	0.7km

	<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>	1.7km
<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>	9.1km
<p>Glendine Wood SAC (002324)</p>	<p>Trichomanes speciosum (Killarney Fern) [1421]</p>	7.8km
<p>Helvick Head SAC (000665)</p>	<p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>European dry heaths [4030]</p>	1.8km
<p>Blackwater River (Cork / Waterford SAC (002170))</p>	<p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</p>	4.3km

	<p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260]</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</p> <p><i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]</p> <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> (Twite 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>Callitriche-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> <p>Calcareous rocky slopes with chasmophytic vegetation [8210]</p> <p>Siliceous rocky slopes with chasmophytic vegetation [8220]</p> <p><i>Hamatocaulis vernicosus</i> (Slender Green Feather-moss) [6216]</p>	<p>14.2km</p>

Ardmore Head SAC (002123)	Vegetated sea cliffs of the Atlantic and Baltic coasts, and European dry heaths	13.4km
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It is my view that the majority of the identified 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.

Blackwater River (Cork / Waterford) SAC, Helvick Head SAC, Ardmore Head SAC, Mid-Waterford Coast SPA and Helvick Head to Ballyquin SPA have also been screened out. While there is a potential for an interrupted and distant hydrological link to these designated sites from the proposed development these sites are between 1.7km and 13.4km from the subject site. During the construction phase, standard pollution control measures would be put in place. 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).

The Waterford City and County Development Plan 2022-2028 outlines that there is capacity within the Dungarvan Wastewater Treatment Plant for zoned lands within the settlement and I note that no objection to the principle of the connection is raised by Irish Water or the Planning Authority. It is my view that subject to upgrades at the Mota Wastewater Pumping Station pump station that the proposed development could be accommodated. I consider that foul discharge from the site would be insignificant in the context of the Dungarvan WWTP, and thus its impact on the overall discharge would be negligible.

I am satisfied that the potential for impacts on the aforementioned Natura 2000 sites can be excluded at the preliminary stage due to the separation distances between the European sites and the proposed development site, the nature and scale of the proposed development and the nature of intervening development.

Dungarvan Harbour SPA (Site Code 004032)

The nearest designated Natura 2000 site to the proposal is Dungarvan Harbour SPA (Site Code 004032) which is located c.700m from the site. The NPWS site synopsis for the SPA outlines that *“a major part of the ecological importance of Dungarvan Harbour is the wintering waterbirds which are present in large numbers”*. The qualifying interests for the SPA are identified in Table 2 above.

There is 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. 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.

Surface water proposals include outfall to an existing watercourse to the north of the site. The existing watercourse is not illustrated on EPA maps. The FI response prepared by Bryan McCarthy and Associates Consulting Engineers confirms that this watercourse flows towards Dungarvan Bay and currently receives run off from the public road. This is consistent with watercourses in the area.

Potential impacts on the SPA include the potential of discharge / run off of surface waters containing sediment, silt, oils and / or other pollutants during the construction phase and operational phase of the development to the SPA via the existing watercourse at the opposite side of the R674 which has the potential to impact relevant qualifying interest.

The NPWS Conservation Objectives Supporting Document for the Dungarvan Harbour SPA outlines that pollution and issues of water quality at Dungarvan Harbour may translate into direct effects upon waterbirds (direct toxicity) or indirect effects due to changes to invertebrate community composition, spatial distribution and/or abundance.

This is not addressed within the application or appeal and I consider that there are information deficiencies within the application in this regard. The onus is on the applicant to ensure that adequate and relevant information is submitted to enable an Appropriate Assessment to be carried out. Such an assessment should be based on the best scientific knowledge in the field, of all aspects of the development project

which can, by itself or in combination with other plans and projects, adversely affect the European site in light of its Conservation Objectives.

7.9.5. *Conclusion*

On the basis of the limited information provided with the application and appeal, and in light of the assessment carried out above, I am not satisfied that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of Dungarvan Harbour SPA (004032) in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission.'

This is a new issue, and the Board may wish to seek the views of the parties. However, having regard to the other substantive reasons for refusal set out above, it may not be considered necessary to pursue the matter'.

8.0 **Recommendation**

8.1. I recommend that permission is refused for the development in accordance with the following reasons and considerations.

9.0 **Reasons and Considerations**

1. The appeal site is located within a designated Gaeltacht Area and a Tier 4 A Rural Town within the settlement hierarchy set out within the Waterford City and County Development Plan 2022-2028. Policy CS16 of the Waterford City and County Development Plan 2022-2028, which relates to designated Rural Towns and Villages states that it shall be the policy of the planning authority to ensure that: "*The scale of a proposed housing development is consistent with the number of housing units appropriate to the class/typology of the settlement as set out in Section 2.9 and Table 2.2*". Table 2.2 of the Development Plan identifies that designated 4A Rural Towns "*can support a maximum of c.20 houses during the lifetime of the Development Plan*". This policy is considered reasonable, particularly in the context of a Gaeltacht rural area.

The scale of the development, which is significantly over and above the housing allocation for a designated Tier 4A Rural Town, is contrary to the requirements of Policy CS 16 of the Waterford City and County Development Plan 2022-2028 and has the potential to negatively impact on the linguistic and cultural heritage of the designated Gaeltacht area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development, by reason of its scale and suburban style layout and existing/proposed site levels, would be out of character with the established pattern of development in this rural Gaeltacht area. The proposed development would therefore be contrary to the requirements of Policy CS16 of the Waterford City and County Development Plan 2022-2028 which seeks to ensure that development proposals are *“compatible with the context of the site in terms of character, scale and density”* and the proper planning and sustainable development of the area.
3. The proposed development would be premature pending the required upgrading of the sewer network servicing this location and would be prejudicial to public health and would, therefore, be contrary to the proper planning and sustainable development of the area.

Stephanie Farrington
Senior Planning Inspector
19th of October 2022