



An
Coimisiún
Pleanála

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

Inspector's Report ABP-321838-25

Strategic Housing Development	Construction of 218 residential units (176 houses and 42 apartments), a creche and all associated site works.
Location	Site at Duckspool, Dungarvan, Co. Waterford (www.DuckspoolDungarvanSHD.com)

Planning Authority	Waterford City and County Council
Applicant	Michael Ryan
Prescribed Bodies	<ol style="list-style-type: none">1) Department of Housing, Local Government & Heritage2) Irish Water3) Transport Infrastructure Ireland4) Waterford Childcare Committee

Observer(s)	<ol style="list-style-type: none">1) Brian Sandford2) Caroline Russell3) Cathal O'Hare and Paula da Conceicao4) Conor D. McGuinness5) Criostoir O'Faolain
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- 6) Duckspool Community Group c/o Neil Renton
- 7) Eoin Cunningham
- 8) Eoin McNamara
- 9) Geoffrey Collins
- 10)Jane Fraher
- 11)Lara Gough
- 12)Lisa M.J. Dolan
- 13)Lucie Higgins
- 14)Marc O'Cathasaigh
- 15)Mary Conway
- 16)Neil Forde
- 17)Residents of Sallybrook
- 18)Seamus O'Mahony and Mairead Forrestal
- 19)Susan Gallagher
- 20)The Residents of Tournore Court
- 21)Thomas Lineen
- 22)Tournmore Park Residents Group
- 23)Vivian Lonergan
- 24)Waterford Ladies Gaelic Football Association

Date of Site Inspection 30th June 2025

Inspector Mary Crowley

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1.0 Introduction

- 1.1. This is an assessment of a proposed strategic housing development submitted to the An Coimisiún Pleanála under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.
- 1.2. On the 26th of October 2021 the Board issued a decision in the case of ABP-310782 - 21. That Boards decision was subject to Judicial Review. By order of the High Court (H.JR.2021.0001069) (perfected on the 5th of November 2024), the Board's decision was quashed and remitted back to the Board for determination in accordance with law. The file has been remitted from the point in time immediately prior to the completion of the Inspector's Report. The new number assigned to the case is ABP-321838-25 and I am the new Inspector assigned to the case and am assessing the file de novo.
- 1.3. The application has been reactivated to a point in time immediately prior to the completion of the Inspector's Report and this is an assessment of a proposed strategic housing development submitted to the Commission under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.
- 1.4. The former name 'An Bord Pleanála' or 'the Board' or 'ABP' is used throughout my report where pertaining to documentation pre-dating the statutory name changes to An Coimisiún Pleanála (ACP)¹.

2.0 Site Location and Description

- 2.1. The site with a stated area of 8.6288 ha is a greenfield irregular shaped site located at Duckspool, within the urban envelop of Dungarvan. The site immediately abuts existing built-up areas and is close to the N25 national primary road, which connects the town with Waterford City to the north-east and Cork City to the south-west (via Youghal and Midleton).
- 2.2. The site is bounded as follows:
 - to the north by the L3168 road (which links the R675 to the east with the N25 as it enters Dungarvan to the west), across which are the Cluain Garbhán housing

¹ On 12th June 2025 An Bord Pleanála officially changed its name to An Coimisiún Pleanála under Part 17 of the Planning and Development Act 2024.

estate, Scoil Gharbháin (primary level Gaelscoil) and St. Augustine's College (secondary level school);

- to the east and south-east by an undeveloped agricultural field;
- and to the south and west by existing residential areas (Sallybrook and Tournore housing estates) and an undeveloped field.

2.3. The existing northern boundary is defined by fencing and is accessible by means of three existing gated entrances. The eastern boundary is primarily a watercourse / drainage ditch, with some low-lying vegetation. The southern boundary sees a continuation of the ditch and the emergence of a mixed-vegetation hedgerow. The western boundary is also defined by an established mixed-vegetation hedgerow and drainage ditch which back onto existing housing developments. A mature hedgerow and drainage ditch (to its west) of approximately 240 m runs along a north-south axis in the western half of the site.

2.4. None of the following protected or notable features are known to present at or proximate to the subject site:

- Protected structures,
- Architectural Conservations Areas,
- Recorded monuments or places,
- Tree Preservation Orders,
- COMAH/Seveso site

2.5. I refer to the photos and photomontages available to view throughout the file. Together with a set of photographs of the site and its environs taken during the course of my site inspection serve to describe the site and location in further detail.

3.0 Proposed Strategic Housing Development

3.1. Planning permission was sought for a Strategic Housing Development (SHD) from An Bord Pleanála on 7th July 2021 as follows:

- 218 no. residential dwellings, comprising 8 no. 1- bed, 36 no. 2-bed, 161 no. 3-bed and 13 no. 4-bed units ranging in height from 2 no. to 4 no. storeys. The mix proposed is summarised as follows:

Dwelling Type	No of Bedrooms	No of Units	Sub-total	Total
Duplex	1-bed	8	42	218
	2-bed	32		
	3-bed	2		
House (terraced, semi-detached and detached)	2-bed	4	176	
	3-bed*	159		
	4-bed	13		

*With the stated option in the public notices and site description for up to 121 no. of the 3-bed houses to have attics converted, thereby creating 4-bed houses

- The development includes a crèche and associated outdoor play area.
- It is proposed to provide 2 no. new vehicular entrances at the site's boundary with the L3168 comprising (1) main multi-modal entrance and junction works to the residential area, (2) one-way multi-modal entrance system (separate access and egress) and junctions works to the crèche and community car park.
- An additional pedestrian and cycle entrance are proposed via new bridge to the south-west into Tournore Court.
- The development also includes all ancillary site services (including bin stores) and works to facilitate the development, including adjustments to site levels, boundary treatments, water services and public lighting.
- The drainage system for the proposed development incorporates SuDS to mitigate the risk of flooding (e.g. permeable surfaces, planting/vegetation, etc.).

3.2. The principal development statistics are as shown below:

Site Area	c8.6288 ha (gross)
Net Development Area	c6.1382 (net))
No of Residential Units	218
Other Uses	Creche
Total Residential GFA	24,119.7 sq.m

Creche GFA	342 sqm
Density	35.5 units per hectare (uph)
Building Height	2 - 4 storeys
Car Parking	<p>466 car parking spaces at surface level</p> <ul style="list-style-type: none"> ▪ 430 no. for residents and visitors ▪ 36 no. for crèche and community car park ▪ Includes 24 no. mobility impaired spaces
Bicycle Parking	48 no spaces at surface level in 3 locations
Private Open Space	Rear gardens, balconies and terraces
Public Open Space	2.8570 ha (33.1% of the total site area) - includes footpaths and cycle paths, children's play areas, planting and the incorporation of existing hedgerows and 7 no primary open spaces
Part V	20 no. units (10% of gross residential floor area)
Site Services	<p>Surface Water – Watercourse with discharge to existing drainage ditches via attenuation tanks</p> <p>Wastewater Treatment – Public Sewer</p> <p>Water Supply – Public Mains</p>

3.3. Phasing - It is proposed that the development will be delivered in the 3 no. main phases over three years as detailed in the Construction and Environmental Management Plan as follows:

- Phase 1 is the north-west portion of the development and includes approximately 60 no. units and associated roads and open spaces, as well as the main multi-modal access.
- Phase 2 is the central and south-western portion of the development and includes approximately 60 no. units and associated roads and open spaces.

- Phase 3 is the eastern portion of the site development and includes approximately 60 no. units, associated roads, open spaces, crèche and community car park.
- Phase 4 includes the balance of the residential units, associated roads and open space.

3.4. The application was accompanied by the following:

- Planning Report and Statement of Consistency
- Statement of Response Statement to An Bord Pleanála's Opinion
- Land-Use Zoning Justification Report
- Statement of Material Contravention
- Architectural Design Statement (including Housing Quality Assessment)
- Construction and Waste Management Plan
- Construction and Environmental Management Plan
- Operational Waste Management Report
- Site – Specific Flood Risk Assessment
- Engineering Services Report
- DMURS Compliance Statement
- Public Lighting Design and Specification Report / Outdoor Lighting Report
- Site Investigation Report
- Traffic Impact Assessment
- Stage 1 & 2 Road Safety Audit
- Parking Rationale Report
- Mobility Management Plan
- Landscape Design Masterplan and Rationale Document
- Landscape & Visual Impact Assessment
- Verified Photomontage Views
- Environmental Impact Assessment Screening Report
- Appropriate Assessment Screening Report & Natura Impact Statement (NIS)
- Ecological Impact Assessment EclA
- Arboricultural Assessment Report

- Tree Constraints Plan
- Tree Protection Plan
- Building Lifecycle Report
- Engineering Drawings
- Landscape Drawings

3.5. **Letter of consent** from Waterford City & County Council accompanied the SHD application. The Applicant is the legal owner of the vast majority of the site. However, Waterford City and County Council has provided written consent to lodge the SHD planning application, which proposes development along the northern site extent (principally: entrances, junction works, boundary treatments and landscaping at and alongside the L3168) and to the south-west (pedestrian and cycle connection to be facilitated via new bridge into Tournore Court).

3.6. **Consultation with Prescribed Authorities or the Public** – The applicant consulted with the following bodies:

- **Irish Water (IW)**- Applicants states that they have been engaged and consulted with IW throughout the design process and that this has informed the overall scheme.
- **National Parks & Wildlife Services (NPWS)** - In advance of lodging the SHD the applicant attempted to consult with the NPWS on several occasions but no response, feedback or guidance has been provided.

3.7. **Application Requirements** - The applicant referred a copy of the application and the NIS to the following Prescribed Bodies:

- Irish Water
- National Transport Authority
- Transport Infrastructure Ireland
- The Minister for Housing, Local Government & Heritage
- An Taisce – the National Trust for Ireland
- An Chomhairle Ealaion
- Failte Ireland
- The Heritage Council
- Inland Fisheries Ireland

- Waterford County Childcare Committee

4.0 Planning History

4.1. The following planning history is noted from the SHD file:

- **Reg. Ref. 17/770** - Permission was refused in 2018 for the construction of 50 no. houses and all associated works on a 2.96ha site located within the western portion of the subject site. Permission was refused for 3 no. reasons relating to (1) inadequate Flood Risk Assessment, (2) inadequate Transport Assessment and (3) excessive building height and poor quality open space would adversely impact on visual and residential amenity.
- **Reg. Ref. 17/771** - Permission was refused in 2018 for 55 no. houses and all associated site works on a 3.97ha site, generally comprising the central portion of the subject site. Permission was refused for 4 no. reasons relating to (1) inadequate Flood Risk Assessment, (2) no justification for the development of lands zoned as Strategic Residential Reserve, (3) inadequate Transport Assessment and (4) excessive building height would adversely impact on visual amenity of the area.

4.2. There was a recent grant of planning permission for a Large Scale Development (LRD) on lands directly across the road and immediately to the north of this SHD site and may be summarised as follows:

- **ABP-322509-25 (Reg Ref 2560097)** – Permission was granted for 155 dwellings and creche with all associated site works subject to 27 no conditions. In August 2025 and following a third party appeal An Coimisiún granted planning permission subject to 25 no. generally standard conditions.

5.0 Section 5 Pre Application Consultation

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

- Flood Risk
- Appropriate Assessment and Ecological Issues
- Land Use Zoning and Residential Density
- Design and Layout of Development
- Roads, Traffic and Transportation Issues
- Pedestrian and Cycle Connections
- Any Other Business

5.2. Copies of the record of the meeting and the Inspector's report are provided with this SHD file.

5.3. In the Notice of Pre-Application Consultation Opinion dated 23rd April 2021 (ABP-308915-21) (summarised below) An Bord Pleanála stated that it was of the opinion that the documents submitted required further consideration and amendment in order to constitute a reasonable basis for an application for SHD with regard to the following:

- **Surface Water Drainage and Flood Risk** - A Site Specific Flood Risk Assessment (FRA) to address in particular any potential downstream impacts or impacts on lands outside the development site and a Justification Test (if required) for any residential development within Flood Zones A and B. Detailed treatment of the wetland on the eastern side of the site and of adjoining watercourses such that there is no increase in flood risk to be provided. Detailed surface water drainage proposals to include SUDS measures where possible and an appropriate flood risk assessment. Landscaping scheme to provide details of the treatment of riparian zones and wetland areas within the site, along with biodiversity corridors. The applicant was advised to consult further with Waterford City and County Council Drainage Section in relation to these matters. Further consideration of this issue may require an amendment to the design and layout of the proposed development.
- **Land Use Zoning** - Further consideration and justification of the proposed development of lands zoned 'R2 Residential Low' and 'R3 Residential Phased' with regard to the core strategy and the phasing provisions of the development plan. Consideration to be given to incorporating the 'R1 Residential' zoned lands

to the east of the site into the proposed development. There should be no preclusion of future developments or undue impacts at adjoining R1 zoned lands.

5.4. The opinion also stated that the following specific information should be submitted with any application for permission (as summarised)

- 1) Statement of Material Contravention
- 2) A zoning plan for the site
- 3) Housing Quality Assessment
- 4) Building Lifecycle Report.
- 5) Existing and proposed ground levels across the site
- 6) Taking in Charge site layout plan
- 7) Traffic and Transport Impact Assessment
- 8) Stage I Road Safety Audit
- 9) Landscape and Visual Impact Assessment with photomontages and CGIs
- 10) Comprehensive landscaping scheme for the entire site
- 11) Draft Construction Waste Management Plan
- 12) Draft Construction and Environmental Management Plan
- 13) Draft Operational Waste Management Plan
- 14) Ecological Impact Statement
- 15) AA Screening Report or Natura Impact Statement
- 16) The information referred to in article 299B(1)(b)(ii)(II) and article 299B(1)(c) of the Planning and Development Regulations 2001-2018 should be submitted as a standalone document.

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

- Irish Water
- National Transport Authority
- Transport Infrastructure Ireland
- The Minister for Housing, Local Government & Heritage
- An Taisce – the National Trust for Ireland
- An Chomhairle Ealaón

- Fáilte Ireland
- The Heritage Council
- Inland Fisheries Ireland
- Waterford County Childcare Committees

6.0 Statement of Response

6.1. I refer to Section 5 above and the Statement of Response to An Bord Pleanála's Opinion submitted with the application. The applicant addressed the items that required consideration and specific information to be submitted with the application. The items that required further consideration are summarised below:

6.2. Surface Water Drainage and Flood Risk

- A Site-Specific Flood Risk Assessment (SSFRA) has been submitted, which was informed by OPW Flood maps and flood info, OPW Irish Coastal Protection Strategy Study, Geological Survey of Ireland Maps and a topographical survey of the site together with a review of the Dungarvan Stormwater Drainage – Duckspool Drainage Review (November 2018) (WCCC).
- A Justification Test was carried out and is included as part of the SSFRA. For the purposes of completeness, the Justification Test provides both a Justification Test for Development Plans, as well as a Development Management Justification Test. In addition, the Land-Use Zoning Justification Report details the limited availability of appropriately located and forthcoming residentially-zoned land, thereby supporting the proposed development.
- Mitigation measures have been incorporated into the overall design of the scheme to ensure minimal disruption to ecology in the area. The eastern boundary of the site will be in use as an 'Open Space' area and will not be developed for residential use. With respect to areas immediately adjoining watercourses (riparian zones) (south and east edges of the site) the requisite 10m buffer of no built development threat to protect ecology, provide access for maintenance and ensure flood risk is not increased is observed.
- A detailed surface water drainage proposal has been prepared. Details are provided in the Engineering Services Report and Surface Water Network Design

Layout Sheets 1 and 2 (Drawing. No's. 0501 and 0502) and Proposed Surface Water Longitudinal Sections - Sheets 1 and 2 (Drawing. No's. 0510 and 0511).

- A Landscape Design Masterplan and associated drawings provide details of the treatment of riparian zones and areas adjacent to draining ditches within the site, along with biodiversity corridors.
- With regard to detailed site layout and cross sections the Coimisiun is referred to Proposed Site Plan and CFRAM Flood Extents (Drawing No. 2801), the Proposed Direct Compensatory Storage (Drawing No. 2802) and Flood Risk Zones (Drawing No. 2803).
- Stated that numerous consultations have been undertaken with WCCC that informed the design of the surface water drainage for the scheme.

6.3. Land Use Zoning

- A Land-Use Zoning Justification Report has been submitted having regard to the *Dungarvan Town Development Plan 2012 – 2018* and the *Waterford County Development Plan 2011 – 2017*. Following a review of the wording of both plans, the Justification Report discusses the preclusion of the development of R3-zoned lands as being ‘time-bound’ (although no longer), rather than ‘Plan-bound’. In addition, the Report indicates the availability and capacity of water services to serve residential development on R3-zoned lands, as well as the lack of available, forthcoming R1 and R2 zoned lands in Dungarvan. It draws on the importance of regional and national policy in relation to sustainable urban development and compact growth. It concludes that the residential development of the R3-zoned lands should be supported.
- With respect to the R1-zoned lands the “*Proposed Masterplan – R1 Development*” (Drawing No. P103) provides an indicative layout and illustrates how these R1 lands to the immediate south-west of the site, which are currently deemed to be at risk of flooding, could be developed in the future.

6.4. The following specific information was also submitted:

- Statement of Material Contravention
- Site plan highlighting the proposed development in relation to the various zonings
- Housing Quality Assessment
- Building Lifecycle Report

- Detailed cross sections indicating proposed FFL's, boundary treatments, road levels, open space levels, SUDS measures, etc. relative to each other and relative to adjacent lands and structures
- An Indicative Taken in Charge Plan drawing
- Traffic Impact Assessment with consideration to the mobility management and public transport currently available in the area, the potential impacts the proposed development may have on relevant local road junctions and the cumulative impacts with traffic associated with nearby schools and residential areas.
- A rationale for the proposed parking provision. The proposed car and cycle parking is in compliance with the requirements as set out in the Dungarvan Town Development Plan 2012 – 2018 and Waterford County Development Plan 2011 – 2017, as well as the Sustainable Urban Housing Design Standards for New Apartments – Guidelines for Planning Authorities (2018)
- Stage 1 and 2 Road Safety Audit
- Landscape and Visual Impact Assessment, including photomontages and CGIs of the proposed development has been submitted with the purpose of considering visual impacts on the Waterford Greenway, adjacent residential areas and those sensitive / designated views in the vicinity of the proposed development. This is supported by the submitted Verified Photomontage Views.
- An Arboricultural Assessment Report and associated drawings provide a detailed assessment of trees. A comprehensive landscaping scheme for the entire site has been detailed in the Landscape Design Rationale and associated Landscape Drawings. The CGIs included in the Landscape Design Rationale document illustrate the quality, detail and hierarchy of the opens space area their relationships with residences, the creche and adjacent lands.
- Construction & Demolition Waste Management Plan
- Construction and Environmental Management Plan
- Ecological Impact Assessment
- Natura Impact Statement (NIS)
- An Environmental Impact Assessment (EIA) Screening Report and has been prepared in response to the requirements as set out in 299B(1)(b)(ii)(II) and article 299B(1)(c) of the Planning and Development Regulations 2001-2018.

7.0 Relevant Planning Policy

7.1. At the time of making this application to An Bord Pleanála in July 2021 there were a number of planning policies and guidance documents applicable that have, in the intervening time either been updated or superseded. These include the National Planning Framework, the Climate Action Plan, the National Biodiversity Plan, DMURS (as updated) and the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) (now revoked).

7.2. In addition, there is also a suite of new planning policies and guidance documents that have been introduced in the intervening time and that are relevant to the consideration of this SHD but were not in place at the time of making the application in 2021. These include the following:

- Delivering Homes, Building Communities 2025-2030: An Action Plan on Housing Supply and Targeting Homelessness (2025)
- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2023)

7.3. The Design Standards for Apartments, Guidelines for Planning Authorities (2025) are not applicable in this case as the SHD was lodged before these were published in July 2025.

7.4. The operative plan to which the Commission will have regard in making its decision on this SHD is the Waterford City and County Development 2022 – 2028. At the time of making the SHD application in 2021, the relevant Development Plans for the area were the Dungarvan Town Development Plan 2012 – 2018 (as extended) and the Waterford County Development Plan 2011 – 2017 (as extended). Both plans have been superseded by the Waterford City and County Development 2022 – 2028 which came into effect on 19th July 2022. However, as the three plans are discussed in the Assessment section of this report below and in the interest of completeness, the relevant policies and objectives for all three plans are set out here below.

7.5. National Planning Policy

7.6. Project Ireland 2040 - National Planning Framework (NPF)

7.6.1. The NPF (First Revision, April 2025) is the Government's high-level strategic plan for shaping the long-term strategic planning framework to guide national, regional and local planning and investment decisions over the next 15 years. Part of the vision of the NPF is managing growth and targeting at least 40% of all new housing in existing built-up areas of cities, towns and villages through infill and brownfield sites while the rest of new homes will be targeted on greenfield edge of settlement areas and within rural areas. Key elements of the NPF include commitments towards 'compact growth', 'sustainable mobility', 'sustainable management of environmental resources', 'transition to a carbon neutral and climate resilient society', and 'enhanced amenity and heritage'. The NPF also sets out a number of National Strategic Outcomes which include Compact Growth and Strengthened Rural Economies and Communities.

These include:

- NSO 1 - Compact Growth
- NSO 7 - Enhanced Amenity and Heritage
- NPO 3a - Securing Compact & Sustainable Growth
- NPO 3c - Securing Compact & Sustainable Growth
- NPO 4 - Why Urban Places Matter (Community)
- NPO 5 - Why Urban Places Matter (Economy/Prosperity)
- NPO 6 - Why Urban Places Matter (The Environment)
- NPO 9 - Planning for Ireland's Urban Growth (Ireland's Towns)
- NPO 11 - Achieving Urban Infill/Brownfield Development
- NPO 13 - Performance-Based Design Standards
- NPO 32 - Housing
- NPO 33 - Housing (Location of Homes)
- NPO 34 - Housing (Building Resilience in Housing - Lifetime Needs)
- NPO 35 - Housing (Building Resilience in Housing - Density)

7.7. Climate Action Plan 2025

7.7.1. The Climate Action Plan 2025 builds upon and should be read in conjunction with the Climate Action Plan 2024. It refines and updates the measures and actions required to deliver carbon budgets and sectoral emissions ceilings and provides a roadmap for taking decisive action to halve Ireland's emissions by 2030 and achieve climate neutrality by no later than 2050. All new dwellings will be designed and constructed to Nearly Zero Energy Building (NZEB) standard by 2025, and Zero Emission Building standard by 2030. In relation to transport, key targets include a 20% reduction in total vehicle kilometres travelled, a 50% reduction in fossil fuel usage, and significant increases to sustainable transport trips and modal share. These legally binding objectives are set out in the Climate Action and Low Carbon Development (Amendment) Act 2021. The Commission is required to perform its functions in a manner consistent with the Climate & Low Carbon Development Act.

7.8. **National Biodiversity Action Plan (NBPA) 2023-2030**

7.8.1. The 4th NBAP strives for a "whole of government, whole of society" approach to the governance and conservation of biodiversity. The aim is to ensure that every citizen, community, business, local authority, semi-state and state agency has an awareness of biodiversity and its importance, and of the implications of its loss, while also understanding how they can act to address the biodiversity emergency as part of a renewed national effort to "act for nature". This National Biodiversity Action Plan 2023-2030 builds upon the achievements of the previous Plan. It will continue to implement actions within the framework of five strategic objectives, while addressing new and emerging issues:

- Objective 1 - Adopt a Whole of Government, Whole of Society Approach to Biodiversity
- Objective 2 - Meet Urgent Conservation and Restoration Needs
- Objective 3 - Secure Nature's Contribution to People
- Objective 4 - Enhance the Evidence Base for Action on Biodiversity
- Objective 5 - Strengthen Ireland's Contribution to International Biodiversity Initiatives

7.9. **National Guidance**

- Design Manual for Urban Roads and Streets (2013)

7.10. Section 28 Ministerial Guidelines

7.10.1. The following national policy, statutory guidelines, guidance and circulars are also relevant:

- Delivering Homes, Building Communities 2025-2030: An Action Plan on Housing Supply and Targeting Homelessness (2025)
- Rebuilding Ireland: Action Plan for Housing & Homelessness (2016)
- Appropriate Assessment Guidelines (2009)
- Architectural Heritage Protection Guidelines (2011)
- Childcare Facilities Guidelines (2020)
- Environmental Impact Assessment Guidelines (2018)
- Flood Risk Management Guidelines (2009)
- Regulation of Commercial Institutional Investment in Housing Guidelines (2021)
- Urban Development and Building Heights Guidelines (2018)
- Best Practice Urban Design Manual (2009)
- Quality Housing for Sustainable Communities (2007)
- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2023)
- Childcare Facilities Guidelines for Planning Authorities (2020)
- Part V of the Planning and Development Act 2000 Guidelines (2017)
- Local Area Plans Guidelines for Planning Authorities (2013)

7.11. Regional Guidelines

7.11.1. **Southern Regional Assembly - Regional Spatial and Economic Strategy (SRA-RSES)**

7.11.2. The Southern Regional Assembly Regional Spatial Economic Strategy 2019 published its Regional Spatial Economic Strategy (RSES) in 2019. The purpose of the Strategy is to support the implementation of Project Ireland 2040 through providing a long-term strategic planning and economic framework for the development of the Regions.

7.11.3. Dungarvan is identified as a Key Town within the RSES for the Southern Region. Key towns have a large population with an urban centre which functions as a self-sustaining regional driver. Key towns are also strategically located urban centres that play a significant role in strengthening the urban structure of the region. It is envisaged that local authorities will also plan for significant growth in designated Key Towns.

7.11.4. Regional Policy Objective 24 sets out 8 no. objectives for the development of Dungarvan as follows:

- a) *To strengthen the role of Dungarvan as a strategically located urban centre of significant influence in a sub-regional context and in its sub-regional role as a Gaeltacht Service Town, leveraging its strategic location along the Waterford Cork N25 route and to build upon its inherent strengths including historical, cultural and architectural heritage, digital connectivity, skills, innovation and enterprise, tourism (in particular the Waterford Greenway and its potential sustainable expansion), culture and retail services. In respect of its importance to the environment, to tourism, to fishing, and to aquaculture (niche industries supporting rural employment), this RSES supports the environmentally sustainable development and treatment of Dungarvan Harbour and coastline;*
- b) *To seek improvements and upgrading of the N25 Waterford to Cork route, the N72 Dungarvan to Mallow and the R672 linking the Key Towns of Clonmel and Dungarvan;*
- c) *To support the development of Dungarvan as the Gaeltacht Service Town for Gaeltacht na nDéise”*
- d) *To support for enhanced provision of bus services to enable improved intra-regional and inter-regional connectivity to attract more passengers to public transport and away from use of private motor cars;*
- e) *To support the continued development of cycling and walking infrastructure as part of Go Dungarvan Smarter Travel Programme and to support the accessibility of the public realm for vulnerable road/ footpath users and persons with disabilities;*
- f) *To support the delivery of the infrastructural requirements identified for Dungarvan (including amenities and facilities for the community and voluntary*

sector) subject to the outcome of the planning process and environmental assessments;

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

7.12. Development Plan

7.13. Dungarvan Town Development Plan 2012-2018 (as extended) (now expired)

7.14. The subject site was located within the boundary of the Dungarvan Town Development Plan. The vision of the plan was to develop Dungarvan as a Town, where the wellbeing of the community was enhanced through balanced economic development, the creation of attractive places to live and work and through the sustainable management of natural assets to become a Green Town. The site was subject to 4 different zoning objectives as follows:

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

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

7.16. **Waterford County Development Plan 2011 – 2017 (as extended) (now expired)**

7.17. Section 3.4 of the plan indicated that 286.8 ha of undeveloped lands had been zoned for R1 (medium density) and 108 ha of undeveloped lands had been zoned R2 (low density), with the potential to yield 6,817 units. An additional 141.4 ha of undeveloped lands had been zoned R3 (phased).

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

8.0 Waterford City and County Development 2022 – 2028

8.1. This plan came into effect on 19th July 2022 and is the operative plan in the consideration of this SHD at this time. The Plan contains development management standards, policies and objectives and references statutory guidelines which will inform decision making over the period of the Plan. The complete suite of Development Plan documents includes:

- 1) Volume 1: Written Statement,
- 2) Volume 2: Development Management Standards,
- 3) Environmental Reports
- 4) 22 Appendices
- 5) Development Plan maps

8.2. **Core Strategy** - Dungarvan (including Ballinroad) is designated as a Key Town within the City and County Settlement Hierarchy (Table 2.2).

8.3. **Land Use Zoning** – There are two zonings assigned to the site as follows:

- The largest portion of the site, and where it is proposed to locate the residential units is zoned **HA - High Amenity** where the objective is to *protect highly sensitive and scenic location from inappropriate development that would adversely affect the environmental quality of the locations*. Residential is listed as a use that is “not permitted” on lands zoned HA - High Amenity.
- The eastern portion of the site and the smaller portion and where it is proposed to locate the main public open space within the scheme is zoned **OS - Open Space and Recreation** where the objective is to *preserve and provide for open space and recreational amenities*. Open Space is listed as a use that is “Permitted in Principle” on lands zoned OS - Open Space and Recreation.

8.4. **Specific Development Objectives** - The following mapped specific development objective is identified along the L3168 to the east of the site:

Specific Development Objective DGD018 - DO18: *“Promote and facilitate enhanced active travel infrastructure across and within the Duckspool area from the Clonea Road to Scoil Garabhair, St. Augustine’s College and the GAA grounds in addition to new vehicular access from Friary College Road to the GAA grounds”*

8.5. **Core Strategy** - Table 2.4 sets out the Core Strategy Table. Section 2.13 Target Population Growth of the Development Plan identifies a land use requirement of 11 ha to deliver the minimum housing target. A target residential density of 30 units per hectare is assumed for Key Towns. Section 2.14 Housing Land Requirement of the plan requires that the provision of lands for new residential development consolidate existing residential areas close to the historic core of Dungarvan.

8.6. Section 2.14 Housing Land Requirement of the Plan includes the following specific reference to this SHD site at Duckspool:

“The recent decision by An Bord Pleanála to permit a Strategic Housing Development in Duckspool based on the land use zoning objectives of the Dungarvan Town Development Plan 2012-2018 is noted however it is considered that any change to the land use zoning objectives of the Plan to support this decision would be contrary to the stated vision, strategic goals and outcomes of the Plan which seek to sustainably develop Dungarvan by way of compact, sequential and town centre first development”.

8.7. Section 2.14 continues that “*lands identified for future residential development [in Dungarvan] during the life of the Plan have been identified as either Phase 1 or Phase 2, the details of which are identified in Table 2.3, Figure 2.7, Appendix 17 and the associated maps*”.

8.8. Section 2.18 Core Strategy Policy Objectives sets out the following objective for Dungarvan:

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).*

8.9. **Flood Risk** – The Strategic Flood Risk Assessment (Final Report June 2022) is attached as Appendix 13 of the Waterford City and County Development Plan 2022-2028. Section 7.2.2 Dungarvan states that the river and estuary in Dungarvan are wide, but flood extents are relatively contained, with the clear exception of the lands north of the town centre and the Duckspool area. Dungarvan and Environs have been listed as one of the settlements to benefit from the OPW's 10 year investment programme, but the timeframe for these works are unknown. It should be noted that although the Duckspool area benefits from some level of protection, this is through informal defences which are infrequently maintained and do not have a certified standard of protection. For the purposes of the SFRA this land is considered to be undefended.

8.10. Figure 7-2: Dungarvan Zoning locates the site (identified as Area 2) within Flood Zone B save for a small section within the centre of the site that is outside the flood zone. The Justification Test has been applied to this site (Area 2) where it was concluded as follows (as summarised). Table 7-4: Dungarvan Justification Test refers.

- The site (Area 2) been identified for green belt / amenity purposes
- To avoid significant new development in Area 2, all lands identified for new residential development in Dungarvan lie outside the flood zone identified in Area 2.

- New, large scale development within Flood Zones A and B would be considered premature until a flood risk assessment to an appropriate level of detail has been carried out.
- Retain current use for existing residential but no new development permitted.

8.11. **Section 9.8.1 Flood Risk Mitigation of Developments** of the Development Plan requires that any development in the areas at risk of flooding that are required to have passed a 'Justification Test' must demonstrate that appropriate mitigation measures can be put in place and that residual risks can be managed to acceptable levels. The Flood Risk Management Guidelines for Planning Authorities identify the core principles in planning and designing for flood risk as:

Development Management DM 53

- *Locating development away from areas at risk of flooding where possible;*
- *Substituting more vulnerable land uses with less vulnerable land-uses (as identified in the flood risk management guidelines);*
- *Identifying and protecting land required for current and future flood risk management such as conveyance routes, flood storage areas, flood protection schemes.*

8.12. **Policy Objective UTL 10 Flooding/ SFRA** - *To reduce the risk of new development being affected by possible future flooding by:*

- *Avoiding development in areas at risk of flooding,*
- *Where possible, reducing the causes of flooding to and from existing and future development,*
- *Increase the application of SuDS such as permeable paving, bioretention/infiltration ponds, swales and Natural Water Retention Measures, and the identification of existing areas which may be suitable for temporary storage/overflow of water during heavy storms,*
- *Where development in floodplains cannot be avoided, taking a sequential approach to flood risk management based on avoidance, reduction, and adaptation to the risk; and,*
- *Ensuring that all proposals for development falling within Flood Zones A or B are consistent with the "The Planning System and Flood Risk Management –*

Guidelines for Planning Authorities 2009, “Climate Action and Low Carbon Development Act” (2021), and any amendment thereof, and the “Waterford Strategic Flood Risk Assessment” (2021) as included in Appendix 13.

- *To support the making of Local Area Plan for larger urban centres we will prepare surface water management plans where adequate data exists to support their preparation. Where data is lacking, we will carry out a data review gap analysis and prepare conceptual surface water management plans as an initial step.*
- *We will support the development of new flood relief schemes by the OPW, in particular those at Aglish, Ballyduff and Dungarvan & Environs while protecting public investment in flood relief schemes as detailed in Section 4.4.3 of the SFRA (Appendix 13).*

8.13. Core Strategy Policy Objectives - The following policies and objectives of the Plan are of relevance:

- **CS 03 Compact Growth** - In a manner consistent with NPO 34 and 35, WCCC 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 13 Settlement Strategy** - In a manner consistent with the settlement typologies and respective policy objectives of the SRSES, WCCC will: support the development of Dungarvan / Ballinroad as a Key Town of significant influence in a sub-regional context and a Gaeltacht Service Town.
- **General Housing Policy Objectives H 02** - In granting planning permission, WCCC will ensure new residential development:
 - *Is appropriate in terms of type, character, scale, form and density to that location.*
 - *Is serviceable by appropriate supporting social, economic and physical infrastructure.*
 - *Is serviceable by public transport and sustainable modes such as walking and cycling.*
 - *Is integrated and connected to the surrounding area in which it is located; and,*

- *Is designed in accordance with the applicable guidance and standards of the time:*
 - *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009). Delivering Homes, Sustaining Communities (2007).*
 - *Urban Design Manual A Best Practice (2009). Permeability Best Practice NTA (2015); and,*
 - *Design Manual for Urban Roads (DMURS) (2020) or any update thereof. National Disability Inclusion Strategy (NDIS) 2017-2022.*
 - *United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).*
- **Policy Objective Place 01 General Placemaking**
 - *Identify obsolete and potential opportunity sites within the City and County and encourage and facilitate the re-use and regeneration of derelict land and buildings in the urban centres.*
 - *Work with landowners and development interests to pursue the potential of suitable, available and viable land and buildings for appropriate development/ renewal.*
 - *Support 'active land management' by making the regeneration and development of existing built up areas as attractive and as viable as Greenfield development through investment in infrastructure where appropriate.*
 - *Use specific powers, such as the compulsory purchase orders (CPO's) and statutory powers under the Derelict Sites Act 1990 and the Urban Regeneration and Housing Act 2015, as amended, to address issues of dereliction, vacancy and underutilisation of lands in settlements across Waterford.*
 - *Provide for, protect and strengthen the vitality and viability of town centres, through consolidating development, encouraging a mix of uses and maximising the use of land whilst promoting sympathetic reuse of structures. In considering development applications within the designated town centres we will have particular regard to the impact the proposed development on*

the streetscape and urban layout in relation to compatibility of design, materials and use and the impact of the proposed development on existing amenities having regard to traffic and parking and the amenity and utility value of public and private spaces including open spaces

- *Ensure all urban and rural settlements develop in such a way as to provide a sustainable mix of local services such as commercial, community and cultural activities including provision for enterprise, residential, retail, commercial, tourism, and leisure and community facilities.*
- *Protect the unique setting of rural towns and villages by providing for the maintenance of strong defined urban edges on approach roads.*
- **Safe Places Policy Objective Place 10** – All medium to-large scale and complex planning applications (15 + residential units (or less depending on the site context), commercial development over 500 sqm. or as otherwise required by the Planning Authority) shall submit a ‘Design Statement’ and shall be required to demonstrate how the proposed development addresses or responds to the design criteria set out in the ‘Urban Design Manual - A Best Practice Guide’ (DoEHLG, 2009) and incorporates adaptability of units and/ or space within the scheme. The design statement would include how the circular economy could be addressed from design through to planned end-use and beyond.
- **Legislative Placemaking Policy Objectives Place 05** - *Ensure that development proposals are cognisant of the need for proper consideration of context, connectivity, inclusivity, variety, efficiency, distinctiveness, layout, public realm, adaptability, privacy and amenity, parking, way finding and detailed design.*
- **Access for All / Universal Design Policy Objective Uni Des 03** - To ensure all developments are designed around a clear hierarchy of connected streets and buildings to promote legibility and permeability. Streets should be designed to include:
 - Several access points
 - Frequent crossings
 - A preference for priority junctions for sustainable modes of transport
 - Means to encourage walking/cycling. (Please reference design/ placemaking guide in Appendix 5).

Chapter 7: Housing & Sustainable Communities

- **Social Housing and Part V Policy Objectives H 08** - *The Council will secure the provision of appropriate accommodation to meet the housing needs of all households, including social, affordable and cost rental housing, in a manner consistent with the Housing Strategy and in accordance with Part V of the Planning & Development Act 2000 (as amended). All housing units delivered by way of Part V should be integrated into the overall development in terms of location, design and build quality.*
- **Housing Mix Policy Objectives H 17** - *We will encourage the establishment of attractive, inclusive and sustainable residential communities in existing built up areas and new emerging areas by:*
 - *Ensuring a suitable variety and mix of housing and apartment types, and sizes/tenures is provided in individual developments to meet the lifecycle adaptation of dwellings and the differing needs and requirements of people and families.*
 - *Having regard to current demographic, social and market needs and changes throughout the City and County, in accordance with the provisions of the Housing Strategy and Housing Need Demand Assessment (HNDA) and any future Regional HNDA.*
 - *Require the submission of a report which shall have regard to the HNDA and Housing Strategy with particular reference to:*
 - *How the proposed development contributes to meeting the future housing requirements as set out in Table 7.1.*
 - *How the proposed development has had regard to both the existing and permitted house types and tenures within the surrounding and adjoining neighbourhoods and/or district.*
 - *How the proposed development will contribute positively to the housing mix and adaptability of the area.*
 - *The number/percentage of housing units to be made available for purchase by owner occupiers.*

- *Require that the housing mix in any new development has regard to the provisions of ‘Housing Options for Our Ageing Population, Policy Statement’, (2019) or any update thereof, and makes provision for appropriate residential accommodation for older people and persons with disabilities in line with the Centre for Excellence in Universal Design – Universal Design Guidelines (2015) or any update thereof for Homes in Ireland and for wheelchair users in line with the Irish Wheelchair Association Best Practice Access Guidelines (2020) or any update thereof.*
- *The Council will require where different tenures are provided that these will be integrated and designed to create tenure neutral homes and spaces, where no tenure type is disadvantaged.*
- *Facilitating the provision of ‘self-build’/ serviced sites opportunities where feasible.*
- *Require the submission of a ‘Social Infrastructure Audit’ for developments of 15+ residential units (or less depending on the site context) identifying the social and community facilities in the area (or any deficiency thereof) in order to ensure that they are sufficient to provide for the needs of the future residents. Where deficiencies are identified, proposals will be required to either rectify the deficiency or suitably restrict or phase the development in accordance with the capacity of existing or planned services.*
- **Open Space Policy Objectives SC 41** - *Provide a hierarchy of attractive parks and public open spaces, which vary in size and nature, are all inclusive, by being readily accessible and at a convenient distance from people’s home and/ or places of work. We will also work with the Waterford Disability Network to provide where necessary inclusive communication boards in parks and other public spaces.*

8.14. **Transportation** - Chapter 5 of the Development Plan relates to Transport and Mobility. The following Waterford Metropolitan Area Transport Strategy (WMATS) and Local Transport Plans (LTPs) Policy Objective are of relevance:

- **Trans 04** - *It is a Policy Objective to prepare Local Transport Plans (LTPs) (using the Area Based Transport Assessments (ABTAs) method) in tandem with the preparation of Local Area Plans (LAPs) and also prepare LTPs for key strategic land banks within adopted LAPs, if required, subject to the availability of funding*

and in accordance with the NTA and TII Guidance Note on Area Based Transport Assessments 2018 or any subsequent updates thereof. The Council will prepare LAPs and LTPs for Dungarvan and Tramore within one year of adoption of the Development Plan.

- **Trans 09 Connectivity and Permeability** - *Ensure that all developments can provide full connectivity/permeability to the adjacent road network (pedestrian, cycle and vehicular) and/or to adjacent lands which are zoned for development and lands which may be zoned for development in the future. Access should be also provided to adjoining amenities such as Greenways, Walkways and other recreational areas and have regard to 'Ireland's Government Road Safety Strategy 2021–2030.*
- **Trans 41 National Roads** - *Avoid the creation of any additional access points from new development or the material increase in traffic using existing access points to National Roads, to which a speed limit of greater than 60 kph applies in accordance with the requirements set out in the Spatial Planning and National Road Guidelines, DECLG (2012).*
- **Trans 42** - *In order to protect the future safety and carrying capacity of the N25 approach road to Dungarvan from Waterford City, new access points for single dwellings will be prohibited within the speed limit zone up to Coolagh Road Roundabout. It is the intention of that strategic access points and road provision will be considered in the Dungarvan Local Area Plan. The Council's preference is that future access points within land banks east and west of the N25 within this area are provided by alternative road provision and not from the N25.*

8.15. Chapter 6: Utilities Infrastructure, Energy & Communication

Table 6.1 Water and Wastewater Capacity Assessment – Settlements in Waterford County (Source: Irish Water April 2022) set out the following:

Settlement	Dungarvan (Key Town) & Ballinroad
CSO Population 2016	10,388
CDP 2022 – 2028 – Population Target to 2028	11,864

Revised Population Ambitions	11,864
Water Resource Zone (WRZ)	Dungarvan & Deelish / Ballynacourty
Water source/treatment capacity update	Currently it is envisaged that capacity is available to cater for proposed population targets in CDP. IW has a project at concept design stage to provide new reservoir and new water treatment plant.
WWTP	Dungarvan WWTP
Wastewater treatment capacity update:	Currently it is envisaged that capacity is available to cater for proposed population targets in CDP.

8.16. **Development Management** - Development Management Standards for Residential Development are set out within Volume 2 of the Waterford City and County Development Plan 2022-2028. Section 3 relates to Development Management Standards for residential development. The following standards are of relevance:

Development Management DM04 - *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). The design of schemes should promote best practice in architectural design, consistent with the aims of the 'Government Policy on Architecture 2009-2015' (Department of Environment, Community and Local Government, 2009) to support good architectural quality.*

The Design Statement shall also take guidance from the 'Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (DoEHLG 2009)', and consider the overall impact of the proposed development under the following categories/headings:

- *The overall character and scale of the settlement;*
- *Infrastructure capacity such was water/wastewater and surface water disposal available;*
- *Flood Plains/ areas susceptible to flooding/cumulative effect of development and existing development in relation to flooding;*
- *Social services such as local shops/community facilities;*

- *Capacity of local schools/ crèches/ child minding services available in the area;*
- *The provision of open space areas/ playgrounds/ amenity areas;*
- *Car parking/ traffic safety and pedestrian movements;*
- *Proposing phasing arrangements;*
- *Housing mix;*
- *Integration into existing/ surrounding context and character;*
- *The protection of residential amenity of existing adjacent dwellings in the area; and*
- *Carbon balancing calculations and the incorporation of green infrastructure elements, e.g. living roofs; SUDs etc.*

Density - Section 3.2 Residential Density states that the Council recognises the benefits of increasing the density of residential development at appropriate locations in harmony with improved public transport systems and in accordance with various strategies and reports such as the 'National Planning Framework' (NPF), the 'Sustainable Residential Development in Urban Areas Planning Guidelines (2009)' and the 'Southern Region Spatial and Economic Strategy' (RSES). The Plan states that "in the application of densities, it is also important to recognise and reflect the function and character of the urban area (i.e. city, towns, villages and settlement nodes), as set out in the settlement hierarchy in Volume 1: Section 2.9 -Table 2.2. The Plan further states 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.

8.17. **Development Management Objective DM05** states that in all instances the following will be taken into consideration:

- *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.*

8.18. **Mix of Dwelling Types** – Section 3.4.1 Mix of Dwelling Types states that *planning applications for 15+ residential units will be required to incorporate a variety and choice of housing units by type and size to meet differing household needs and requirements, as informed by the HNDA.*

8.19. **Development Management Objective DM06** outlines that the design statement shall address criteria including: details of existing and permitted unit types within a 10 minute walk of the development, a breakdown of unit types in accordance with national policy guidance, 20% of all dwelling must be designed as lifetime homes.

8.20. **General Residential Development Design Standards** - Table 3.1 sets out General Standards for New Residential Development in Urban Areas. The following standards are of relevance:

- Public Open Space- 15% of total site area;
- Private Open Space – In accordance with the standards set out in Table 3.2. (1-2 bed 50 sq.m., 3 bed -60 sq.m. and 4 + bed – 75sq.m.). A reduced standard can be considered for smaller houses but the area must not be less than 50sq.m.
- Minimum Separation Distance – 22m between directly opposing windows. 2.2m between side walls of detached, semi-detached and end of terrace dwellings.
- Section 5.17 sets out a requirement for a minimum of 20 childcare spaces for every 75 dwellings.

- Table 7.1 Car Parking Standards – 3 bed + 2 spaces. Visitor parking at a rate of 1 space for every 4 units provided with only 1 space
- Table 8.1 sets out Minimum Sightline Requirements. Sightlines of 70m at 4.5m are required for entrances from the 50 km/ph speed limit area.

8.21. Section 8.8 DMURS *requires that in urban areas inside the 60km/h urban speed limit, developers should also have regard to the best practice standards set out in the Design Manual for Urban Roads & Streets (DMURS) 2020.*

- **Development Management DM47** - *The design of urban streets in Ireland is governed by DMURS which is mandatory for all urban roads and streets within the 60 km/h urban speed limit zone except for:*
 - *Motorways; and*
 - *In exceptional circumstances, certain urban roads and streets with the written consent of the relevant Sanctioning Authority.*

The Council will require that all new development or the intensification of existing entrances onto the public road network is provided for in a safe manner in accordance with the current Transport Infrastructure Ireland publications.

8.22. Appendix 14 - Infrastructure Capacity

Water treatment / source capacity: - The water resource zones serving Dungarvan is envisaged to have capacity to cater for the proposed population targets in the Draft County Development Plan. Irish Water has a project at concept design stage to provide a new water treatment plant and new reservoir for Dungarvan.

Dungarvan Wastewater Treatment Plant - The plant was commissioned in 2007 and has a design capacity of 25,000 p.e. (population equivalent). Irish Water are progressing the Dungarvan DAP and is dependent on inclusion in the Irish Water Investment Plan or may be developer-led.

Table 5 – Dungarvan and Ballinroad Infrastructure Requirements	
Infrastructure	Project Delivery
Transport <ul style="list-style-type: none"> ▪ Dungarvan will be subject to an LAP following completion of the CCDP. 	Transport <ul style="list-style-type: none"> ▪ WCCC to publish LTP and budgetary programme of investment for

<p>The LAP will be accompanied by a Local Transport Plan, focused on improving active and public transport and highlight infrastructural deficits for the town.</p>	<p>transport for Dungarvan and Ballinroad. The LTP will inform the Local Area Plan for Dungarvan/Ballinroad.</p> <ul style="list-style-type: none"> ▪ Road infrastructure to be funded in part through development contributions collected under the provisions of the WCCC Development Contribution Scheme.
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8.23. **Appendix 17-Tiered Approach to Zoning** - provides an assessment of lands which are zoned to accommodate residential development over the plan period. Section 5 relates to the Dungarvan / Ballinroad Site Identification and outlines that the Dungarvan Town Development Plan 2012 – 2018 and the Waterford County Development Plan 2011 - 2017 included c.73 ha of zoned land for residential purposes and that 6 ha have been developed over the lifetime of the Plan.

8.24. **Pre- Draft Dungarvan and Ballinroad Local Area Plan 2023-2029**

8.25. In line with the objectives of the Waterford City and County Development 2022 – 2028 Waterford City and County Council have commenced the preparation of a Local Area Plan (LAP) for Dungarvan and Ballinroad. The LAP is currently at Pre-draft Public Consultation Issues Paper (7th February – 7th March 2023) stage. This will be followed by the preparation and publication of a draft LAP. No draft LAP was available at time of writing this report (December 2025).

9.0 **Natural Heritage Designations**

9.1.1. The appeal site is not located in or immediately adjacent to a European Site. However, Dungarvan Harbour SPA (Site Code: 004032) is c. 0.1km to the south and southeast of the site.

10.0 Applicants Statement of Consistency

10.1. The applicant has submitted a Statement of Consistency (as part of the Planning Report) as per Section 8(1)(iv) of the Act of 2016, which indicates how the proposal is consistent with the policies and objectives of the Section 28 Guidelines applicable at the time of making the application to the Board in July 2021 and the *Dungarvan Town Development Plan 2012 – 2018* (as extended) and the *Waterford County Development Plan 2011 – 2017 (as extended)*. Section 28 Ministerial Guidelines referenced in the statement include the following:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) & Urban Design Manual – A Best Practice Guide (2009).
- Design Manual for Urban Road and Streets (2013).
- Quality Housing for Sustainable Communities: Best Practice Guidelines for Delivering Homes, Sustaining Communities (2007).
- Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments (2020).

11.0 Material Contravention Statement

11.1. The applicant submitted a Material Contravention Statement. The document outlined the possible Material Contravention the proposed development may have had with the two relevant Development Plans in force in the area in 2021 namely: Dungarvan Town Development Plan 2012–2018 and Waterford City and County Development Plan 2012–2018. Please note that while the statement is summarised below these two plans and associated zoning, policies and objectives are no longer applicable in this case as both plans have been replaced with the Waterford City and County Development Plan 2022 – 2028. The Waterford City and County Development Plan 2022 – 2028 is the operative plan in the consideration of this SHD at this time.

11.2. The Dungarvan Town Development Plan 2012–2018 (DTDP) had 4 no. land-use zoning designations on the subject site as follows:

Zoning	Objective
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R1 – Residential Medium	To protect the amenity of existing residential development and to provide for new residential development at medium density
R2 – Residential Low	To protect the amenity of existing residential development and to provide for new residential development at medium density
R3 – Residential Phased	To reserve land for future sustainable residential development
OS – Open Space	To preserve and enhance Open Space areas and Amenity Areas for passive and active recreational uses, including the preservation of grass verges, hedgerows and tree stands

11.3. No residential development was proposed on the OS – Open Space portion of the subject site. The R1 and R2 zoning allowed for residential development during the life of the former DTDP, while the R3 zoning was intended for the same development type after 2018, in the “Plan period, 2018-2024.

11.4. With regard to density Dungarvan was recognised as a ‘County Town’ within the Waterford County Development Plan 2011– 2017 (WCDP). Variation No. 1, adopted on 8th September 2016, is applicable to the development of this site, as it superseded the density standards of both the DTDP and WCDP. All developments were required to meet the minimum standards set for housing developments within Table 10.4 of the WCDP as follows:

- 25 units per hectare on R1 medium density residential zoned lands
- 10 units per hectare on R2 low density residential zoned lands

11.5. The majority of the application lands fell under the R2 land-use zoning designation that was prescribed with a low-density of 10 units per hectare (uph). No density standards were proposed for R3-zoned lands; however, it was expected that the application of a 10 uph standard would be sought.

11.6. The proposed scheme has 218 no. units equating to a density of 25.3 uph (gross) when calculated based on the total site area of 8.6288ha. The scheme would result in a net density of 35.5 uph when the ‘developable area’ (6.1382 ha) of the site is

considered. The density increases to 36.2 uph when the approximate area 0.1082 ha dedicated to the crèche is also ‘netted out’. The ‘developable area’ refers to the R1, R2 and R3 residentially zoned lands that are not within the identified flood risk areas (i.e. excludes OS lands, flood risk areas and road frontage portions to the north).

11.7. The statement provided a justification for the material contravention of the Dungarvan Town Development Plan 2012 – 2018 (as extended) with regard to the development of lands zoned R3 (phased) and density. The statement is summarised as follows:

11.8. **R3 Zoning Objective**

- The development of the R3 zoned portion of the subject site should be viewed in the wider context of the overall scheme, with a large portion of R1-zoned lands omitted from the development due to flood risk issues, therefore, the development of the R3-zoned lands is considered to be a compensatory action due to the inability of much of the R1- lands to come forward now;
- The wording of both plans indicate that the preclusion of the development of R3 lands is ‘time-bound’ and not ‘plan-bound’. The lifetime of the plan period was only intended to run until 2018, therefore, the land-use planning period has been passed and additional lands should come forward for development now.
- There is a demand for housing in the Dungarvan area.
- The R3-zoned lands in question only comprise a minor portion of the total site area and, therefore, should be viewed in the wider context of the overall scheme.

Note— As set out previously these zoning objectives are no longer of relevance as the statutory plan context for the site has changed where by the Waterford City and County Development Plan 2022 – 2028 is now the operative plan in the consideration of this SHD development.

11.9. **Density**

- The majority of the site falls under the R2 land-use zoning designation that is prescribed with a low-density of 10 units per hectare. When all developable residential areas are considered, excluding areas at risk of flooding, the total developable site area is 6.1382 ha. The scheme provides for 218 no. units, therefore a net density of 35.5 units per hectare is proposed. The density increases to 36.2 when the area (0.1082 ha) dedicated to the crèche is omitted.

- Section 3.3.4 of the County Development Plan indicates that densities specified under zoning are indicative only and act as a guide for new developments. The planning authority will assess each development on a case-by-case basis.
- The proposed density is considered to be a sustainable use of the site and will provide for much needed housing in the area. The Board is referred to National and Regional policy and the Section 28 Ministerial Guidelines - Sustainable Residential Development in Urban Areas (2009) and Urban Development & Building Heights: Guidelines for Planning Authorities (2018) that encourage increased residential densities and compact development in appropriate locations.

12.0 Third Party Submissions

12.1. There are 24 no. third party submission recorded on the file. It is noted that a number of submissions are supportive of the application and welcome the proposed development of housing in order to sustain the continued economic, cultural and sporting development of the town. The concerns raised in the remaining observations are summarised as follows.

12.2. Please note that the submissions were prepared and submitted with reference to the Dungarvan Town Development Plan 2012–2018 and Waterford City and County Development Plan 2012–2018. These two plans and associated zoning, policies and objectives are no longer applicable in this case as both plans have been replaced with the Waterford City and County Development Plan 2022 – 2028. The Waterford City and County Development Plan 2022 – 2028 is the operative plan in the consideration of this SHD at this time.

12.3. Please note that the submissions were made having regard to the now expired / superseded plans namely the Dungarvan Town Development Plan 2012 – 2018 and the Waterford County Development Plan 2011 – 2017.

- **Zoning Objective** - One third of the site is zoned R3 – Strategic Land Reserve and cannot be considered during the lifetime of the plan (legal judgment refers), the site is not sequential to the town centre, and the phasing of the project has not been adequately addressed with regard to R1 zoned lands.
- **Flooding** – The site is called Duckspool because of the haven it provided for wildfowl before it was reclaimed and drained for farmland. It remains wet and

boggy today, even though the wetland plants and myriad of small pools have been removed. A number of submissions include photographs which indicate that the site is subject to flooding especially during periods of heavy rainfall. Concerns are raised that the development does not pass the flood risk justification test, that the potential impact on existing properties has not been fully assessed and that the increased levels within the site would cause flooding of adjacent properties. The proposed use is highly vulnerable to flooding. Planning permission was previously refused on this site due to flooding concerns and this has not been adequately addressed in this application. The enormous amount of fill material (90,000m³) needed to be imported to reduce the risk of flooding within the site would reduce the capacity of the flood plain to attenuate flood waters. The site is zoned for conservation, amenity or buffer space in the draft development plan, which is considered appropriate.

- **Ecology** - The development would have an adverse impact on qualifying interests of the nearby SPA. A number of submissions include photographs of light bellied brent geese and other water birds utilising the site. Having regard to the site's importance for wintering bird's concerns are raised regarding the timeframe and scope of the bird surveys. No detail has been provided as to how the 1.2ha of grassland would be kept and maintained for wintering birds. This area is not compensation for the loss of the subject site as it is already available and in use by wildlife. The construction phase of the scheme would have an adverse impact on the SPA in relation to water quality and importing fill. The noise and light disturbance associated with both the construction and operational phases of the scheme would have a negative impact on qualifying interests of the SPA. The precautionary principle should be adopted, and the application refused permission. The one-day bat survey is inadequate. There appears to be no dedicated non-volant mammal survey. Concerns are also raised regarding the timing of the habitat survey i.e. September 2020. There are errors in the NIS, EcIA, Traffic Impact Study and Construction and Waste Management Plan regarding the omission of fill required on site and the removal of topsoil from the site.
- **Social Infrastructure** - No evidence provided that there is capacity in the local schools to accommodate proposed population increase.
- **Design and Layout** – Density proposed is excessive and considered to material contravene the development plan, the development is out of character with the

surrounding area and provides no sense of placemaking or community, no single storey dwellings proposed, social housing is clustered, proposed houses are 2m higher than the adjacent houses, negative impact on the residential (overlooking) and visual amenities of existing properties and the Duckspool area.

- **Open Space** - There is a lack of usable open space and what is proposed is not overlooked, does not provide for passive surveillance of children and in some case is too close to heavily trafficked roads. The development cannot rely on the provision of open space within the adjoining R1 lands, also within the ownership of the applicant as these lands are outside of the redline boundary and subject to flooding. The quantum of open space is misleading. It should be acknowledged that half of the proposed open space (1.4ha) cannot be utilised for most of the year. The remaining open space is largely peripheral and incidental.
- **Transportation** - The surrounding road network is heavily trafficked and does not have the capacity to accommodate additional traffic, there is no footpath along one side of a section of the L3168 which links to the N25 and additional traffic would make crossing the road to the existing footpath more dangerous.
- **Other issues** - Concerns are raised that the red line boundary changes on documents to include and exclude lands zoned R1 to the west of the overall site.

13.0 Planning Authority Submission

- 13.1. The Chief Executive's Report, in accordance with the requirements of Section 8(5)(a) of the Act 2016, was received by An Bord Pleanála on the 1st September 2021. Please note that the CEO Report was prepared with reference to the Dungarvan Town Development Plan 2012–2018 and Waterford City and County Development Plan 2012–2018. These two plans and associated zoning, policies and objectives are no longer applicable in this case as both plans have been replaced with the Waterford City and County Development Plan 2022 – 2028. The Waterford City and County Development Plan 2022 – 2028 is the operative plan in the consideration of this SHD at this time.
- 13.2. The report includes a summary of the site location and description, the proposed development, zoning, relevant planning history, third party submissions / observations, summary of views of the Elected Members external and internal reports, policy

context, and a summary of the views of the elected members at the Special Dungarvan and Lismore District meeting.

13.3. The **Elected Members**, at a Special Dungarvan and Lismore District meeting, acknowledged the requirement for additional residential units however they do not support the development for reasons relating to (1) excessive density, (2) overdevelopment of the site, (3) flooding, (4) traffic impact and (5) anti-social behaviour. Noted that the draft Waterford County Development Plan 2022 has changed the zoning from Residential to Green Belt and Conservation whereby residential development would not be appropriate on the site. Requested that if planning permission is granted that a condition be attached precluding development until the wider flood works / defences are completed.

13.4. The key planning considerations of the Chief Executive's report can be summarised as follows:

- **Zoning / Phasing** - The planning authority is not satisfied that a robust case has been made to bring forward the development of the R3 lands having regard to the availability of non-strategic lands which have not been developed.
- **Density** - Serious concerns that the density is excessive having regard to the location of the site on the periphery of the settlement of Dungarvan. While the prescribed densities of the development plan might appear low, they should be considered in the context of the site's location and having regard to the form and character of adjoining settlement. While national guidance seeks to provide for higher densities on serviced lands regard must be had to Circular NRUP 02/2021 which acknowledges that lower densities are appropriate on the outer edge. The proposed density does not comply with the Dungarvan Town Development Plan.
- **Residential and Visual Amenity** - While it is acknowledged that the scheme has a high quality design, it is considered that it would be out of character with the area and the overall heights proposed and the large level of fill proposed means that the proposal would detract from the visual and residential amenities of the area.
- **Flooding** - The current residential zoning objective as per the Dungarvan Town Plan 2021 – 2018 (as extended) was not subject to a Strategic Flood Risk Assessment and, therefore, did not pass the justification test. An independent Strategic Flood Risk Assessment was carried out to inform the draft development

plan and the subject site failed to satisfy the Justification Test. Therefore, at this time it is recommended that the residential zoning be removed from the site. At this time the existing defences require upgrading. A residual risk is that the defences could fail completely. Owing to the separation from the town centre it is considered that the lands would not pass Part 2 of the Justification Test at Plan Making Stage. This, therefore, means highly or less vulnerable development would not be permitted within Flood Zone A or B.

- **Transportation** - Significant revisions are required to the road layout with particular concerns raised over the adequacy of the assessment with regard to the impact on the N25 and the absence of proper assessment around construction traffic, including the huge volumes of excavation material and subsequent fill. There are also requirements to upgrade the road network to accommodate the development, which would require a Special Contribution to protect the flow of traffic on the N25. The Roads Section is not satisfied with the submitted documentation.
- **Ecology** - It is considered that the applicant has failed to robustly demonstrate beyond scientific doubt based on the available evidence that the development would not constitute an adverse impact on Dungarvan Harbour SPA.
- **Open Space** - There are concerns regarding the pedestrian link to Tournore which will link into a green space, which is in private ownership. There are concerns regarding the quality of the open space, in particular the provision of drainage ditches through a linear area of open space and the proximity of car parking to areas of open space. The open space to the east of the site is not appropriate to develop on and functions as compensatory flooding as well as a forage ground.
- **Drainage** - Details relating to storm water need to be agreed with the planning authority. There are wider works to be carried out to the storm water network that would require a Special Contribution from the applicant.
- **Archaeology** - Owing to the size of the site and its proximity to the estuary there is significant potential for archaeological remains.

13.5. Refusal of Planning Permission

13.5.1. The planning authority recommended that permission be refused for 5 no. reasons as outlined below:

- 1) *Large sections of the subject site are within both Flood Zone A and B as identified by the Office of Public Works and the Planning Authority is not satisfied that the proposed residential development would not be at risk of future flooding or that the development itself would not exacerbate flooding in the area. The proposed residential development, a vulnerable use, would be contrary to the Flood Risk Management Guidelines and the provisions of the Dungarvan Town Development Plan 2012 – 2018, as varied and extended. It is, therefore, considered that the proposed development would be contrary to the proper planning and sustainable development of the area.*
- 2) *The Natura Impact Statement and Ecological Impact Statement have been revised by the Planning Authority and the Department of Housing Local Government and Heritage. It is considered the applicant has failed to robustly demonstrate beyond scientific doubt based on the available evidence that the development would not constitute an adverse impact on the Dungarvan Harbour SPA Brent Goose population. These species are of qualifying interest and any negative impact on same would negatively impact on the conservation objections of the SPA itself. The proposed development therefore would be contrary to the proper planning and sustainable development of the area.*
- 3) *The proposed site includes Residential Phased / R3 zoned lands whereby these lands represent a strategic reserve of lands which may be zoned for residential use in future Development Plans if the specific need arises and all R1 and R2 zoned lands have been developed or committed and the lands are serviceable by the public services / infrastructure. Owing to the availability of suitably zoned residential lands the proposed development would be out of sequence and premature pending the completion of the current Waterford County Development Plan Review. The proposed development would be contrary to the zoning provisions of the Waterford County Development Plan 2011 – 2017, as extended, and the proper planning and sustainable development of the area.*
- 4) *Having regard to the proposed density and resultant site layout, design and height and the existing / proposed site levels, it is considered that the development does not represent an acceptable design response for the subject site with concerns regarding in particular, the existing character of the area, the quality of the public open space proposed and impacts on the wider amenities of the area. The*

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

5) *The applicant as failed to demonstrate in the documentation submitted that the proposed development, including its construction phase, would not negatively impact on the carrying capacity of the N25 National Road or on the traffic safety of residents of the development itself or on public road users in the wider area. The proposed development would therefore pose a traffic hazard to future residents of the development itself and public road users in the wider area and as such would be contrary to the proper planning and sustainable development of the area.*

13.6. Suggested Condition's

13.6.1. Notwithstanding the recommendation of WCCC above to refuse permission it is recommended that should permission be granted that the following conditions as summarised be attached:

1.	Compliance with mitigation measures contained in the NIS
2.	Grassland Management Plan for Brent Geese to be submitted and agreed
3.	CEMP to be submitted and agreed
4.	Section 48 Development Contribution
5.	Bond
6.	Part V
7.	Section 48(2)(c) Special Development Contribution in the amount of €910,000 in respect of required improvements to road infrastructure (the provision of a roundabout on the N25 required to service the development)
8.	Section 48(2)(c) Special Development Contribution in the amount of €236,442 in respect of required improvements to surface water management in the area (an enlargement of fluvial water is required)
9.	Construction Management - wheel wash at the entrance, road opening license, damage to road or footpath to be made good at the expense of the

	developer and adequate drainage to ensure no freestanding water on road or footpath
10.	Development shall be designed, constructed and completed in accordance with DMURS
11.	CCTV sewer survey and report to be submitted
12.	Irish Water
13.	Surface Water to comply with requirements of WCCC
14.	Taking in charge requirements
15.	Underground cabling
16.	Public lighting
17.	Estate / Street name(s) to be agreed
18.	Comprehensive landscape plan to be submitted and agreed
19.	Construction hours and noise monitoring
20.	Construction and Demolition Plan to be agreed
21.	Archaeological Assessment in advance of any site preparation and / or construction works

13.7. WCCC Internal Reports

13.8. The following internal WCCC reports are recorded in the Planning Authority Submission as summarised:

13.9. **Heritage Officer** – The Duckspool site is of high significance for a number of the qualifying bird interests of Dungarvan Harbour SPA but in particular the Black Tailed Godwit and Brent Geese that exceed 1% of National (Black Tailed Godwit - peak number recorded 430) and international thresholds (Brent Geese – peal number recorded 900). On the basis of proximity to the roosting mudflats in Dungarvan Harbour SPA, Policy NH6 of the Waterford County Development Plan 2011 – 2017 to *conserve the favourable conservation status of species and habitats within Special Areas of Conservation and Special Protection Areas* (to be favourable, there should be no significant decrease in the numbers or range (distribution) of areas used by the

waterbird species of Special Conservation Interest, other than that occurring from natural patterns of variation), a net loss of 7.5 ha of ex-situ foraging area as a result of the development and in the context of the then current Biodiversity Loss and Climate Change emergency declared by the Government in May 2019 it is recommended that the proposed development be **refused**.

13.10. **Water Services** – No development should take place until connection agreements with IW are in place.

13.11. **Roads Section** – No objection in principle to the development. However, there are a number of conditions and clarifications required as well as a Special Development Contribution towards the cost of upgrading the roads infrastructure in the area and these are set out in detail in the Roads Report. These can be summarised as follows:

- The status of the Master Plan contained in the submitted documentation is unclear.
- The TIA should include for the full intended future use of the site in the interests of proper planning and sustainable development of the area.
- The base year “do nothing” scenario calculation seems to be omitted from the TIA.
- The peak hour for the development and the peak hour for the TIA seems to differ.
- There was no queuing lengths surveyed on the N25.
- The applicant’s proposal that the Tournore / N25 Junction should be traffic lights is not accepted by WCCC.
- A special contribution of €910k should be levied on the developer towards the construction of the roundabout and road at Tournore to the N25
- The minimum footpath width should be maintained. There should be stop signs at all junctions. The visibility triangles should not be compromised.
- Off road cycling should be incorporated into the development.
- All roadways should be in macadam.
- Unbound pathways are not acceptable.

- The parking layout proposed leaves insufficient road space to allow safe parking of visitor parking.
- A minimum of one parking space is needed for every four dwellings.
- The road layout should be assessed for turning movements for HGV and Emergency Vehicles.
- Many desire lines not catered for by hard surfacing and the routes for the pedestrians through the development are a little convoluted in places.
- The pedestrian exists from the development onto the footpath should be viewed from a safety point of view.
- Cobble footpaths can develop trip hazards, and a maintenance free or low maintenance footpath is the preferred type.
- A pedestrian link should be made into the adjoining Sallybrook Estate

13.12. The Road Department also have responsibility for storm water and flooding assessment and has no objection in principle to the proposed development. However, there are a number of clarifications and conditions required and a Special Contribution towards the cost of providing additional storm water storage for Duckspool area is required. These can be summarised as follows:

- The tidal and fluvial flood risk has been assessed with all development outlined outside the designated CFRAM Flood Plain Area with some small exceptions to allow for coherent development.
- All proposed buildings will have a minimum FFL of 3.42 AOD, which includes for 500mm Climate Change and a 300mm Freeboard.
- The drainage system incorporates a sustainable drainage system ensuring the development does not contribute to any additional surface run off.
- Condition required from the developer to submit drawings showing 2,150 m³ of cellular storage and maintenance details for same for approval of the Planning Authority prior to commencement of the development if permitted.
- Regarding the open drain on site, details on how this is to be fenced off and method of maintenance, to be submitted to Planning Authority for approval prior to commencement of the development.
- A special contribution of €236,442 to be levied for additional fluvial storage in Prescribed Bodies.

13.13. Prescribed Bodies

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

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

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

- **Uisce EireannWastewater** - In order to accommodate a wastewater connection, the proposed development is subject the upgrading and provision of additional storage at Barnawee Wastewater pumping station. These works are not currently on Irish Water's investment plan. Therefore, the applicant will be required to contribute the relevant portion of the costs of these works via a Project Works Services Agreement / Major Connection Agreement for which the applicant has engaged with Irish Water regarding and is currently at detailed scoping / costing. It is estimated that delivery of the infrastructure will be carried out by Irish Water and take approximately 3 years to complete (subject to change). Delivery of the required infrastructure will be subject to appropriate consents.
- **Water** - In order to facilitate a connection for the proposed development an upgrade of the existing 150mm diameter watermain to 200mm diameter for a length of approximately 300m is required. Irish Water currently does not have any plans to extend or commence upgrade works to its network in this area. Should the

applicant wish to progress they will be required to fund these works as part of a connection agreement.

- **Design Acceptance** - The applicant has engaged with Irish Water in respect of design proposals within the redline boundary of their proposed development site and has been issued a Statement of Design Acceptance for the development.
- Irish Water requests the Board condition(s) any grant as follows;
 - 1) The applicant must sign a connection agreement with Irish Water prior to any works commencing and connecting to our network
 - 2) Irish Water does not permit any build over of its assets and separation distances as per Irish Waters Standards Codes and Practices must be achieved.
 - a. Where any proposals by the applicant to build over or divert existing water or wastewater services subsequently occurs the applicant submit details to Irish Water for assessment of feasibility and have written confirmation of feasibility of diversion(s) from Irish Water prior to connection agreement.
 - 3) All development is to be carried out in compliance with Irish Water Standards codes and practices.

13.16. Department of Housing, Local Government and Heritage

- The proposed development site is currently an important feeding and loafing site for Brent Geese and to a lesser extent Black-tailed Godwit, both of which are qualifying interests for the adjacent Dungarvan Harbour Special Protection Area (site code 004032). The site is also used by other conservation interest species of the SPA such as Curlew, Dunlin, Lapwing, Golden Plover etc.
- The Department is aware that the wading bird species using the Duckspool site use a range of other terrestrial sites around the SPA and accepts that the loss of this particular site while undesirable is unlikely to significantly adversely impact on the populations of these species. This however is not the case for Brent Geese which do not use a wide variety of terrestrial sites around this SPA and show a very clear preference and fidelity to a small number of sites including this one.
- The availability of suitable nearby terrestrial feeding sites is essential to maintain the favourable conservation condition of Brent Geese listed as a qualifying interest for Dungarvan Harbour SPA.

- The NIS and EclA assessment of abundant suitable alternative habitat is an over simplification of the situation in Dungarvan. The Duckspool site has advantages over many other sites due to its proximity to the core SPA, security from disturbance and predation, accessibility and suitable foraging. Of the ten other sites identified most are subject to disturbance and therefore the population needs close alternative sites to retreat and return to on a routine basis without needing to expend significant amounts of energy.
- The NIS as submitted has not established beyond reasonable scientific doubt based on available evidence that the development would not constitute an adverse impact on the Dungarvan Harbour SPA Brent Goose population. If it became the case that a greater range of high-quality terrestrial foraging sites adjoining the SPA began to be regularly used in significant quantity by the Brent Goose population then this would change the Department's view of the proposal.
- In relation to in combination factors, the popularity of the Dungarvan Harbour area for walking (including dog walking) and the development of formal greenways and walkways within and adjoining the SPA and proposals for further development of walkways, disturbance is a concern. In these circumstances undisturbed terrestrial foraging and retreat areas close to the SPA are increasingly important.
- Natural Heritage Policy 5 of the current Waterford City and County Development Plan seeks *to encourage the retention and creation of green corridors within and between built up urban areas*. This site is currently such an area. Natural Heritage Policy 11 seeks *to encourage the retention and creation of sites of local biodiversity value, ecological corridors and networks that connect areas of high conservation value such as woodlands, hedgerows, earth banks and wetlands*". This site while not a woodland, hedgerow or wetland is a site of significant local biodiversity value and part of an ecological network supporting species from the adjoining SPA.
- The current draft of the next Waterford City and County Development Plan 2022-2028 goes further with the Biodiversity Policy Objectives 01, 04 and 11 that seek to protect ecological corridors and networks that connect areas of high conservation value, recognise that nature conservation is not just confined to designated sites and acknowledge the need to protect non-designated habitats and prevent unnecessary fragmentation and promote integration of existing green infrastructure in order to promote wildlife habitat value."

- **Archaeology** - Taking into consideration the location of the proposed development within a greenfield site located within an estuarine landscape, the scale and nature of the proposed development and associated groundworks and the potential for previously unidentified archaeological remains to survive below ground, it is recommended that archaeological conditions be attached to any grant of planning permission. Recommended conditions for Archaeological Impact Assessment is set out in the report.

13.17. Transport Infrastructure Ireland

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

13.18. Waterford Childcare Committee

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

14.0 Oral Hearing Request

14.1. None requested.

15.0 Environmental Impact Assessment Screening

- 15.1. An EIA Screening Statement was submitted with the planning application.
- 15.2. The proposed development has been subject to preliminary examination and screening for environmental impact assessment (refer to Form 1 and Form 3 in Appendices of this report).
- 15.3. It has been concluded that there is potential for significant effects on the qualifying Interests of the Dungarvan Harbour Spa by reason of impact to water quality and loss of important ex-situ winter feeding habitat and an Appropriate Assessment has been

undertaken having regard to the documentation on file including the NIS. The screening carried out for environmental impact assessment (Appendix 2), has addressed the characteristics of the proposed development, its location and the types and characteristics of potential impacts has also had regard to the mitigation measures proposed. On this basis I am satisfied that there is no potential for significant effects or any other environmental factor, or any requirement, therefore, for environmental impact assessment.

- 15.4. Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.
- 15.5. Impacts on European sites can be addressed under Appropriate Assessment, which I have addressed in Section 16.0, Appendix 3 and 4 of my report.

16.0 Appropriate Assessment

- 16.1. Significant concerns have been raised in the observations to the SHD application in relation to the impact of the scheme on the Brent Geese, a qualifying interest of the Dungarvan Harbour SPA and the associated deficiencies in the Natura Impact Assessment and Ecological Impact Assessment. The concerns raised have been noted and are addressed in Appendix 3 – Appropriate Assessment Screening and Appendix 4 - Appropriate Assessment of this report below, the conclusion of which are set out here.
- 16.2. In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on Dungarvan Harbour Special Protection Area (SPA) (Site Code: 004032) in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of S177U/ 177AE was required.
- 16.3. Following an examination, analysis and evaluation of the NIS, all associated material submitted and taking into account observations of the Department of Housing, Local Government and Heritage, I consider that adverse effects on site integrity of the Dungarvan Harbour Special Protection Area (SPA) (Site Code: 004032) cannot be

excluded in view of the conservation objectives of this site and that reasonable scientific doubt remains as to the absence of such effects.

16.4. My conclusion is based on the following:

- The proposed development site is currently an important feeding and loafing site for Brent Geese and to a lesser extent Black-tailed Godwit, both of which are qualifying interests for the adjacent Dungarvan Harbour Special Protection Area (site code 004032).
- The availability of suitable nearby terrestrial feeding sites is essential to maintain the favourable conservation condition of Brent Geese listed as a QI for Dungarvan Harbour SPA.
- The permanent loss of 7.5ha of ex situ grazing and foraging habitat as a direct impact of the proposed development, will result in a significant impact on the Conservation Objectives of the Dungarvan Harbour SPA and its QIs and in particular the Light-bellied Brent Geese.
- The NIS and EclA assessment of abundant suitable alternative habitat is an oversimplification of the situation in Dungarvan. It is the proximity and accessibility of the proposed SHD site to the intertidal mudflats within the estuarine environment of Dungarvan Harbour SPA, low intensity agricultural activities and openness of the site, amongst other factors, which lends the fields at Duckspool to provide valuable ex-situ supporting habitat for the internationally and nationally important numbers of waterbirds. Brent Geese do not use a wide variety of terrestrial sites around the Dungarvan Harbour SPA and show a very clear preference and fidelity to a small number of sites including this SHD site at Duckspool.
- That significant effects are also likely due to the volume of infill material required to be imported to the site for the raising and reprofiling the level of the site to a new flood protection level of 3.42 AOD and the NIS has failed to identify and / or assess the significance of these indirect and secondary impacts.
- The NIS as submitted has not established beyond reasonable scientific doubt based on available evidence that the development would not constitute an adverse impact on the Dungarvan Harbour SPA and in particular the Brent Goose population.

16.5. It has not been demonstrated beyond reasonable scientific doubt that the development would not constitute an adverse impact on the Dungarvan Harbour SPA Brent Goose population and that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of Dungarvan Harbour Special Protection Area (Site Code 004032), in view of the site's Conservation Objectives.

17.0 Water Framework Directive Screening

17.1. I have assessed the proposed SHD Development of 218 residential units and associated site works and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface and ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively. Refer to Appendix 5: Water Status Impact Assessment – Screening Form of this report.

17.2. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

17.3. This conclusion is based on:

- Nature of the project, site and receiving environment.
- Objective information presented in the case documentation.
- Hydrological and hydrogeological characteristics of proximate waterbodies.
- Absence of any meaningful pathways to any waterbody.
- Standard pollution controls and project design features.

18.0 Assessment

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

- Principle
- Design and Layout
- Traffic Impact
- Flooding
- Ecology
- Refusal of Planning Permission
- Conditions
- Other Issues
- Conclusion

18.2. I again highlight that An Bord Pleanála granted permission under ABP-310782 -21 subject to conditions on the 26th of October 2021 for the construction of 218 residential units (176 houses and 42 apartments), a creche and all associated site works at Duckspool, Dungarvan, Co. Waterford. That Board's decision was subject to Judicial Review. By order of the High Court (H.JR.2021.0001069) (perfected on the 5th of November 2024), the Board's decision was QUASHED and REMITTED back to the Board for determination in accordance with law. The file has been remitted from the point in time immediately prior to the completion of the Inspector's Report. The new number assigned to the case is ABP-321838-25 and I am the new Inspector assigned to the case and am assessing the file de novo.

18.3. This current remitted application was received by An Coimisiún Pleanála on the 11th of February 2025. At the time of initial lodgement of the application to An Bord Pleanála (ABP-310782 -21) on the 7th of July 2021 the relevant statutory plans were the Dungarvan Town Development Plan 2012–2018 and Waterford City and County Development Plan 2012–2018. I highlight to An Coimisiún that these two plans and associated zoning, policies and objectives are no longer applicable in this case as both

plans have been replaced with the Waterford City and County Development Plan 2022 – 2028. The Waterford City and County Development Plan 2022 – 2028 came into effect on the 19th of July 2022 and is the operative plan in the consideration of this SHD at this time.

18.4. I am assessing this file de novo and as required, I have assessed this proposal against the Plan currently in place, namely the Waterford City and County Development Plan 2022 – 2028.

18.5. Principle

18.6. This is an SHD application for 218 no. residential units, open space, two new vehicular entrances and all associated development works. A full description of the scheme is set out in Section 3.0 of this report above.

18.7. At the time of making the SHD application to An Bord Pleanála in 2021, the relevant Development Plans for the area were the Dungarvan Town Development Plan 2012 – 2018 (as extended) (DTDP) and the Waterford County Development Plan 2011 – 2017 (as extended) (WCDP 2011 – 2017). Further, the Development Plans referred to by the applicant in their specific accompanying planning application documentation was the plan in place at the time of preparing and submitting the application, namely DTDP and WCDP 2011 – 2017.

18.8. Both of these plans have been superseded by the Waterford City and County Development 2022 – 2028 which came into effect on 19th July 2022.

18.9. It is noted that the zoning objectives for the development site have changed significantly from the time of the application being prepared and lodged in July 2021 to the present day. Under the DTDP there were 4 no. zoning types assigned to the site: 'R1 – Residential Medium', 'R2 – Residential Low', 'R3 – Residential Phased' and 'OS – Open Space'. Under the WCDP 2022 – 2028 there are two zonings assigned to the site: HA - High Amenity and OS - Open Space and Recreation.

18.10. A summary of the zoning objectives for the site applicable in 2021 and 2025 is provided in the table below:

Dungarvan Town Development Plan 2012-2018 (as extended) (expired)	Waterford City and County Development 2022 – 2028 (operative)
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<p>R1 – Residential Medium - <i>To protect the amenity of existing residential development and to provide for new residential development at medium density</i></p>	<p>HA - High Amenity – <i>To protect highly sensitive and scenic location from inappropriate development that would adversely affect the environmental quality of the locations.</i></p>
<p>R2 – Residential Low - <i>To protect the amenity of existing residential development and to provide for new residential development at medium density.</i></p>	
<p>R3 – Residential Phased - <i>To reserve land for future sustainable residential development</i></p>	
<p>OS – Open Space - <i>To preserve and enhance Open Space areas and Amenity Areas for passive and active recreational uses, including the preservation of grass verges, hedgerows and tree stands.</i></p>	<p>OS - Open Space and Recreation – <i>To protect highly sensitive and scenic location from inappropriate development that would adversely affect the environmental quality of the locations.</i></p>

18.11. Setting aside all other policy and objective requirements of the DTDP, such as the sequencing and phasing of residential development in Dungarvan, and considering land use zoning in isolation, it is evident that the proposed development (residential, creche, car park and opens space) was either 'generally permissible' and / or 'open for consideration' depending on the designated land use zoning. Accordingly, it can be concluded that under the now expired DTDP the proposed development land use would have been acceptable in principle on this site.

18.12. However, the acceptance of the scheme in principle under the previous Development Plan contrasts significantly with the land use objectives of the current WCDP 2022 – 2028 and the principle of the same development.

18.13. The largest portion of the site, and where it is proposed to locate the residential units is now zoned HA - High Amenity and where “residential” is listed as a use that is “not permitted”. In the previous DTDP plan, as documented above, residential use was acceptable in principle on this part of the site. The remaining smaller eastern portion of the site and where it is proposed to locate the main public open space within the scheme is now zoned OS - Open Space and Recreation. Open space, as proposed, is listed as a use that is “Permitted in Principle” on these lands. This zoning aligns with the previous zoning of the site under the DTDP.

18.14. It is clearly evident that the material difference between the two Development Plans is extensive in terms of the land use zoning for the majority of the site such that the application documentation including the Planning Report and Statement of Consistency, Land-Use Zoning Justification Report and Statement of Material Contravention are in effect obsolete.

18.15. An Coimisiún will be aware that the Development Plan to which they shall have regard to in making a decision, must be the plan in place at the time of the decision. The operative plan at this time is the Waterford City and County Development 2022 – 2028.

18.16. As set out above, the SHD site is now subject to different issues of materiality, namely land use zoning, than applied at the time of making the application in 2021. The lands where it is proposed locate the residential element of the scheme is zoned HA - High Amenity and where residential development is not permitted. Accordingly, the proposed development materially contravenes the zoning objective for this site, as set out in the operative plan for the area on zoning grounds.

18.17. Under the Planning and Development (Housing) and Residential Tenancies Act 2016, Strategic Housing Development under Section 3(a) is defined as:

Section 3 of the Planning and Development (Housing) and Residential Tenancies Act of 2016 set out the definition of SHD as,

- a) the development of 100 or more houses on land zoned for residential use or for a mixture of residential and other uses,*
- b) the development of student accommodation units which, when combined, contain 200 or more bed spaces, on land the zoning of which facilitates the provision of student accommodation or a mixture of student accommodation and other uses thereon,*

- c) *development that includes developments of the type referred to in paragraph (a) and of the type referred to in paragraph (b), or containing a mix of houses and student accommodation or*
- d) *the alteration of an existing planning permission granted under section 34 (other than under subsection (3A)) where the proposed alteration relates to development specified in paragraph (a), (b), or (c).*

18.18. The wording of the SHD legislation is prescriptive in that it must be on land that is specifically zoned for residential use. In this context, I consider that the proposed development is not consistent with the legislative preconditions for an SHD application, in so far as it is not on lands that are zoned for residential use or for a mixture of residential and other uses or other uses. This is a substantive procedural issue.

18.19. The Development Plan is a key document for the Coimisiun in making its decision and in the case of SHD applications, they are explicitly precluded from granting permission in material contravention of the zoning in the Development Plan. Accordingly, it is recommended that the SHD application now before the Commission be refused planning permission.

18.20. In addition to the foregoing it is noted that the WC&CC Chief Executive Report recommended that permission be refused as the site included Residential Phased / R3 zoned (strategic reserve lands) which may be zoned for residential use in future Development Plans if the specific need arises and all R1 and R2 zoned lands have been developed or committed, and the lands are serviceable by the public services / infrastructure. Further the concerns raised in the third party submission that one third of the site is zoned R3 – Strategic Land Reserve and that it cannot be considered for development during the lifetime of the plan, that the site is not sequential to the town centre, and that the phasing of the project has not been adequately addressed with regard to R1 zoned lands have been noted.

18.21. While the issue of zoning is addressed above the specific issues pertaining to the R1 and R3 zoning of the site is not, as it was deemed unnecessary given the current zoning pertaining to the site. These strategic reserve residential zonings were applicable under the previous plan which is no longer the operative plan for the site and as set out above, the Development Plan to which An Coimisin shall have regard

to in making a decision, must be the plan in place at the time of the decision i.e. the Waterford City and County Development 2022 – 2028.

18.22. Design and Layout

18.23. As set out previously at the time of making the SHD application to An Bord Pleanála in 2021, the relevant Development Plans for the area was the DTDP and the WCDP 2011 – 2017. Both of these plans have been superseded by the Waterford City and County Development 2022 – 2028 which came into effect on 19th July 2022 and which is the operative plan at this time is the Waterford City and County Development 2022 – 2028.

18.24. I refer to the Waterford City and County Development 2022 – 2028. While the site is located within the settlement boundary of Dungarvan and is readily serviced and is adjacent to existing residential, educational and sporting facilities it remains that the site is not suitable for residential development by reason of the zoning attached of the site. As set out above the site is zoned HA - High Amenity, where it is proposed to locate the residential element of the proposed scheme and where “residential” is listed as a use that is “not permitted” in the zoning matrix. In addition, and given the fact that the application was made in 2021 the scheme may benefit from further consideration and possible amendments in order to meet with the requirements of the current Waterford City and County Development 2022 – 2028 and the more recently published Section 28 Ministerial Guidelines as noted in Section 7.9 of this report above. In this regard I would draw the Commissions attention to General Housing Policy Objectives H 02 of the current Development Plan where its states that in granting planning permission, WCCC will ensure that *new residential development is designed in accordance with the applicable guidance and standards of the time*:

18.25. Therefore, the following comments provide a very general overview of the design and layout of the scheme.

- The proposed housing density is 35.5 dwellings per hectare (dph) net based on the proposed 218 no. housing units. This aligns with the Sustainable Residential Development and Compact Settlements– Guidelines for Planning Authorities, 2024’ that state that that densities of 30 dph to 50 dph shall generally be applied

at suburban and urban extensions of Key Towns such as Dungarvan. No material contravention of the current Development Plan arises in this regard.

- A higher density is achieved on the western side of the site, closer to existing development, with a transition to lower densities to the east, closer to the schools, coast and where wintering birds are understood to primarily frequent. This is generally acceptable.
- Residential heights will be mostly 2 no. storeys, although 3 no. and 4 no. storeys are proposed for the duplex units at the main entrance and fronting Open Space 5 and the detached houses facing towards the open space lands and Dungarvan Bay to the east, thereby defining key areas the development. This is generally acceptable.
- A variety of residential units are proposed with 19 no. different typologies ranging in size from a 49.5 sqm 1-bed duplex to a 184 sqm detached house. All of the proposed dwellings are dual aspect, maximising available light and ventilation to both the self-contained housing and duplex units proposed. This is generally acceptable.
- The development provides a traditional grid pattern layout that provides separation distances that are in excess of the required 16m in all instances in line with SPPR1 Separation Distances of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)
- Daylight, sunlight and overshadowing conditions for the residential units within the proposed development will be within an acceptable range.
- It is not anticipated that the proposed development would result in any undue overlooking or overbearing impact on the adjacent properties or negatively impact on the daylight and sunlight enjoyed by residents of the existing dwellings (including their associated amenity spaces).

18.26. In terms of open space, the proposed scheme incorporates 2.85 ha of public open space, which equates to 33.1% of the total site area. It is noted that c. 50% (1.4 ha) (Open Space 7) of the public open space provision is located on lands zoned HA- High Amenity (public open space). It is further noted that these HA- High Amenity lands are proposed as a dedicated grazing and foraging habitat for overwintering birds, and that no human or canine activity will be allowed within the grassland open space during wintering bird season. This issue is discussed in further details in the Section 16.0

Appropriate Assessment and Appendix 3 and 4 of this report below. If this area is excluded the scheme provides a total of c.1.4ha or c. 16% of the total site area. This aligns with the requirements of the Waterford City and County Development 2022 – 2028 (15%) and the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) (10%). If An Coimisiún were minded to grant permission it is recommended that Open Space 7 be retained as an ecological buffer / ex situ site for wintering birds with further details to be agreed.

18.27. With regard to the remaining proposed open spaces (Open Space 1 – 6) I am concerned that some of spaces may be compromised by reason of car parking and width (Open Space 1 & 2), proximity of proposed houses (Open Space 2), layout and quality (Open Space 3), poor amenity value and orientation (Open Space 3 & 4), incidental nature of the space (Open Space 3), no passive overlooking (Open Space 4) and size and general quality (Open Space 5). Further consideration of quality of public open space is required.

18.28. Cycling and walking within the development will be supported with dedicated routes passing through the landscaped areas of Open Spaces 1 and 2 in the north, Open Space 6 in the east, Open Space 7 in the south, and Open Spaces 3 and 4 in the west. This will create an c1km loop around and through the development. Home zones are proposed in the southern parts of the site to calm traffic and to promote cycling and walking. Notwithstanding the comments of the WC&CC Roads Department (and discussed in Section 18.25 below) further consideration of the quality of open space in line with the foregoing comments is necessitated.

18.29. In addition, 2 no. pedestrian and cycle entrances are also proposed onto the L3168 with a pedestrian and cycle connection facilitated by a new bridge proposed to link to the south-west corner to Tournore (adjoining residential estate). These connections are to be welcomed.

18.30. While I note the recommendation of WC&CC as set out in the Chief Executives Report that permission be refused for reasons of density, site layout, design and height I am generally satisfied that the proposed development is reasonably satisfactory save for further consideration in terms of open space and compliance with the requirements of more recent Section 28 Guidelines. Given the significant issues raised elsewhere in this report with regard to zoning, flooding, traffic impact assessment and appropriate

assessment it is not therefore recommended that permission be refused on ground of design and layout.

18.31. Traffic Impact

18.32. The third-party submissions raise concerns relating to traffic congestion and danger to pedestrians and road users as follows:

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

18.33. The WC&CC Chief Executives Report raises concerns over the adequacy of the Traffic Impact Assessment (TIA) with regard to the impact on the N25 and the absence of proper assessment around construction traffic, including the large volumes of excavation material and subsequent fill required for the development. Also, requirements to upgrade the road network to accommodate the development, would require a Special Contribution to protect the flow of traffic on the N25. The Chief Executive recommended that permission be refused for reasons of a traffic hazard to future residents of the development itself and public road users in the wider area.

18.34. WCCC Roads Section, in a separate report within the WC&CC Chief Executive's Report had no stated objection in principle to the development subject to a number of conditions and clarifications as well as a Special Development Contribution towards the cost of upgrading the roads infrastructure in the area summarised as follows. The Special Development Contribution is discussed separately in Section 18.68 Conditions below.

18.35. Clarifications

- The Traffic Impact Assessment (TIA) should include for intended future use and connection to lands into the southwest corner of the site (owned by the applicant), the base year "do nothing" scenario calculation of future road capacity and if the development peak hour differs from the road network peak hour both peak hours should be assessed.

- No queuing lengths surveyed on the N25. The current level of service of the National Road should be assessed.
- Footpath layout should be assessed for ease of use and safety in crossing.
- Parking layout leaves insufficient road space to allow safe visitor parking.
- Visitor parking to be addressed. A minimum of one parking space is needed for every four dwellings.
- In relation to the Road Safety Audit the minimum footpath width should be maintained. There should be stop signs at all junctions. The visibility triangles should not be compromised.
- Off road cycling should be incorporated into the development.
- Turning areas are required at the terminal end of all cul de sac roads.
- The road layout should be assessed for turning movements for HGV and Emergency Vehicles.
- A pedestrian link should be made into the adjoining Sallybrook Estate.

18.36. Conditions

- All roadways should be in macadam.
- Paths should be either in macadam or in some kind of bound material.
- Pedestrian exists to include chicane that is disabled and cyclist friendly.
- Finishes to the footpath on the public road to be agreed.

18.37. Special Development Contribution

- WCCC Roads Section agrees that there will be a junction capacity issue at the Tournore Junction with the N25 to the west of the site. However, the applicant's proposal that the Tournore / N25 Junction should have traffic lights is not accepted by WCCC.
- Stated that it is a longstanding intention of the Roads Department that a new link road be constructed from the roundabout at Tournore to the N25 and same has been proposed for inclusion in the Draft County Development Plan 2022.
- The cost is estimated at €2.5m and a special contribution of €910k should be levied on the developer towards the construction of the roundabout and road.

18.38. I refer to the plans and particulars submitted. It is proposed to provide 1 no. main entrance access and 2 no. minor entrance accesses which facilitate a one-way system

on the L3168. The principal access will be via a new multi-modal entrance onto the road to the north (L3168), (which links the R675 to the east with the N25 as it enters Dungarvan to the west) and will act as the development entrance and serve the residential element. It will take the form of a simple priority junction with single lane approaches. The other 2 no. minor entrances will provide access for the proposed crèche and will again operate under a simple priority layout with single lane approaches (one-way system). It is proposed that junction works will facilitate the entrances and ensure that safety is not compromised.

18.39. A Traffic and Transport Impact Assessment has been undertaken for the proposed development. The report concludes that the proposed residential development would have no material impact on the adjoining road network.

18.40. The receiving environment is urban in nature. The primary arteries through the TIA study area are the N25 and R675, with the L3168 providing access to the development site. The traffic surveys were carried out on Tuesday 8th September 2020, when the schools were in session and before the country was placed into the highest level of lockdown in response to the pandemic. They took the form of 15 minute interval junction turning counts carried out between the hours of 07:00 – 19:00 and also included pedestrian crossing counts at each arm of each junction over 15 minute intervals. It is noted that in order to ensure the data used as the basis for the assessment was accurate, a number of factors were applied to the aforementioned survey results to establish the pre-Covid traffic flows and these are set out in the TIA.

18.41. I have considered the information made available with the application together with the requirements of the Waterford City and County Development 2022 – 2028. I share the concerns raised by the observers to the application and the comments from WC&CC as summarised above in relation to the impact on the N25 and the absence of proper assessment around construction traffic and in particular in relation to the volume of material required to be imported to the site for the raising and reprofiling of the site and associated construction traffic implications. The issue of earth works is considered in further detail in Section 18.77 Other Issues of this report below.

18.42. It is further noted that there is a Road Reservation route demarcated from the roundabout at Tournore further to the west along the L3168 to the N25 to the north in the Waterford City and County Development 2022 – 2028. There is no further readily

discernible comment, policy or objective in relation to this Road Reservation route in the current Development Plan save for the Combined Zoning Map (Volume 4 refers). Regardless it is reasonable that this Road Reservation route would be considered in the TIA for the application. However, it is also accepted that this route objective may not have been available to the applicant at the time of making the application.

18.43. As can be seen there are significant issues in terms of traffic impact by reason of the deficiencies identified in the information submitted whereby significant revisions may be required to address the concerns raised. The applicant has not demonstrated in the documentation submitted that the proposed development, including its construction phase, would not negatively impact on the carrying capacity of the N25 National Road or on the traffic safety of residents of the development itself or on public road users in the wider area. While it is accepted that there has been a significant time lapse between the application being submitted in 2021 and now, and for valid reasons, it remains that there are significant deficiencies in the application that cannot be overcome by conditions. Therefore, in line with the report of the WC&CC Chief Executive it is recommended that permission be refused as the proposed development would pose a traffic hazard to future residents of the development itself and public road users in the wider area and as such would be contrary to the proper planning and sustainable development of the area.

18.44. Flooding

18.45. Significant concerns have been raised in the observations to the SHD application in relation to the site not passing the flood risk justification test, that the potential impact on existing properties has not been fully assessed, that the increased levels within the site would cause flooding of adjacent properties and that the proposed use is highly vulnerable to flooding. The concerns raised together with site photos have been noted.

18.46. The WC&CC Chief Executive in their report to the Board recommended that permission be refused as large sections of the site were within both Flood Zone A and B and that the proposed residential development, a vulnerable use, would be contrary to the Flood Risk Management Guidelines and the provisions of the Dungarvan Town Development Plan 2012 – 2018.

18.47. Large sections of the subject site are at risk from flooding as identified by the Office of Public Works. The OPW's floodmaps.ie website recorded recurring flooding at Clonea Road and at Sallybrook to the south of the site, with high tides recorded to be a contributory factor. Planning permission was refused on two previous occasions on parts of the overall site for reasons including flooding (inadequate Flood Risk Assessment). Further details in this regard are set out in Section 4.0 of this report above.

18.48. The subject site is currently in greenfield condition and is located approximately 120m from Dungarvan Bay at Clonea Road. The Colligan River, which is located 1km to the west, has a catchment area of 108km² and the Glendine River, which is located 0.5km to the east, has a catchment area of 1.7km². The site is bounded to the south and east by a local watercourse, which is identified in the OPW's South Eastern CFRAM Study as the Duckspool watercourse. The Duckspool discharges to the tidal waters of Dungarvan Bay via a culvert beneath the R675 Clonea Road. The outfall from this culvert is fitted with a nonreturn valve.

18.49. With regard to the now expired Waterford County Development Plan 2011 – 2017 (as extended) it is noted that it was supported by an SFRA which undertook a high-level review of available datasets and levels of flood risk. The impact of flood risk was incorporated into the policies of the County Development Plan Section 8 (Environment and Heritage Chapter). The SFRA stated that as more up to date information and spatial data becomes available through Flood Risk Mapping, CFRAMS and the National Coastal Protection Strategy and where lands are already zoned for housing or other vulnerable development in the flood risk areas identification of flood zones in relevant settlements will be applied through a Stage 2 Strategic Flood Risk Assessment applying the sequential approach and justification test as per the DoEHLG Guidelines (2009).

18.50. Consideration of flood risk also formed part of the now expired Dungarvan Town Council Plan 2012 – 2018 (as extended), including production of a flood map and environmental objectives as a result of the SFRA that identified the SHD site as area that was vulnerable to flood risk. However, the plan did not include a screening of risk to specific development sites but did require development within areas shown to be at risk of flooding to undertake site specific flood risk assessment. To this end the applicant submitted a Site – Specific Flood Risk Assessment with this application.

18.51. Moving on the current development plan i.e. Waterford City and County Development 2022 – 2028 the following is relevant as it provides context for the change in land use zoning from Residential to High whereby flooding appears to have been a significant consideration in that decision.

18.52. It is noted that the Chief Executive's Report (Planning Authority Submission) included a summary of views of the Elected Members. The members did not support the scheme for a number of reasons including flooding and noted that the draft Waterford County Development Plan 2022 had changed the zoning of the site from Residential to Green Belt and Conservation whereby residential development would not be appropriate on the site. The members requested that if planning permission was granted that a condition be attached precluding development until the wider flood works / defences are completed.

18.53. The Chief Executive's Report in their overall assessment of the scheme also set out the following:

- The residential zoning objective as per the Dungarvan Town Plan 2021 – 2018 was not subject to a Strategic Flood Risk Assessment and, therefore, did not pass the justification test.
- An independent Strategic Flood Risk Assessment was carried out to inform the draft Waterford County Development Plan 2022 and the subject site failed to satisfy the Justification Test.
- This meant that highly or less vulnerable development would not be permitted within Flood Zone A or B.
- Therefore, it was recommended that the residential zoning be removed from the site.

18.54. The Strategic Flood Risk Assessment (SFRA) (Final Report June 2022) is attached as Appendix 13 of the current Waterford City and County Development Plan 2022-2028. Section 7.2.2 Dungarvan states that *the river and estuary in Dungarvan are wide, but flood extents are relatively contained, with the clear exception of the lands north of the town centre and the Duckspool area* (emphasis added). The SFRA states that Dungarvan and Environs have been listed as one of the settlements to benefit from the OPW's 10-year investment programme, but the timeframe for these works are unknown. It was also noted that although the Duckspool area benefits from some level

of protection, this is through informal defences which are infrequently maintained and do not have a certified standard of protection. For the purposes of the SFRA this land is considered to be undefended.

18.55. Figure 7-2: Dungarvan Zoning of the SFRA locates the SHD site (identified as Area 2) within Flood Zone B save for a small section within the centre of the site that is outside the flood zone. The Development Plan Justification Test as per the Flood Risk Management Guidelines (2009) as it applies to this SHD site is set out below. Table 7-4: Dungarvan Justification Test refers.

Development Plan Justification Test	Existing Residential throughout Dungarvan (including Area 2) - SFRA Comment
The urban settlement is targeted for growth	Yes
The zoning or designation of the lands for the particular use or development type is required to achieve the proper planning and sustainable development of the urban settlement	With the exception of lands which have been identified for green belt/amenity purposes in the Draft Development Plan, the remaining lands have been developed out for residential development predominantly.
Is essential to facilitate regeneration and / or expansion of the centre of the urban settlement.	There is limited opportunity for development of small infill development or residential extensions only.
Comprises significant previously developed and / or under-utilised lands	The lands have been developed out to date with potential for only limited infill development.
Is within or adjoining the core of an established or designated urban settlement	The lands have been developed out to date with potential for only limited infill development.

Will be essential in achieving compact and sustainable urban growth	The lands have been developed out to date with potential for only limited infill development.
There are no suitable alternative lands for the particular use or development type, in areas at lower risk of flooding within or adjoining the core of the urban settlement	The lands have been predominantly built out for residential uses. To avoid significant new development in Area 2, all lands identified for new residential development in Dungarvan lie outside the flood zone identified in Area 2.
A flood risk assessment to an appropriate level of detail has been carried out	Risk to this area is from tidally driven inundation which presents a risk to existing development. New development in this area should be limited to Minor Development (Section 5.28 of the Planning Guidelines). New, large-scale development within Flood Zones A and B would be considered premature until a scheme has been completed
Result	Pass
Recommendation for zoning	Retain current use for existing residential but no new development permitted.

18.56. While the applicants Site-Specific Flood Risk Assessment concluded that the subject site passed the Justification Test for Development Plans (Section 5.2 of their report refers) it was, for the most part predicated on the land uses zonings set out in the now expired Dungarvan Town Council Plan 2012 – 2018 (as extended).

18.57. However, the Development Plan Justification Test as set out above, and undertaken as part of the current Waterford City and County Development Plan 2022-2028 explicitly recommended that new, large-scale development within Flood Zones A and

B not be permitted. This recommendation has clearly informed the change in land use zoning at this site. This aligns with the requirements of the Flood Risk Management Guidelines (2009) in terms of a sequential approach that gives priority to development in areas of lowest risk ensuring *that development is not permitted in areas of flood risk, particularly floodplains, except where there are no suitable alternative sites available.*

18.58. The current Development Plan (Section 2.14 of the WCCDP 2022-2028 refers) acknowledges the decision by An Bord Pleanála to permit a Strategic Housing Development in Duckspool based on the land use zoning objectives of the Dungarvan Town Development Plan 2012-2018. However, it considered that *any change to the land use zoning objectives of the Plan to support this decision would be contrary to the stated vision, strategic goals and outcomes of the Plan which seek to sustainably develop Dungarvan by way of compact, sequential and town centre first development.* Lands identified for future residential development during the life of the Plan have been identified as either Phase 1 or Phase 2, the details of which are identified in Table 2.3, Figure 2.7, Appendix 17 and the associated maps.

18.59. The SHD site at Duckspool has not been zoned for residential development in the current Development Plan but rather as HA - High Amenity (where residential is not permitted) and OS - Open Space and Recreation. Residential development is a vulnerable use on lands identified as at risk from flooding. Open space is proposed in the area now zoned Open Space and Recreation and is considered acceptable as such a proposed use is classified as “water compatible development” in accordance with Table 3.1 of the 2009 Planning Guidelines.

18.60. Having regard to the foregoing, it is evident that the lands at Duckspool have been through a rigorous assessment, public consultation and scrutiny through the Development Plan making process and where the sequential approach was applied in determining suitable lands for residential development. The outcome of this process was the decision that the zoning of lands at Duckspool be changed from Residential to High Amenity and Open Space and Recreation in the current Development Plan.

18.61. While there is no ambiguity with regard to the foregoing and the unsuitability of the site for residential development having regard to flood risk, for completeness and taking into consideration the Site-Specific Flood Risk Assessment submitted with the

application a further comment in relation to the use of a Development Management Justification Test is considered necessary.

18.62. An Coimisiún will be aware that exceptions to the restriction of development due to potential flood risks are provided for through the use of a Justification Test, where the planning need and the sustainable management of flood risk to an acceptable level must be demonstrated. Where a planning authority is considering proposals for new development in areas at a high or moderate risk of flooding that include types of development that are vulnerable to flooding and that would generally be inappropriate such as residential use in this case, the planning authority must be satisfied that the development satisfies all of the criteria of the Justification Test as set out in Box 5.1 of the Flood Risk Management Guidelines as it applies to development management.

The Justification Test criteria and comment are set out below:

Development Management Justification Test	Comment
The subject lands have been zoned or otherwise designated for the particular use or form of development in an operative development plan, which has been adopted or varied taking account of these Guidelines	The site is zoned HA - High Amenity (where residential is not permitted) and OS - Open Space and Recreation (where open space is permitted) in the current Waterford City and County Development Plan 2022-2028
The proposal has been subject to an appropriate flood risk assessment that demonstrates: <ol style="list-style-type: none">i. The development proposed will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk;ii. The development proposal includes measures to minimise flood risk to people, property, the economy and	<p>The subject lands were subject to a Strategic Flood Risk Assessment (SFRA) (Final Report June 2022) which is attached as Appendix 13 of the current Waterford City and County Development Plan 2022-2028.</p> <p>The SFRA recommended that new, large-scale development within Flood Zones A and B not be permitted. This recommendation informed the change in land use zoning at this site.</p>

<p>the environment as far as reasonably possible;</p> <p>iii. The development proposed includes measures to ensure that residual risks to the area and/or development can be managed to an acceptable level as regards the adequacy of existing flood protection measures or the design, implementation and funding of any future flood risk management measures and provisions for emergency services access; and</p> <p>iv. The development proposed addresses the above in a manner that is also compatible with the achievement of wider planning objectives in relation to development of good urban design and vibrant and active streetscapes</p>	<p>The SFRA and change in land use zoning aligns with the requirements of the Flood Risk Management Guidelines (2009)</p>
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18.63. Notwithstanding the applicants' proposals to provide mitigation measures to minimise flood risk whereby the active floodplain will be rationalised (raising and lower ground level to create compensation), delivering all houses at a minimum finished-floor level of at least 3.42mAOD and compensatory storage provided in accordance with the Flood Risk Management Guidelines (2009), it remains that site has been subject to a Development Plan Justification Test as part of the current Development Plan SFRA that in turn informed the current zoning of the site and where residential development is not permitted. The proposed development has not satisfied the necessary Development Management Justification Test criteria and is therefore considered to be an unacceptable development at this location.

18.64. The issue of flooding is intrinsically linked to the current zoning objective for the site. The issue of zoning has been discussed in detail in Section 18.5 of this report above where a recommendation to refuse permission has been set out. Refusal on grounds of flooding is also recommended.

18.65. Ecology

18.66. It is noted that much of the concerns raised in the third-party submissions relate to the impact of the development on ecology. The specific concerns regarding qualifying interests of the Dungarvan Harbour SPA and deficiencies in the NIS are addressed in Section 16 and Appendix 3 and 4 of this report. Additional concerns in relation to Bats, non-volant mammals and otters are addressed here. I refer to the Ecological Impact Assessment (EclA) submitted with the application.

- **Bats** – A bat survey was carried out was carried out on the 20th September 2020, and the results of the survey are in Appendix II of the EclA. This is considered be an appropriate period to carry out a bat survey. No evidence of a bat roost was found in any of the onsite trees. However, several trees on site are of bat roosting potential. Foraging activity of a soprano pipistrelle and Leisler bat were noted in the area proximate to the treeline area hence any tree removal should take place during the bat hibernation period (1st November to 1st May). In addition, 'Bat-sensitive lighting' should be implemented for this development and during construction all lighting should be directed away from the hedgerows / treelines. As a precaution compensatory measures due to the loss of the trees on site, 10 bat boxes should be placed on site in consultation with the ecologist. All works to be completed during daylight hours so as to minimise disruption to nocturnal animals. While I note the concerns raised in the observations regarding the adequacy of the survey, I am satisfied having regard to the open nature of the site and the absence of buildings on the site that the survey together with measure proposed, that are in my view commensurate with the findings of the survey, that the survey submitted is satisfactory.
- **Non-Volant Mammal** - A field survey was carried out on the 30th December 2019 and an additional mammal assessment was carried out on the 13th March 2021. This is considered be an appropriate period to carry out a mammal survey. No mammal activity was noted on site. No badgers or badger activity was noted on

site. Otter activity was not noted on site. However, it is possible that they are present due to the presence of a nearby watercourse. No hedgehogs were seen during the site visit but may be present on site. No protected terrestrial mammals were noted on site or in the vicinity of the site.

18.67. In addition to the pre-construction surveys for bats, mammal activity amphibians, the EclA sets out a number of mitigation measures to protect ecology within the site. Mitigation measures have been incorporated into the overall design of the scheme to ensure minimal disruption to ecology within the site. The measures include retention of hedgerows and trees where possible, provision of wildlife corridors to provide additional shelter, provision of a project ecologist and controlled lighting spill. The eastern boundary of the site will be in use as an 'Open Space' area and will not be developed for residential use. The treatment of the "*wetland on the eastern side of the site*" includes its use as open space. With respect to areas immediately adjoining watercourses (riparian zones) (south and east edges of the site) the requisite 10m buffer of no built development threat to protect ecology, provide access for maintenance and ensure flood risk is not increased is to be observed. This reflects the existing wayleaves on-site, which also extend to include the drainage ditch that runs north-south along the western side of the hedgerow running the subject site.

18.68. A site ecologist will need to be appointed for the duration of the proposed works to ensure that the mitigation measures are implemented, and best practice site management is adhered to. The ecologist should be on site on a regular basis to ensure compliance with the environmental and ecological measures identified. Following completion of the works, the ecologist should complete a final audit report to show how the works complied with the environmental provisions described in the Ecological Impact Assessment.

18.69. Setting aside the wider issues with regard to flooding, earthworks and impact to the Dungarvan Harbour SPA and having regard to the contents of the Ecological Impact Assessment, it is my view that sufficient information has been submitted to assess the impact of the development in relation to bats, non-volant mammals and otters and it is considered that the proposed development would not have a significant negative impact on the biodiversity of the site.

18.70. Refusal of Planning Permission

18.71. WCCC in their submission to the Board recommended that permission be refused for 5 no. reasons as set out in full in Section 12 of this report above. These reasons are considered in the following table.

Summary of WCCC Recommended Refusal	Comment
1) Development at risk of future flooding or that the development itself would exacerbate flooding in the area	<p>Please refer to Section 18.38 Flooding of this report above where the vulnerability of the site to flood risk has been discussed and where the unsuitability of the proposed scheme at this location has been demonstrated.</p> <p>Flood Risk is referenced in the recommended reason for refusal set out below.</p>
2) Adverse impact on the Dungarvan Harbour SPA Brent Goose population.	<p>Please refer to Section 18.59 Ecology, Section 16.0 Appropriate Assessment and Appendix 3 and 4 of this report where deficiencies in the available information have been identified and where it is was concluded that it has not been adequately demonstrated that the development would not constitute an adverse impact on the Dungarvan Harbour SPA Brent Goose population.</p> <p>This aligns with the findings and recommendation of the Department of Housing, Local Government and Heritage Development Application Unit and the WCCC Heritage Officer.</p>

	Refusal of planning permission is recommended in line with this reason for refusal.
3) Site includes Residential Phased / R3 zoned lands	<p>Please refer to Section 18.2 Principle of this report above where the change in residential zoning of the site from when the application was submitted in 2021 to that of HA - High Amenity (where residential is not permitted) and OS - Open Space and Recreation (where open space is permitted) in the current Waterford City and County Development Plan 2022-2028 is discussed.</p> <p>The material contravention of the current Development Plan by reason the zoning objectives for the site is set out in the recommended reason for refusal below.</p>
4) Negative impact on the visual and residential amenities of the area	<p>Please refer to Section 18.17 Design and Layout of this report where concerns raised are considered.</p> <p>Given the other substantive issues raised in relation to zoning, flooding traffic impact assessment and AA it is not recommended that permission be refused on grounds of design and layout.</p>
5) Traffic hazard to future residents of the development itself and public road users in the wider area.	<p>Please refer to Section 18.25 Traffic Impact of this report above where the characteristics of the site and potential impact in terms of the carrying capacity of the N25 and the traffic safety of the public is discussed.</p>

	Refusal of planning permission is recommended for reasons of a traffic hazard to future residents of the development itself and public road users in the wider area
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18.72. Conditions

18.73. While the foregoing assessment has recommended that permission be refused in relation to the zoning, flooding, traffic impact and loss of ex situ winter feeding are for the Brent Geese, for completeness the conditions included in the Planning Authority submission (Section 12.0 of this report above refers) are considered in the following table.

	Summary of WCCC Recommended Condition	Comment
1.	Compliance with mitigation measures contained in the NIS	Given the deficiencies in the NIS as submitted and discussed in Section 16.0 and Appendix 3 and 4 of this report a compliance condition with the mitigation measures contained in the NIS cannot be recommended without the deficiencies in the NIS being remedied.
2.	Grassland Management Plan for Brent Geese to be submitted and agreed	Given the adverse effects arising from aspects of the proposed development on the QIs of the Dungarvan Harbour SPA by reason of the loss of a significant and important ex situ winter feeding area for Brent Geese, a QI of this SPA, as discussed in Section 16.0 and Appendix 3 and 4 of this report the requirement for a

		Grassland Management Plan for Brent Geese cannot be recommended as a method to remedy the concerns raised.
3.	CEMP to be submitted and agreed	Agreed. Standard condition to apply
4.	Section 48 Development Contribution	Agreed. Standard condition to apply
5.	Bond	Agreed. Standard condition to apply
6.	Part V	Agreed. Standard condition to apply
7.	Section 48(2)(c) Special Development Contribution in the amount of €910,000 in respect of required improvements to road infrastructure (the provision of a roundabout on the N25 required to service the development)	Please refer to Section 18.71 of this report where this condition is discussed and where it was concluded that the special financial contribution as proposed by the planning authority for the works as described, does not come within the scope of section 48(2)(c) of the Planning and Development Act, 2000 and accordingly, would not be warranted.
8.	Section 48(2)(c) Special Development Contribution in the amount of €236,442 in respect of required improvements to surface water management in the area (an enlargement of fluvial water is required)	Please refer to Section 18.72 of this report where this condition is discussed and where it was concluded that the special financial contribution as proposed by the planning authority for the works as described, does not come within the scope of section 48(2)(c) of the Planning and Development Act, 2000 and accordingly, would not be warranted.
9.	Construction Management Plan	Standard condition to apply

10.	Development shall be designed, constructed and completed in accordance with DMURS	Standard condition to apply
11.	CCTV sewer survey and report to be submitted	Standard condition to apply
12.	Irish Water	Standard condition to apply
13.	Surface Water to comply with requirements of WCCC	Standard condition to apply
14.	Taking in charge requirements	Standard condition to apply
15.	Underground cabling	Standard condition to apply
16.	Public lighting	Standard condition to apply
17.	Estate / Street name(s) to be agreed	Standard condition to apply
18.	Comprehensive landscape plan to be submitted and agreed	Standard condition to apply
19.	Construction hours and noise monitoring	Standard condition to apply
20.	Construction and Demolition Plan to be agreed	Standard condition to apply
21.	Archaeological Assessment in advance of any site preparation and / or construction works	Standard condition to apply in line with the requirements of Department of Housing, Local Government & Heritage Development Applications Unit.

18.74. Section 48 Development Contribution

- I refer to Waterford City & County Council Development Contribution Scheme 2026 - 2029. The proposed scheme is not exempt from the contribution scheme. Accordingly, it is recommended that should An Coimisiún be minded to grant

permission that a Section 48 Development Contribution condition is attached. Condition No 24 as set out in the recommendation below refers.

18.75. Special Development Contribution (N25 Roundabout)

- Both the report of the WC&CC Chief Executive and the WC&CC Roads Section recommended that a Section 48(2)(c) Special Development Contribution in the amount of €910,000 be attached in respect of required improvements to road infrastructure (the provision of a roundabout on the N25 required to service the development).
- It is stated that a longstanding intention of the Roads Department that a new link road be constructed from the roundabout at Tournore located to the west of this SHD site, to the N25 further north. What was previously proposed for inclusion in the Draft County Development Plan 2022 when this application was submitted in 2021 is now a Transport Objective for the area. I refer to the Volume 4 Maps of the Waterford City and County Development Plan 2022-2028 where there is a Road Reservation route demarcated from the roundabout at Tournore to the N25 to the north. There is no further readily discernible comment, policy or objective in relation to this Road Reservation route in the current Development plan save for the Combined Zoning Map (Volume 4 refers).
- It is noted that there was a recent grant of planning permission for a Large Scale Development (LRD) on lands directly across the road and immediately to the north of this SHD site where the issue of the application of a Section 48(2)(c) Development Contribution) in respect of required improvements to road infrastructure (a new roundabout at the Burgery / N25 required to service the development) was considered. ABP-322509-25 (Reg Ref 2560097) refers. The TIA in this LRD Case noted that it was a Local Authority objective as part of the Dungarvan Relief Road proposals to replace the junction of the L3168 with the N25 National Primary Route located to the west of this SHD site with a new at grade roundabout junction, which would be located to the north of the existing junction in the area of the Burgery which would realign a section of the L3168 towards the northeast of its current alignment in this area. This would appear to align with the Road Reservation route set out in Combined Zoning Map (Volume 4) of the Waterford City and County Development Plan 2022-2028.

- An Coimisiún in making its decision on ABP-322509-25 (Reg Ref 2560097) and noting the terms of the Waterford City and County Council Development Contribution Scheme 2023-2029, considered that the planning authority has not demonstrated that specific exceptional costs in terms of a new roundabout at the Burgery / N25 would arise from this proposed development, or would benefit the proposed development, within the meaning of Section 48(2)(c) of the 2000 Act, but would instead provide a much wider benefit to the wider area. Therefore, a special financial contribution condition was not attached to the grant of permission.
- Having regard to the information available, the terms of the Waterford City & County Development Contribution Scheme 2023-2029 (Adopted 9th February 2023) together with the policies and objectives of the Waterford City and County Council Development Contribution Scheme 2023-2029 I do not consider that the special financial contribution as proposed by the planning authority for the works as described, comes within the scope of section 48(2)(c) of the Planning and Development Act, 2000 and accordingly, would not be warranted.

18.76. Special Development Contribution (Additional Fluvial Storage)

- Both the report of the WC&CC Chief Executive and the WC&CC Roads Section recommended that a Section 48(2)(c) Special Development Contribution in the amount of €236,442 be attached in respect of required improvements to surface water management in the area (an enlargement of fluvial water is required).
- The WC&CC Roads Section states that it is the intention of WC&CC to provide for additional fluvial storage in Duckspool area, all statutory approvals have been received by WCCC to lower the existing levels of the existing storm water retention bounding the proposed site by 0.5m. This will require the removal of 30,000 m³ of material with an estimate cost of €0.5m. It is the intention of WC&CC to commence this work next year (2022). Based on the number of existing houses that this retention area serves (243 in total) and 218 being proposed under this application a special contribution of €236,442 to be levied for these proposed works.
- Again I refer to the recently decided LRD case to the north of the site (ABP-322509-25 (Reg Ref 2560097) refers) that there is a newly constructed municipal retention pond located on the southern side of the road in Duckspool. It is unclear if this “retention pond” is the “additional fluvial storage area” that the WC&CC Roads Section refers to in their report above.

- In the absence of clarity in relation to the works outlined and having regard to the information available, the terms of the Waterford City & County Development Contribution Scheme 2023-2029 (Adopted 9th February 2023) together with the policies and objectives of the Waterford City and County Council Development Contribution Scheme 2023-2029 I do not consider that the special financial contribution as proposed by the planning authority for the works as described, does comes within the scope of section 48(2)(c) of the Planning and Development Act, 2000 and accordingly, would not be warranted.

18.77. Other Issues

18.78. Wastewater Drainage

- I refer to the Engineering Service Report submitted with the application. It is proposed to connect to the public sewer. The existing site is currently greenfield, with no existing wastewater discharge to the public wastewater infrastructure. It is proposed to separate the wastewater and surface water drainage networks. A new gravity wastewater connection, serving the proposed residential development, is to be provided to the existing wastewater network located along the L3168, to the development's north. This network discharges to the public Barnawee Wastewater Pumping Station, which is located approximately 175m east from the subject site's boundary
- The Engineering Service Report states that a Pre-Connection Enquiry Form was submitted to Irish Water with Confirmation of Feasibility issued (copy provided) stating that a connection can be facilitated subject to either, or a combination, of the following works:
 - a) Upgrading of and provision of additional storage at Barnawee Wastewater pumping station subject to the applicant contributing the relevant portion of the costs of these works.
 - b) Removal / reduction of stormwater infiltration into the wastewater network in order to reduce the hydraulic load on the wastewater network.
- The Engineering Service Report also included correspondence from WCCC stating they have no objection to works been undertaken to remove storm water from the wastewater system serving Barnawee Pumping Station.

- WCCC Water Services in their report state that a wastewater connection and disposal is subject to approval by Irish Water and that no development should take place until connection agreements with Irish Water are in place.
- Irish Water in their report state that in order to accommodate a wastewater connection, the proposed development is subject to the upgrading and provision of additional storage at Barnawee Wastewater pumping station. The report also states that these works are not currently on Irish Water's investment plan and therefore the applicant will be required to contribute the relevant portion of the costs of these works. It was estimated that delivery of the infrastructure will be carried out by Irish Water and take approximately 3 years to complete (subject to change).
- While the proposals for wastewater disposal were reasonable and feasible at the time of making the application, subject to compliance with the requirement of Irish Water as set out above, no further update has been provided or sought since the foregoing 2021 reports were submitted. However, a review of the Uisce Eireann Capacity Register (Published August 2025) indicated "spare capacity available" in the wastewater treatment capacity in Dungarvan to support 2034 population targets.
- I am satisfied that no issues arise in relation to wastewater drainage capacity subject to compliance with the requirements of Irish Water.

18.79. Water Supply

- I refer to the Engineering Service Report submitted with the application. It is proposed to connect to the public water supply. A new 150mm HDPE watermain connection is to be provided from the existing Asbestos watermain located at the L3168, which aligns the northern boundary of the site. A Pre-Connection Enquiry Form was submitted to Irish Water with Confirmation of Feasibility issued (copy provided) stating that a connection can be facilitated subject to upgrading of existing 150mm diameter watermain to 200mm diameter for a length of approximately 300m.
- Irish Water in their report state that they do not have any plans to extend or commence upgrade works to its network in this area and that should the applicant wish to progress they will be required to fund these works as part of a connection agreement.

- A review of the Uisce Eireann Capacity Register (Published August 2025) on 2nd December 2025 indicated “capacity available” in Dungarvan to support 2034 population targets.
- I am satisfied that no issues arise in relation to water supply subject to required upgrades as outlined by Irish Water.

18.80. Surface Water Drainage

- This is a greenfield site with existing open ditches along the western, eastern and southern boundaries, as well as traversing from north to south near its western boundary. There is a local highpoint near the centre of the site, with an approximate level of +3.0m AOD. The site is typically graded from this high point to the site boundaries, with these gradients being more predominant in the southern and eastern directions, towards a stream that aligns the site boundary. There is an open ditch, from the western corner of the site, and along the southern and eastern boundaries, which conveys the natural greenfield runoff from the greater site area towards the Irish Sea, via a culvert under the R465 and adjacent tidal floodplains.
- There is no existing surface water drainage infrastructure in the vicinity of the proposed development. All surface water runoff, on the existing site, currently infiltrates to the natural ground or discharges to the local open ditches, which in turn convey the runoff to an open watercourse.
- I refer to the Engineering Services Report where proposed surface water drainage design strategy is outlined as follows:
 - a) It is proposed to separate the surface water and wastewater drainage networks, which will serve the proposed development, and provide independent connections to the adjacent watercourse and local wastewater sewer network respectively.
 - b) The proposed surface water network is to be split into 3nr. catchments, each of which are to discharge attenuated flows to the open ditch / watercourse that bounds the site, to its south and east.
- The proposed surface water scheme has been developed with the following design criteria:

- a) The proposed development includes several features to maintain equivalent pre-development surface water run-off rates or lower them: pervious paving, interception storage, natural infiltration (soils, planting, etc.), 3 no. geocellular storage systems (preceded by petrol interceptors) and limits on discharge.
- b) 3no. surface water outfalls with non-return valves are proposed into the existing drainage ditches through and surrounding the site: 1 no. at the ditch running parallel to the north-south central hedgerow, 1 no. at the southern ditch and 1 no. in the north-east corner.
- c) This strategy will reflect the status quo with respect to surface water drainage, with surface water that does not infiltrate on-site natural discharging to the ditches anyway. These ditches discharge into the sea to the east.
- Notwithstanding the foregoing I note from the recently decided LRD case to the north of the site (ABP-322509-25 (Reg Ref 2560097) refers) that there is a newly constructed municipal retention pond located on the southern side of the road in Duckspool. It is unclear if this “retention pond” is the “additional fluvial storage area” that the WC&CC Roads Section in their report on this SHD case states is required and approved in order to lower the existing levels of the existing storm water retention bounding the proposed site by 0.5m.
- I am generally satisfied that no issues arise in relation to surface water management at this location. It is recommended that should a standard condition be attached requiring that the disposal of surface water shall comply with the detailed requirements of the planning authority for such works and services.

18.81. Earthworks

- Significant concerns have been raised in the observations to the SHD application regarding the volume of fill material (estimated to be between 80,000m³ and 90,000m³) needed to be imported to reduce the risk of flooding within the site would reduce the capacity of the flood plain to attenuate flood waters and that the application fails to identify the impact of same on construction traffic volumes and phasing of the development. The issue of infill material is also considered in the foregoing assessment under Flooding, Ecology, Appropriate Assessment, Environmental Impact Assessment and Water Framework Directive Section.

- The existing lands are to be raised in level and profiled from 0.5m to 3m AOD to a new flood protection level of 3.42 AOD, in order to facilitate the proposed development. I have considered the documentation submitted with the application and the details of the proposed reprofiling of the site in terms of volume of material required, source of any material to be imported, construction traffic implications or whether these works have been considered in the construction and phasing of the proposed development is not readily discernible. It appears that there is an arbitrary reference to these earth works in a number of documents as follows and what is available lacks clarity and detail.
- As noted above, a *Site Flood Risk Assessment* was submitted with this application. This SFRA concluded that while the site is in a Flood Zone, it was considered to pass the Justification Test and that development can be achieved on-site by rationalising the flood extent area (raising and lowering ground levels to create compensation) and delivering all houses at a minimum finished-floor level of at least 3.42mAOD with all development road network having a minimum level of +3.12m AOD. No further details or calculations are provided in relation to the importing of material to the site.
- The *Construction & Demolition Waste Management Plan* (CDWMP) sets out the Cut & Fill Calculations for the development as follows as summarised:
 - a. The greatest volume of materials generated will be topsoil and subsoil/stones from site reprofiling to accommodate roads, footpaths, and services and housing construction. Part of the site will be raised to accommodate a FFL of 3.42m AOD so that this will reduce the amount of material to be taken off site.
 - b. The developable site is 6.18 hectares ($61,800\text{ m}^2$) in area. Allowing a 300 mm depth of topsoil means that some $18,540\text{ m}^3$ of topsoil will be stripped. Of this amount approximately 60% will be reused in gardens, open spaces and landscaping thus leaving 40% or $7,416\text{ m}^3$ or so to be recycled off-site through Garden Centres or similar.
 - c. All excess excavation will be used to build up the site to the 3.42m AOD level required for flood protection purposes. No soil or stones will be exported off-site.

No further details or calculations are provided in relation to the importing of material to the site.

- The *Environmental Impact Assessment (EIA) Screening Report* states that whilst exact quantities of materials required have not been determined at this stage, large amounts of quarried aggregates, concrete and bitumen will be used during construction phase. Some of this material will be gained from within the site, however, the majority will need to be imported to the site. It is likely that quantities of unsuitable material will be excavated and not reused during the construction. The Report further reiterates that all excess excavation (topsoil and subsoil / stones) will be used to build up the site to the 3.42 AOD level and set out the same calculations as set out in the Construction & Demolition Waste Management Plan above (second bullet point). No further details or calculations are provided.
- The *Traffic Impact Assessment (TIA)* states that it is difficult to assess the exact quantum of traffic that will be generated during the construction period. However, a number of preliminary estimates have been made based on the extent of excavation, type of development and estimated phasing. These are summarised as follows:
 - 1) 30 no. private vehicles per day from staff and site visitors i.e. 60 no. vehicle movements;
 - 2) 25 no. light goods vehicles per day from subcontract staff i.e. 50 no. vehicle movements;
 - 3) 100 no. heavy goods vehicles per day during peak excavation process i.e. 200 no. vehicle movements;
 - 4) 40 no. heavy goods vehicles per day outside of the peak excavation periods i.e. 80 no. vehicle movements.

The TIA further states that the excavation period is considered to represent the peak of HGV movements at 100 per day, based on 10 vehicles per hour. No break down of the figures set out above is provided and therefore it is not readily evident if the figures presented take account of the material to be imported or exported from the site. It would appear that the figures provided relate to standard site construction traffic only. No further details or calculations are provided in relation to the importing material to the site.

- The *Construction and Environmental Management Plan* (C&EMP) provided similar information to that presented in the CDWMP as summarised above. No further details or calculations are provided in relation to the importing material to the site. The CDWMP considered that there will be a maximum of six HGV's undertaking removals from the site during any given daytime hour and that there will be a similar amount of HGV's delivering to the site. Therefore, the maximum two-way HGV traffic is unlikely to be higher than 12 vehicles per hour at any point of the day. It would appear that the figures provided relate to standard site construction traffic only. No further details or calculations are provided in relation to the importing material to the site.
- The *Natura Impact Assessment* (NIS) makes reference to the "reprofiling of the site", in the context that it will remove grassland and could lead to silt laden and contaminated run off entering the drainage ditches and watercourse with potential for downstream impacts to Dungarvan Harbour SPA. Mitigation measures to prevent impacts on Dungarvan Harbour SPA include silt interception measures to be in place during the reprofiling stages. No further details or calculations are provided in relation to the importing material to the site in the NIS.
- I have considered the application details and particulars and there is no obvious reference to the actual volume of material to be imported, where it is to be sourced, the associated construction traffic calculations and whether these works have been considered in the construction and phasing of the development.
- The cut and fill of a site as part of development works is not unusual. However, given the sensitivities of this site with regard to flooding and ecology it is considered that details of any such works would form an essential component of any application at this location across a number of technical reports. Further it would be expected that this information would be easily available and accessible. I am concerned that the application is considerably deficient in this regard and that refusal of permission may be necessitated.
- However, having regard to the significant issues identified in the foregoing report in relation the zoning of the site as High Amenity, flooding and impact to Brent Geese and Dungarvan Harbour SPA I consider that refusal on the lack of information relating to the importation of material to the site is not necessitated in this instance.

18.82. Archaeology

- I refer to the report of the Department of Housing, Local Government & Heritage Development Applications Unit. Owing to the size of the site and its proximity to the estuary there is significant potential for archaeological remains.
- It is recommended that an Archaeological Impact Assessment should be prepared in advance of any site preparation and/or construction works. Recommended conditions for Archaeological Impact Assessment are set out in the report.
- It is recommended that the standard preconstruction archaeological impact assessment condition be attached should the Coimisiún be minded to grant permission.

18.83. Creche

- Concern has been raised by the Waterford Childcare Committee that elements of the design and layout of the proposed creche does not accord with relevant regulations and guidelines. Reference is made to the quality and regulatory framework (QRF), Pre-school Service Regulations and Universal Design Guidelines.
- I am satisfied that these requirements relate to the internal layout of the proposed creche only and that no external amendments are necessary. It is recommended that should An Coimisiún be minded to grant permission that a condition be attached requiring compliance with the above stated requirements and that details to be agreed prior to commencement of work on site.

18.84. Part V

- Section 8 of the Planning Report and Statement of Consistency states that it is proposed to provide 20 no. units, which equates to 10% of the total number of units, under Part V. Appendix 4 includes a Part V agreement from the planning authority regarding the proposed number and location of these 20 no. units.
- Changes to Part V arrangements under the Affordable Housing Act 2021 increased the Part V contribution for new housing developments from up to 10% for social housing to a mandatory 20% requirement of new developments of 5 or more houses on land purchased on or after the 1st of August 2021 or prior to September 2015. At least half of which must be applied to social housing provision and up to half of which may be applied to affordable and cost rental housing.

- I am satisfied that this matter can be dealt with by way of standard condition requiring the developer to agree the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended with the Planning Authority.

18.85. Oral Hearing

- An OH has not been requested. As documented above the pertinent issue in this case is the zoning of the site, flooding, traffic impact and loss of ex situ winter feeding are for the Brent Geese, a qualifying interest of the Dungarvan Harbour SPA.
- However, in this particular case and given that the material zoning difference between the old and new Development Plans is so fundamental to the consideration of this application in the first instance I consider that to hold an OH to address this and the wider issues outlined would place an unnecessary burden on the applicant, would be unfair to all parties and would ultimately be futile.
- The holding of an OH in this case is not therefore recommended.

18.86. Conclusion

- At the time of making the application in 2021 the Development Plan in place zoned the site as suitable for residential development. However, under the Waterford City and County Development 2022 – 2028
- , the site is zoned High Amenity where residential development is not permitted. It is evident from the current Development Plan that this significant change to the zoning of the site was informed by the documented flood risk at the site and possibly to a lesser extent the important ecological standing of the site as an ex situ winter feeding site for Brent Geese, a qualifying interest of the adjoining Dungarvan Harbour SPA.
- While some matters that have arisen may be dealt with by way of further analysis and reporting, it remains that the significant issues relation to zoning, flooding, traffic impact and impact to the Brent Geese, cannot in my view be readily set aside. As mentioned above I consider the holding of an Oral Hearing in this case would also be futile.

- It recommended that permission be refused for 4 no reason relating to (1) zoning, (2) flooding, (3) traffic impact and (4) impact to the Brent Geese.

19.0 Recommendation

19.1.1. Having considered the contents of the application the provision of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **REFUSED** for the following reason and considerations and subject of the conditions outlined below.

20.0 Reasons and Considerations

- 1) The largest portion of the site, and where it is proposed to locate 218 residential units is vulnerable to flooding and has been zoned HA - High Amenity in the Waterford City and County Development 2022 – 2028 for which the objective is *to protect highly sensitive and scenic location from inappropriate development that would adversely affect the environmental quality of the locations* and where residential is listed as a use that is “not permitted”. This zoning objective has been informed by the sites vulnerability to flood risk as demonstrated in the Strategic Flood Risk Assessment as set out in Appendix 13 of the Waterford City and County Development Plan 2022 – 2028. This zoning objective is considered reasonable. The proposed Strategic Housing Development would, therefore, contravene materially the zoning objective for the site as set out in the current development plan and be contrary to the proper planning and sustainable development of the area.
- 2) The site is vulnerable to flood risk as demonstrated in the Strategic Flood Risk Assessment (SFRA) that is set out in Appendix 13 of the Waterford City and County Development Plan 2022 – 2028. The SFRA locates the SHD site (identified as Area 2) within Flood Zone B save for a small section within the centre of the site that is outside the flood zone. The Development Plan Justification Test explicitly recommended that new, large-scale development within Flood Zones A and B not be permitted. Further the proposed SHD development fails to satisfy the Justification Test for Development Management as prescribed in Box 5.1 of the

Planning System and Flood Risk Management Guidelines (2009). The proposed development is therefore contrary to the Planning System and Flood Risk Management Guidelines (2009) and the Waterford City and County Development Plan 2022 – 2028

- 3) The applicant has not demonstrated in the documentation submitted including the Traffic Impact Assessment that the proposed development, including its construction phase and in particular the volume of material required to be imported to the site, would not negatively impact on the carrying capacity of the N25 National Road or on the traffic safety of residents of the development itself or on public road users in the wider area. The proposed development would therefore pose a traffic hazard to future residents of the development itself and public road users in the wider area and as such would be contrary to the proper planning and sustainable development of the area.
- 4) The proposed development site is currently an important feeding and loafing site for Brent Geese and to a lesser extent Black-tailed Godwit, both of which are qualifying interests for the adjacent Dungarvan Harbour Special Protection Area (site code 004032). Brent Geese which do not use a wide variety of terrestrial sites around this SPA show a clear preference and fidelity to a small number of sites including this development site. The availability of suitable nearby terrestrial feeding sites, including this site, is essential to maintain the favourable conservation condition of Brent Geese listed as a qualifying interest for Dungarvan Harbour SPA. This development site is therefore fundamentally connected to the Dungarvan Harbour SPA and is of significant importance as an ex-situ winter feeding habitat. In addition there is a lack of clarity with regards to the volumes of topsoil to be removed off site and fill material to be imported onto the site to reduce the risk of flooding within the site and the Natura Impact Statement (NIS) has failed to adequately assess the significance of the potential indirect or secondary effects arising from the construction stage of the proposed development, in terms of a reduction in water quality, noise and dust. As a result, the mitigation measures proposed in the NIS cannot be considered sufficient to avoid significant impacts on Dungarvan Harbour SPA. On the basis of the information provided with the

application, including the Natura Impact Statement and the Ecological Impact Statement the Coimisiun is not satisfied that it has been demonstrated beyond reasonable scientific doubt that the development would not constitute an adverse impact on the Dungarvan Harbour SPA Brent Goose population and that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of Dungarvan Harbour Special Protection Area (Site Code 004032), in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission under the provisions of Article 6(3) of the Habitats Directive (92/43/EEC).

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way

Mary Crowley

Senior Planning Inspector

31st December 2025

Appendix 1 - Form 1 - EIA Pre-Screening

Case Reference	ABP-321838-25
Proposed Development Summary	SHD – Construction of 218 residential units (176 houses and 42 apartments), a creche and all associated site works.
Development Address	Duckspool, Dungarvan, Co Waterford
	In all cases check box /or leave blank
<p>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</p> <p>(For the purposes of the Directive, "Project" means:</p> <ul style="list-style-type: none"> - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources) 	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2. <input type="checkbox"/> No further action required.
<p>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</p>	
<input checked="" type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
<input type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<p>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</p>	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2,	

<p>Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	<p>Class 10(b)(i) 'Construction of more than 500 dwellings units</p> <p>Class 10(b)(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</p>

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input checked="" type="checkbox"/>	Screening Determination required
No <input type="checkbox"/>	

Inspector _____

Date _____

Appendix 2 - Form 3 - EIA Screening Determination

A. CASE DETAILS		
An Pleanála Reference	Coimisiun Case	ABP-321838-25
Development Summary	SHD – Construction of 218 residential units (176 houses and 42 apartments), a creche and all associated site works.	
Sub-threshold - development class referred to under Schedule 5 of Planning and Development Regulations 2001 (as amended) or Article 8 of Roads Regulations 1994:	Class 10(b)(i) - 'Construction of more than 500 dwellings units' – The proposal comprises 218 no residential units Class 10(b)(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 – The site is not located in a business district and has a stated site area of 8.6288 ha (gross).	
	Yes / No /	Comment (if relevant)
	N/A	
1. Was a Screening Determination carried out by the PA?	Yes	
2. Has Schedule 7A information been submitted?	Yes	
3. Has an AA screening report or NIS been submitted?	Yes	AA Screening Report & NIS submitted with the application.
4. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA?	No	

If YES has the EPA commented on the need for an EIAR?		
5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	Yes	<p>An SEA and SFRA was undertaken in respect of the Waterford City and County Development 2022 – 2028.</p> <p>I also refer to the EIA Screening Statement submitted with the application. I also refer to the main environmental considerations addressed where relevant through the various reports and assessments submitted with the planning application which include inter alia:</p> <ul style="list-style-type: none"> ▪ Architectural Design Statement ▪ Landscape and Visual Impact Assessment ▪ Landscape Design rationale ▪ Site Specific Flood Risk Assessment ▪ Engineering Services Report ▪ Appropriate Assessment Screening and Natura Impact Statement ▪ Ecological Impact Assessment ▪ Traffic Impact Assessment ▪ Planning Report and Statement of Consistency ▪ Operational Waste Management Plan ▪ Construction and Demolition Waste Management Plan ▪ Construction and Environmental Management Plan ▪ Site Investigation Report

B. EXAMINATION

Yes/ Uncertain	<p>Briefly describe the nature and extent and Mitigation Measures (where relevant)</p> <p><i>(having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)</i></p> <p>Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.</p>	<p>Is this likely to result in significant effects on the environment?</p> <p>Yes/ No/ Uncertain</p>
-------------------	--	--

1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)		
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?		
No	<p>The nature and scale of the proposed development reflects the surrounding pattern of development and is not considered to be out of character with the existing and emerging surrounding pattern of development.</p> <p>No significant effects are predicted</p>	No
1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?		
Yes	<p>The proposal will develop an existing greenfield site. The proposed development is not considered to be out of character with the existing and emerging surrounding pattern of development. New planting as part of the development will result in long-term benefits to biodiversity. There will be no likely significant adverse effects on the environment with regard to the geographic location of densely populated areas.</p> <p>Given the site's location in an active floodplain, it is proposed to provide a minimum finished floor level of 3.42mAOD to mitigate risk from tidal and fluvial flooding. This is achieved by raising ground levels in areas of the active floodplain and lowering ground levels in areas outside the active floodplain to provide compensation. This compensation storage is proposed to provide a direct "level-for-level" basis, in accordance with CIRIA C624 and the Flood Risk Management Guidelines (2009).</p> <p>These matters are discussed in detail in the foregoing assessment under the Section 18.44 Flooding, Section 18.77 Other Issues and Appendix 4 (Appropriate Assessment). The site failed the Development Plan Justification Test in the SFRA (Appendix 13 of the Waterford City and County Development 2022 – 2028). The site also failed the Justification Test for Development Management as prescribed in Box 5.1 of the Planning System and Flood Risk Management Guidelines (2009). Refusal of permission is recommended.</p>	No

1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?		
Yes	Construction materials will be typical of an urban environment and does not require the use of substantial natural resources or give rise to significant risk of pollution or nuisance. The loss of natural resources or local biodiversity as a result of the development of the site are not regarded as significant.	No
1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?		
Yes	Construction activities will require the use of potentially harmful materials, such as fuel and other substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and the implementation of a Construction Environmental Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.	No
1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?		
Yes	Construction activities will require the use of potentially harmful materials, such as fuels and other substances and will give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature. It is not expected that relevant dust or noise environmental quality standards will be exceeded by construction, or operational phases of this Proposed Development. In addition, the implementation of a Resource and Waste Management Plan and Construction Environmental Management Plan will satisfactorily mitigate potential impacts. Operational waste will be managed via a Waste Management Plan. Significant operational impacts are not anticipated.	No
1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?		

No	<p>No significant risk identified. Operation of a Construction Environmental Management Plan will satisfactorily mitigate emissions from spillages during construction. The operational development will connect to mains services. The surface water and wastewater drainage networks will be separate with surface water to discharge attenuated flows to the open ditch / watercourse that bounds the site, to its south and east. The public sewer connection is subject to the upgrading and provision of additional storage at Barnawee Wastewater pumping station and the applicant will be required to contribute the relevant portion of the costs of these works.</p> <p>No significant emissions during operation are anticipated. There is sufficient infrastructural capacity to service the development subject to the upgrade and there will be no significant adverse impact on the material assets and land.</p>	No
1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?		
Yes	<p>Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised and short term in nature and their impacts will be suitably mitigated by the operation of a Construction Environmental Management Plan. Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.</p>	o
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?		
No	<p>Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the operation of a Construction Environmental Management Plan would satisfactorily address potential impacts on human health. No significant operational impacts anticipated.</p>	No
1.9 Will there be any risk of major accidents that could affect human health or the environment?		
No	<p>No significant risk having regard to the nature and scale of the proposed development. Any risk arising from construction will be localised and temporary in nature. There are no SEVESO/COMAH sites in the vicinity of this location. The</p>	No

	development, by virtue of its type and scale, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.	
1.10 Will the project affect the social environment (population, employment)		
Yes	The development of the site will increase employment in the area and the local population. This is not regarded as significant given the edge of town location of the site and the surrounding pattern of land use. The scheme will have a positive impact on the long-term supply needs of housing in the area.	No
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?		
No	This is a stand-alone development, comprising the development of a greenfield site and is not part of a wider large scale change. Permitted developments within the vicinity of the site have been subject to separate assessments. No significant cumulative impacts are anticipated.	No
2. Location of proposed development		
2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:		
<ul style="list-style-type: none"> ▪ European site (SAC/ SPA/ pSAC/ pSPA) ▪ NHA/ pNHA ▪ Designated Nature Reserve ▪ Designated refuge for flora or fauna ▪ Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan 		
No	Impacts on European sites are addressed under Appropriate Assessment, in Section 16.0 and Appendix 3 and 4 of this report. It has been concluded that there is potential for significant effects on a European site, namely the Dungarvan Harbour SPA and an	No

<p>Appropriate Assessment has been undertaken having regard to the documentation on file including the NIS.</p> <p>Adverse effects arising from aspects of the proposed development can be excluded for the European site considered in the Appropriate Assessment, namely the Dungarvan Harbour SPA. However, there is a lack of clarity with regards to the volumes of topsoil to be removed off site and fill material to be imported onto the site to reduce the risk of flooding within the site and the NIS has failed to adequately assess the significance of the potential indirect or secondary effects arising from the construction stage of the proposed development, in terms of a reduction in water quality, noise and dust. In addition, the site, which is an important ex situ winter feeding area for Brent Geese is essential to maintain the favourable conservation condition of Brent Geese listed as a qualifying interest for Dungarvan Harbour SPA. While there are no direct impacts predicted, indirect impacts including water degradation and the loss of a significant and important ex situ winter feeding area for Brent Geese cannot be set aside. Refusal of permission is recommended.</p> <p>Whilst a significant effect may arise for an individual environmental topic or topics, this does not of itself trigger a requirement for EIA. EIA deals with the potential for impacts across a range of environmental parameters and the potential for effects on a European site does not of itself generate a requirement for EIA. In this instance AA has been addressed under Appropriate Assessment, in Section 16.0 and Appendix 3 and 4 of this report. Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment and an EIAR is not required.</p>	
<p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>	

No	<p>Impacts on European sites are addressed under Appropriate Assessment, in Section 16.0 and Appendix 3 and 4 of this report.</p> <p>It has been concluded that there is potential for significant effects on a European site and an Appropriate Assessment has been undertaken having regard to the documentation on file including the NIS.</p> <p>As identified in the NIS and EclA, the site is an important feeding and loafing site for Light-bellied Brent Geese and to a lesser extent Black-tailed Godwit, both of which are QIs for the adjacent Dungarvan Harbour SPA. Significant habitat change or increased levels of disturbance to habitats situated within the immediate hinterland of the SPA or in areas ecologically connected to it could result in the displacement of one or more of the listed waterbird species from areas within the SPA, and / or a reduction in their numbers that would undermine the conservation objectives of this site. The permanent loss of 7.5ha of ex situ grazing and foraging habitat as a direct impact of the proposed development, will result in a significant impact on the Conservation Objectives of the Dungarvan Harbour SPA and its QIs and in particular the Light-bellied Brent Geese. Refusal of permission is recommended.</p> <p>Whilst a significant effect may arise for an individual environmental topic or topics, this does not of itself trigger a requirement for EIA. EIA deals with the potential for impacts across a range of environmental parameters and the potential for effects on a European site does not of itself generate a requirement for EIA. In this instance AA has been addressed under Appropriate Assessment, in Section 16.0 and Appendix 3 and 4 of this report. The proposed development, therefore, does not trigger a requirement for environmental impact assessment and an EIAR is not required.</p>	No
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?		
Yes	<p>There are no Recorded Monuments located within the confines of the proposed development site. The Department of Housing, Local Government and Heritage in their submission noted that the site is located within estuarine landscape and there is potential for</p>	No

	previously unidentified archaeological remains to survive below ground. It was recommended that an Archaeological Impact Assessment condition attached to ensure the protection of the archaeological heritage.	
2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?		
No	No such features arise in this location.	No
2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?		
No	There are no water courses on the lands. The site is surrounded on three sides by ditches / watercourses which run to the coast. All discharges to existing watercourses will be subject to a limited discharge rate not greater than the greenfield runoff rate. During construction, there may be a risk of pollution to watercourse from chemical spills, concrete and runoff from exposed soils. The detailed monitoring and mitigation commitments provided in the EclA and CEMP are designed to ensure that there is no risk of significant impacts upon the ecology of groundwaters or nearby local watercourses. Thus, ensuring that there are no significant residual impacts of the development upon the receiving environment. However as set out above there is a lack of clarity with regards to the volumes of topsoil to be removed off site and fill material to be imported onto the site and the applicant has failed to adequately assess the significance of the potential indirect or secondary effects arising from the construction stage of the proposed development, in terms of a reduction in water quality, noise and dust. I have considered the documentation submitted with the application and the details of the proposed reprofiling of the site in terms of volume of material required, source of any material to be imported, construction traffic implications or whether these works have been considered in the construction and phasing of the proposed development is not readily discernible. It appears that there is	No

	<p>only an arbitrary reference to these earth works in a number of documents submitted and summarised in Section 18.77 Other Issues above.</p> <p>The site is located in Flood Zone B. This matter is discussed in detail in the foregoing assessment under the Section 18.44 Flooding and Section 18.77 Other Issues. The site failed the Development Plan Justification Test in the SFRA (Appendix 13 of the Waterford City and County Development 2022 – 2028). The site also failed the Justification Test for Development Management as prescribed in Box 5.1 of the Planning System and Flood Risk Management Guidelines (2009).</p> <p>Refusal of permission is recommended.</p> <p>Whilst a significant effect may arise for an individual environmental topic or topics, this does not of itself trigger a requirement for EIA. In this instance flooding and impact to surface water has been addressed in the foregoing assessment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment and an EIAR is not required.</p>	
2.6 Is the location susceptible to subsidence, landslides or erosion?		
No	No such risks were identified.	No
2.7 Are there any key transport routes (e.g National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?		
No	<p>Traffic Impact is addressed under Section 18.2 of this report above where it was concluded that it has not been demonstrated in the documentation submitted including the Traffic Impact Assessment that the proposed development, including its construction phase and in particular the volume of material required to be imported to the site, would not negatively impact on the carrying capacity of the N25 National Road or on the traffic safety of residents of the development itself or on public road users in the wider area.</p> <p>Refusal of permission is recommended.</p> <p>Whilst a significant effect may arise for an individual environmental topic or topics, this does not of itself trigger a requirement for EIA. In this instance traffic impact has been addressed in the foregoing</p>	No

	assessment. Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment and an EIAR is not required.	
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?		
No	The development is likely to generate additional demands on educational facilities in the area. There is a primary school, Scoil Gharbhain, and post primary school, St Augustine's College, to the north of the site on lands zoned Community Infrastructure. These adjoining lands uses are compatible.	No
3. Any other factors that should be considered which could lead to environmental impacts		
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?		
No	No developments have been identified in the vicinity that could give rise to significant cumulative environmental effects.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?		
No	No transboundary considerations arise.	No
3.3 Are there any other relevant considerations?		
No		
C. CONCLUSION		
No real likelihood of significant effects on the environment.	X	EIAR Not Required
Real likelihood of significant effects on the environment.		EIAR Required

D. MAIN REASONS AND CONSIDERATIONS

Having regard to:

- 1) The criteria set out in Schedule 7, in particular
 - a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10 (b) (i) and (iv) of Schedule 5, Part 2 of the Planning and Development Regulations, 2001 (as amended),
 - b) the location of the site on lands that are zoned HA - High Amenity and OS - Open Space and Recreation in the Waterford City and County Development Plan 2022-2028
 - c) the pattern of development on the lands in the surrounding area,
 - d) the availability of mains water and wastewater services to serve the development,
 - e) the location of the development outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended)
- 2) 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),
- 3) the criteria set out in Schedule 7 of the Planning and Development Regulations, 2001 (as amended),
- 4) the results of other relevant assessments of the effects on the environment submitted by the applicant
- 5) the features and measures proposed by the applicant to avoid or prevent what might otherwise be significant effects on the environment,

The Commissioners' concluded that the proposed development would not be likely to have significant effects on the environment, and that an environmental impact assessment report is not required.

Inspector _____

Date _____

Approved (DP/ADP) _____ **Date** _____

Appendix 3 – Appropriate Assessment Screening Determination

Screening for Appropriate Assessment Test for likely significant effects	
Step 1: Description of the project and local site characteristics	
Case file: ABP 321838-25	
Brief description of project	Strategic Housing Development – comprising 218 residential units (176 houses and 42 apartments), a creche and all associated site works at Duckspool, Dungarvan, Co Waterford
Brief description of development site characteristics and potential impact mechanisms	<p>A description of the proposed development is provided in Section 3.0 of this report above and detailed specifications of the proposal are also provided in the AA Screening Report and NIS together with other planning documents provided by the applicant.</p> <p>The site comprises 8.6288ha of greenfield land at Duckspool, Dungarvan. It is located c. 100m from Dungarvan Harbour SPA and the site is surrounded on 3 sides by drainage ditches / watercourse which run to the SPA. Accordingly there is a direct pathway from the proposed works to the SPA the drainage ditches on site.</p> <p>The site is a foraging area for wintering Brent Geese, black tailed godwit, curlew, golden plover, grey plover and redshank, all of which are qualifying interests (QIs) of Dungarvan Harbour SPA.</p> <p>The site is within Flood Zone B as set out in Figure 7-2: Dungarvan Zoning of the SFRA (Appendix 13) of the Waterford City and County Development 2022 – 2028.</p>
Screening report	Yes
Natura Impact Statement	Yes
Relevant submissions	Department of Housing, Local Government and Heritage – The site is an important feeding and loafing site for Brent Geese and to a lesser extent the Black-tailed Godwit, both of which are QIs for the adjacent Dungarvan Harbour Special Protection Area (Site Code 004032). With well over 50% of the Dungarvan Harbour SPA Brent Goose

	<p>population regularly using this ex-situ site it is fundamentally connected to the SPA and of significant importance. The loss of this particular site is undesirable and is likely to significantly adversely impact on the Brent Geese populations.</p> <p>WC&CCC Heritage Officer – The Duckspool site is of high significance for a number of the qualifying bird interests of Dungarvan Harbour SPA but in particular the Black Tailed Godwit and Brent Geese. A net loss of 7.5 ha of ex-situ foraging area as a result of the development and in the context of the Biodiversity Loss and Climate Change emergency declared by the Government in May 2019 it is recommended that the proposed development be refused planning permission.</p> <p>WCCC Planning Authority Submission - Considered the applicant has failed to robustly demonstrate beyond scientific doubt based on the available evidence that the development would not constitute an adverse impact on the Dungarvan Harbour SPA Brent Goose population. Refusal is recommended.</p> <p>Observations – Detailed concerns have been raised in the in relation to the impact of the scheme on the Brent Geese, a qualifying interest of the Dungarvan Harbour SPA and the associated deficiencies in the Natura Impact Assessment and Ecological Impact Assessment.</p>
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Step 2. Identification of relevant European sites using the Source-pathway-receptor model

One European sites is identified as being located within the potential zone of influence of the proposed development as detailed in the table below. I note that the applicant included a greater number of European sites in their initial screening consideration where 7 no sites within 15km of the development site were considered. There is no ecological justification for such a wide consideration of sites, as there are no direct hydrological connections or identified pathways for impact on the receptors (Qualifying Interests (QI)) for any other European Sites within a 15km radius. Therefore, I have only included the single site with any possible ecological connection or pathway in this screening determination.

European Site (code)	Qualifying interests (summary) Link to conservation objectives (NPWS, date)	Distance from proposed development	Ecological connections	Consider further in screening Y/N
Dungarvan Harbour SPA Site Code - 004032	<p><u>Species</u></p> <ul style="list-style-type: none"> ▪ Great Crested Grebe ▪ Light-bellied Brent Goose ▪ Shelduck ▪ Red-breasted Merganser ▪ Oystercatcher ▪ Golden Plover ▪ Grey Plover ▪ Lapwing ▪ Knot ▪ Dunlin ▪ Black-tailed Godwit ▪ Bar-tailed Godwit ▪ Curlew ▪ Redshank ▪ Turnstone <p><u>Habitat</u></p> <ul style="list-style-type: none"> ▪ Wetlands & Waterbirds <p>(NPWS 16th January 2012)</p> <p>https://www.npws.ie/protected-sites/spa/004032</p>	110 metres	<p>Direct pathway from the site to the SPA via surface networks, drainage ditches on site and watercourses on site.</p> <p>Indirect hydrological link via the proposed foul drainage network / Dungarvan WWTP.</p> <p>Indirect impact from pollution and particulate matter arising during the construction phase and in particular the levelling and reprofiling of the site to provide a new flood protection level of 3.42 AOD.</p>	Yes

			In addition, the site is used as a foraging area for wintering brent goose, black-tailed godwit, curlew, golden plover, lapwing, grey plover and redshank all QIs of this SPA	
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Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites

There will be no direct impacts as the site of the proposed development is located approximately 100 metres from the Dungarvan Harbour SPA. However, there may be indirect impacts from pollution and particulate matter during the construction and operation phase by way of surface water runoff and loss of ex situ foraging area for wintering birds. Therefore, impacts generated by the construction and operation of the development require consideration. Sources of impact and likely significant effects are detailed in the Table below.

Screening Matrix

Site Name	Possibility of significant effects (alone) in view of the conservation objectives of the site	
	Impacts	Effects
Dungarvan Harbour SPA Site Code - 004032	Discharge / run off of surface waters containing sediment, silt, oils and / or other pollutants and construction related compounds including hydrocarbons during the construction phase including the importation of material for	Potential pathways for indirect impact on the Annex species of the Dungarvan Harbour SPA, have been identified in the form of emissions to surface water which has the potential to affect the supporting habitat

	<p>the reprofiling the site to the SPA.</p> <p>Construction impacts (noise, light, air & dust) and operational impacts.</p> <p>Loss of ex situ winter feeding area for qualifying interests of the adjacent SPA including the Brent Geese and Black-Tailed Godwit.</p>	<p>of the species near to the proposed development site.</p> <p>The Dungarvan Harbour SPA Brent Goose population regularly uses this ex-situ site for winter feeding and it is therefore connected to the SPA and of significant importance. The potential loss of this site may significantly adversely impact on the identified populations of QIs of the SPA.</p> <p>Construction impacts could impact on foraging activity of wintering birds if works are carried out in close proximity to foraging wintering birds during the wintering bird period</p> <p>Consequently, the potential for indirect impacts on the Annex species associated with the SPA requires further assessment.</p>
	Likelihood of significant effects from proposed development (alone): Yes	
	If no, is there likelihood of significant effects occurring in combination with other plans or projects?	
<p>The potential indirect hydrological link to the SPA via the proposed foul drainage network / Dungarvan WWTP is also considered in the Screening Report. I refer to Section 18.73 of this report above where wastewater treatment is considered. Foul wastewater from the site would</p>		

discharge to the public network and would be treated at Barnawee Pump House. A review of the Uisce Eireann Capacity Register (Published August 2025) on 2nd December 2025 indicated “spare capacity available” in the wastewater treatment capacity in Dungarvan to support 2034 population targets. Subject to compliance with the requirements of Irish Water I am satisfied that no significant effects are likely from this indirect pathway.

Step 4 Conclude if the proposed development could result in likely significant effects on a European site

Based on the information provided in the screening report, my site visit, a review of the conservation objectives and supporting documents, I consider that in the absence of mitigation measures beyond best practice construction methods, the proposed development has the potential to result in significant effects on the Dungarvan Harbour SPA and its Qualifying Interests namely the Brent Geese and Black-Tailed Godwit.

I concur with the applicants' findings that such impacts could be significant in terms of the stated conservation objectives of the SPA when considered on their own and in combination with other projects and plans in relation to pollution related pressures and disturbance on qualifying interest habitats and species.

Screening Determination

Finding of likely significant effects

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of objective information provided by the applicant, I conclude that the proposed development could result in significant effects on the Dungarvan Harbour SPA in view of the conservation objectives of a number of qualifying interest features of those sites.

It is therefore determined that Appropriate Assessment (Stage 2) under Section 177V of the Planning and Development Act 2000 of the proposed development is required.

Appendix 4 – Appropriate Assessment

Appropriate Assessment
<p>The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177V [or S 177AE] of the Planning and Development Act 2000 (as amended) are considered fully in this section.</p>
<p>Taking account of the preceding screening determination, the following is an appropriate assessment of the implications of the proposed SHD of 218 residential units (176 houses and 42 apartments), a creche and all associated site works in view of the relevant conservation objectives of Dungarvan Harbour SPA (Site Code – 004032) based on scientific information provided by the applicant. The information relied upon includes the following:</p> <ul style="list-style-type: none">▪ Stage 1 Screening for Appropriate Assessment▪ Natura Impact Statement in support of Stage 2 Appropriate Assessment▪ Ecological Impact Assessment▪ EIA Screening Statement▪ Site-Specific Flood Risk Assessment▪ Engineering Services Report▪ Construction Environmental Management Plan▪ Construction & Demolition Waste Management Plan (CDWMP)▪ Arboricultural Assessment Report
Submissions / Observations
<p>A summary of the relevant submissions and observations are set out in the foregoing Screening Determination and are repeated here for ease of reference. Further details are provided in Section 11, 12 and 13 of this report above. The concerns raised are referenced and addressed in the following Assessment and Findings.</p> <ul style="list-style-type: none">▪ Department of Housing, Local Government and Heritage – The site is an important feeding and loafing site for Brent Geese and to a lesser extent the Black-tailed Godwit, both of which are QIs for the adjacent Dungarvan Harbour Special Protection Area (Site Code 004032). With well over 50% of the Dungarvan Harbour SPA Brent Goose population regularly using this ex-situ site it is fundamentally connected to the SPA and of significant importance. The loss of this

particular site is undesirable and is likely to significantly adversely impact on the Brent Geese populations.

- **WC&CCC Heritage Officer** – The Duckspool site is of high significance for a number of the qualifying bird interests of Dungarvan Harbour SPA but in particular the Black Tailed Godwit and Brent Geese. A net loss of 7.5 ha of ex-situ foraging area as a result of the development and in the context of the Biodiversity Loss and Climate Change emergency declared by the Government in May 2019 it is recommended that the proposed development be refused planning permission.
- **WCCC Chief Executive Report** - Considered the applicant has failed to robustly demonstrate beyond scientific doubt based on the available evidence that the development would not constitute an adverse impact on the Dungarvan Harbour SPA Brent Goose population. Refusal is recommended.
- **Observations** – Detailed concerns have been raised in the in relation to the impact of the scheme on the Brent Geese, a qualifying interest of the Dungarvan Harbour SPA and the associated deficiencies in the Natura Impact Assessment and Ecological Impact Assessment

European Sites

Dungarvan Harbour Special Protection Area (SPA) (Site Code: 004032)

Summary of Key issues that could give rise to adverse effects (from screening stage):

- Water quality degradation (construction and operation)
- Construction & Operational Impacts (noise and light)
- Loss of ex situ winter feeding area for QIs

Qualifying Interest features likely to be affected	Conservation Objectives Targets and attributes (summary- inserted)	Potential adverse effects	Mitigation measures
Great Crested Grebe	Maintain favourable conservation condition which is defined by the following distribution target: <i>There should be no significant decrease in the numbers or range of areas used by waterbird species, other than that occurring from natural patterns of variation.</i>	Habitat modification, disturbance and ex-situ factors resulting in the displacement of these species from areas within the SPA and ex situ winter feeding sites and / or a reduction in their numbers. Water quality degradation and/ or alteration of habitat quality by reason of	Application of industry standard pollution controls measures Adherence to best practices methodologies during the construction phase. Phasing of project to reduce risk to ditches

		construction and / or operational impacts.	from contamination. A 10m buffer from watercourse.	
Light-bellied Goose	Brent	<p>Maintain favourable conservation condition which is defined by the following distribution target:</p> <p><i>There should be no significant decrease in the numbers or range of areas used by waterbird species, other than that occurring from natural patterns of variation</i></p>	<p>Habitat modification, disturbance and ex-situ factors resulting in the displacement of these species from areas within the SPA and ex situ winter feeding sites and / or a reduction in their numbers.</p> <p>Water quality degradation and/ or alteration of habitat quality by reason of construction and / or operational impacts</p>	<p>Temporary construction surface drainage and sediment control measures, including silt fences.</p> <p>Stockpiling of loose materials a minimum of 20m from watercourses</p> <p>Fuel, oil and chemical storage will be located within bunded areas, at least 50m from watercourses</p>
Shelduck		<p>Maintain favourable conservation condition which is defined by the following distribution target:</p> <p><i>There should be no significant decrease in the numbers or range of areas used by waterbird species, other than that occurring from natural patterns of variation</i></p>	<p>Habitat modification, disturbance and ex-situ factors resulting in the displacement of these species from areas within the SPA and ex situ winter feeding sites and / or a reduction in their numbers.</p> <p>Water quality degradation and/ or alteration of habitat quality by reason of construction and / or operational impacts</p>	<p>Bunds will be kept clean.</p> <p>Prior to discharge of water from excavations adequate filtration will be provided</p> <p>On-site inspections by ecologist</p>
Red-breasted Merganser		<p>Maintain favourable conservation condition which is defined by the following distribution target:</p> <p><i>There should be no significant decrease in the numbers or range of areas used by waterbird species, other than that occurring from natural patterns of variation</i></p>	<p>Habitat modification, disturbance and ex-situ factors resulting in the displacement of these species from areas within the SPA and ex situ winter feeding sites and / or a reduction in their numbers.</p> <p>Water quality degradation and/ or alteration of habitat quality by reason of construction and / or operational impacts</p>	<p>Regular monitoring by Site Manger.</p> <p>Plant and equipment not stored in proximity to watercourses.</p> <p>Implementation of a Construction and Environmental Management Plan (CEMP) and Construction & Demolition Waste Management Plan (CDWMP)</p>
Oystercatcher		Maintain favourable conservation condition which is defined by the following distribution target:	Habitat modification, disturbance and ex-situ factors resulting in the displacement of these species from areas within the SPA and ex situ winter feeding sites and / or	

	<p><i>There should be no significant decrease in the numbers or range of areas used by waterbird species, other than that occurring from natural patterns of variation</i></p>	<p>a reduction in their numbers.</p> <p>Water quality degradation and/ or alteration of habitat quality by reason of construction and / or operational impacts</p>	
Golden Plover	<p>Maintain favourable conservation condition which is defined by the following distribution target:</p> <p><i>There should be no significant decrease in the numbers or range of areas used by waterbird species, other than that occurring from natural patterns of variation</i></p>	<p>Habitat modification, disturbance and ex-situ factors resulting in the displacement of these species from areas within the SPA and ex situ winter feeding sites and / or a reduction in their numbers.</p> <p>Water quality degradation and/ or alteration of habitat quality by reason of construction and / or operational impacts</p>	
Grey Plover	<p>Maintain favourable conservation condition which is defined by the following distribution target:</p> <p><i>There should be no significant decrease in the numbers or range of areas used by waterbird species, other than that occurring from natural patterns of variation</i></p>	<p>Habitat modification, disturbance and ex-situ factors resulting in the displacement of these species from areas within the SPA and ex situ winter feeding sites and / or a reduction in their numbers.</p> <p>Water quality degradation and/ or alteration of habitat quality by reason of construction and / or operational impacts</p>	
Lapwing	<p>Maintain favourable conservation condition which is defined by the following distribution target:</p> <p><i>There should be no significant decrease in the numbers or range of areas used by waterbird species, other than that occurring from natural patterns of variation</i></p>	<p>Habitat modification, disturbance and ex-situ factors resulting in the displacement of these species from areas within the SPA and ex situ winter feeding sites and / or a reduction in their numbers.</p> <p>Water quality degradation and/ or alteration of habitat quality by reason of construction and / or operational impacts</p>	

Knot	<p>Maintain favourable conservation condition which is defined by the following distribution target:</p> <p><i>There should be no significant decrease in the numbers or range of areas used by waterbird species, other than that occurring from natural patterns of variation</i></p>	<p>Habitat modification, disturbance and ex-situ factors resulting in the displacement of these species from areas within the SPA and ex situ winter feeding sites and / or a reduction in their numbers.</p> <p>Water quality degradation and/ or alteration of habitat quality by reason of construction and / or operational impacts</p>	
Dunlin	<p>Maintain favourable conservation condition which is defined by the following distribution target:</p> <p><i>There should be no significant decrease in the numbers or range of areas used by waterbird species, other than that occurring from natural patterns of variation</i></p>	<p>Habitat modification, disturbance and ex-situ factors resulting in the displacement of these species from areas within the SPA and ex situ winter feeding sites and / or a reduction in their numbers.</p> <p>Water quality degradation and/ or alteration of habitat quality by reason of construction and / or operational impacts</p>	
Black-tailed Godwit	<p>Maintain favourable conservation condition which is defined by the following distribution target:</p> <p><i>There should be no significant decrease in the numbers or range of areas used by waterbird species, other than that occurring from natural patterns of variation</i></p>	<p>Habitat modification, disturbance and ex-situ factors resulting in the displacement of these species from areas within the SPA and ex situ winter feeding sites and / or a reduction in their numbers.</p> <p>Water quality degradation and/ or alteration of habitat quality by reason of construction and / or operational impacts</p>	
Bar-tailed Godwit	<p>Maintain favourable conservation condition which is defined by the following distribution target:</p> <p><i>There should be no significant decrease in the numbers or range of areas used by</i></p>	<p>Habitat modification, disturbance and ex-situ factors resulting in the displacement of these species from areas within the SPA and ex situ winter feeding sites and / or a reduction in their numbers.</p>	

	<i>waterbird species, other than that occurring from natural patterns of variation</i>	Water quality degradation and/ or alteration of habitat quality by reason of construction and / or operational impacts	
Curlew	Maintain favourable conservation condition which is defined by the following distribution target: <i>There should be no significant decrease in the numbers or range of areas used by waterbird species, other than that occurring from natural patterns of variation</i>	Habitat modification, disturbance and ex-situ factors resulting in the displacement of these species from areas within the SPA and ex situ winter feeding sites and / or a reduction in their numbers. Water quality degradation and/ or alteration of habitat quality by reason of construction and / or operational impacts	
Redshank	Maintain favourable conservation condition which is defined by the following distribution target: <i>There should be no significant decrease in the numbers or range of areas used by waterbird species, other than that occurring from natural patterns of variation</i>	Habitat modification, disturbance and ex-situ factors resulting in the displacement of these species from areas within the SPA and ex situ winter feeding sites and / or a reduction in their numbers. Water quality degradation and/ or alteration of habitat quality by reason of construction and / or operational impacts	
Turnstone	Maintain favourable conservation condition which is defined by the following distribution target: <i>There should be no significant decrease in the numbers or range of areas used by waterbird species, other than that occurring from natural patterns of variation</i>	Habitat modification, disturbance and ex-situ factors resulting in the displacement of these species from areas within the SPA and ex situ winter feeding sites and / or a reduction in their numbers. Water quality degradation and/ or alteration of habitat quality by reason of construction and / or operational impacts	
Wetlands	To maintain the favourable conservation	Habitat modification, disturbance and ex-situ factors resulting in the displacement of	

	<p>condition of the wetland habitat as a resource for the regularly-occurring migratory waterbirds that utilise it. This is defined by the following target:</p> <p><i>The permanent area occupied by the wetland habitat should be stable and not significantly less than the area of 2,219ha, other than that occurring from natural patterns of variation.</i></p>	<p>these species from areas within the SPA and ex situ winter feeding sites and / or a reduction in their numbers.</p> <p>Water quality degradation and/ or alteration of habitat quality by reason of construction and / or operational impacts</p>	
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Assessment of issues that could give rise to adverse effects view of conservation objectives

There are two distinct potential adverse impacts on the Dungarvan Harbour SPA associated with this development, namely, (1) disturbance and water degradation and (2) loss of ex situ winter feeding area. These are discussed separately below.

In relation to the potential adverse effect from the construction and operational phase of the development particularly in relation to noise and light associated with the development it is my view that subject to the best practice standard construction management measures and final design details incorporated into the applicant's Construction Environmental Management Plan (CEMP), the EclA, and other elements of the documentation and drawings submitted and which have not been designed or intended to avoid or reduce any harmful effects of the project on a European Site that adverse effects can be prevented. I do not consider that the application has included any specific measures that would be uncommon for a project of this nature.

I refer to the information made available with the application together with the reports and submissions of the Department of Housing, Local Government and Heritage, WC&CCC Heritage Officer, WCCC Planning Authority Submission and third-party Observations.

1) Disturbance and Water Degradation

- The focus of mitigation measures proposed are at preventing disturbance and ingress of pollutants and silt into surface water and receiving watercourses. This is to be achieved via design (avoidance), supervision by an Ecologist, application of specific mitigation measures and

monitoring effectiveness of measures. Measures are set out in Table 6. Potential For Adverse Effects on the Qualifying Interests and Conservation Objectives of Natura 2000 sites in the NIS.

- While mitigation measures outlined in the NIS are noted I am concerned that they are inadequate in terms of avoidance of risk, and that there is a clear lack of detail to demonstrate the successful implementation of same. For example, there does not appear to be a recommendation to avoid the overwintering period with respect to the timing of construction works. In addition, the NIS and CEMP have not identified the volumes and therefore, scale of the works involved in topsoil stripping to reach AOD level required, nor the volumes or source of imported fill required to raise the site. The importation of fill material and the management of topsoil stripping and removal of some off site has not been considered in the NIS in terms of dust, noise and human activity and potential associated impacts to the QIs associated with the SPA. It cannot therefore be determined if the proposed mitigation measures for noise, dust and human activity related disturbance are adequate.
- I agree with the third-party observations that the main source of contaminants arising from the proposed development, is the release of suspended solids during the stripping, movement and importation of topsoil and fill material. In this regard, and as set out above, there is a complete source-pathway-receptor chain between the proposed development site and Dungarvan Harbour SPA via Duckspool Stream and the network of drainage ditches which outflow into the harbour. I further agree that as there is a lack of clarity with regards to the volumes of topsoil to be removed off site and fill material to be imported onto the site, the NIS has failed to assess the significance of the potential indirect or secondary effects arising from the construction stage of the proposed development, in terms of a reduction in water quality, noise and dust. As a result, the mitigation measures proposed in the NIS cannot be considered sufficient to avoid significant impacts on Dungarvan Harbour SPA.

2) Loss of Ex Situ Winter Feeding Area

- As outlined in the NIS the development of the Duckspool site of 8.6288 ha will result in the loss of a foraging area principally for numbers of Brent Geese and Black-tailed Godwit. The applicant submits that 1.2 ha of compensatory habituated on the eastern portion of the site (corresponding to the field 2 area) will be set aside and maintained as a wintering bird area. Therefore, there is a net loss of 7.5 ha of ex-situ foraging area as a result of the development.
- Based on the assessment in relation to the capacity of the surrounding area for additional habitat there are deemed to be 1,400 ha of potential foraging habitat within the immediate vicinity of Dungarvan Harbour SPA, should the entire proposed development site be developed and in the absence of any mitigation. The area lost by the Duckspool development would represent 0.5% of this habitat within the wider Dungarvan area.

- However, as identified in the NIS and EcIA, the proposed development site is an important feeding and loafing site for Light-bellied Brent Geese and to a lesser extent Black-tailed Godwit, both of which are QIs for the adjacent Dungarvan Harbour SPA. It is the proximity and accessibility of the proposed development site to the intertidal mudflats within the estuarine environment of Dungarvan Harbour SPA, low intensity agricultural activities and openness of the site, amongst other factors, which lends the fields at Duckspool to provide valuable ex-situ supporting habitat for the internationally and nationally important numbers of waterbirds.
- It has been established that the site is used on a regular basis by greater than 1% of the national population of Brent Geese and often by greater than 1% of the international population of Brent Geese, with more than double the 1% international population present on at least one occasion during the relatively brief 2021 assessment period. The site is also sometimes used by greater than 1% of the national Black-tailed Godwit population.
- The 1.2 ha of compensatory habitat provided on the eastern portion of the site (corresponding to the field 2 area) to be set aside and maintained as a wintering bird area is already in use by QIs within the proposed development site. As pointed out by the third party observers, compensatory habitat involves the creation of new habitat to compensate for impacted habitat. I agree with the third party observations that the retention of existing habitat cannot be utilised to mitigate or compensate for the permanent loss of habitat elsewhere within a site. Further the 1.2 ha area identified, is not a dedicated grazing and foraging habitat for overwintering birds, as it is identified as Open Space 7 in the Design Statement and as such forms part of the green open spaces assigned for recreational and amenity use. The NIS operational mitigation measure that *the landscaping of the remaining grassland should not allow human or canine activity within the grassland open space during wintering bird season* would in my view be impractical and difficult to enforce and is symptomatic of the overall deficiencies in the NIS and associated documentation.
- The Department states in their submission that they are aware that the wading bird species using the Duckspool site use a range of other terrestrial sites around the SPA and accepts that the loss of this particular site while undesirable is unlikely to significantly adversely impact on the populations of these species. However, the Department states that this is not the case for Brent Geese which do not use a wide variety of terrestrial sites around this SPA and show a very clear preference and fidelity to a small number of sites including this one. The Duckspool site has advantages over many other sites due to its proximity to the core SPA, security from disturbance and predation, accessibility and suitable foraging. With well over 50% of the Dungarvan Harbour SPA Brent Goose population regularly using this ex-situ site it is stated that it is *fundamentally connected to the SPA and of significant importance*.

- The Department notes that the NIS and EclA supporting the application suggests that because the proposed development site consists of improved grassland that a large amount of equally suitable habitat is available locally. However, having surveyed 749 sites and 1400ha of apparently suitable habitat within the range deemed suitable by the consultants, only 10 sites could be found which were actually used by Brent Geese and of this only five used by substantial numbers of geese. The Department states that of the identified foraging sites they are aware that several are subject to threats and pressures such as unfavourable agricultural practises, development, disturbance and pathway development.
- The Department does not dispute that the Brent Geese could fly further to other foraging sites or that such sites may exist or be occasionally used; however, such sites are likely to be inferior in various ways such as the energetic cost in commuting there, forage quality, proximity of retreat zones and real or perceived safety threats. These threats and costs could constitute a deterioration in habitat quality and potentially adversely affect the SPA Brent Goose population.
- Significant habitat change or increased levels of disturbance to habitats situated within the immediate hinterland of the SPA or in areas ecologically connected to it could result in the displacement of one or more of the listed waterbird species from areas within the SPA, and / or a reduction in their numbers that would undermine the conservation objectives of this site.

Conclusion

Under Article 6(3) of the EU Habitats Directive there is an obligation on the Applicant to prove beyond reasonable scientific doubt, and under the precautionary principle, that the proposed development of these grazing and foraging grounds for waterbirds will not result in significant effects on the Conservation Objectives of the Special Conservation Interests for Dungarvan Harbour SPA. To this end I agree with the Department, WCCC and the third-party observations that:

- 1) The availability of suitable nearby terrestrial feeding sites is essential to maintain the favourable conservation condition of Brent Geese listed as a QI for Dungarvan Harbour SPA
- 2) The permanent loss of 7.5ha of ex situ grazing and foraging habitat as a direct impact of the proposed development, will result in a significant impact on the Conservation Objectives of the Dungarvan Harbour SPA and its QIs and in particular the Light-bellied Brent Geese
- 3) That the NIS and EclA assessment of abundant suitable alternative habitat is an oversimplification of the situation in Dungarvan and
- 4) That significant effects are also likely due to the volume of infill material required to be imported to the site for the raising and reprofiling the level of the site to a new flood protection level of 3.42 AOD and where the NIS has failed to identify and / or thoroughly assess the significance of these indirect and secondary impacts.

5) That the NIS as submitted has not established beyond reasonable scientific doubt based on available evidence that the development would not constitute an adverse impact on the Dungarvan Harbour SPA and in particular the Brent Goose population.

In-Combination Effects

The NIS refers to a “current” planning application with Waterford City and County Council for the construction of 77 no. dwellings on a site located to the north of the subject site. Reg Ref 21346 refers. This application was granted planning permission by WCCC and refused on appeal to the Board for a single reason relating to the over engineered design of the access road, future developed to be service by this road as not been subject TIA and the piecemeal and haphazard development of the scheme.

In August of 2025 and following a third party appeal the Coimisiun granted planning permission 155 dwellings and creche with all associated site works on this site to the north. This permission is not referenced in the NIS and understandably so given the fact that this SHD application was made in 2021. ABP-322509-25 (Reg Ref 2560097) refers.

Nevertheless, there is a hydrological pathway from this site to the north (ABP-322509-25 (Reg Ref 2560097) to the drainage ditch on the northern boundary of this proposed development site. In the absence of mitigation measures there is potential for cumulative impacts on the designated site.

The aforementioned cumulative impacts are dependent on the proposed mitigation measures set out in ABP-322509-25 (Reg Ref 2560097). With reference to the previous application on the site to the north the NIS recommended that should the two projects run concurrently additional monitoring mitigation is proposed to ensure that water entering the drainage ditch on the proposed site is monitored and daily checks are made.

With regard to the in-combination effects on water quality from the cumulative impacts on the Barnawee arising from the operational phase of the proposed development and other future developments. A review of the Uisce Eireann Capacity Register (Published August 2025) on 2nd December 2025 indicated “spare capacity available” in the wastewater treatment capacity in Dungarvan to support 2034 population targets. Subject to compliance with the requirements of Irish Water to upgrade works or a reduction in stormwater entering the public system funded by the developer the pump station can accommodate the proposed development. Further the foul

discharge from the site would be insignificant in both relative and absolute terms in the context of the overall discharge and thus its impact on the overall discharge would be negligible.

The Department of Housing, Local Government and Heritage Nature Conservation in their report states that in relation to in-combination factors, the popularity of the Dungarvan Harbour area for walking (including dog walking) and the development of formal greenways and walkways within and adjoining the SPA and proposals for further development of walkways, disturbance is a concern. In these circumstances undisturbed terrestrial foraging and retreat areas close to the SPA are increasingly important. Activities and events in the vicinity of Dungarvan Harbour SPA that have the potential to impact on the qualifying interests of the SPA have not been considered as part of the In-Combination Effects Section of the NIS.

Having regard to the reference to the previous grant of permission on the site to the north of this SHD and comments of the Department above I am concerned that the assessment of in-combination effects is somewhat outdated. Therefore, I am not satisfied that in-combination effects have been assessed adequately in the NIS and, for valid reasons in relation to more recent grant of permission to the north. It remains that the applicant has not demonstrated satisfactorily that no significant residual effects will remain post the application of mitigation measures and there is therefore potential for in-combination effects.

Findings and Conclusions

The applicant determined that following the implementation of mitigation measures, the construction and operation of the proposed development alone, or in combination with other plans and projects, will not adversely affect the integrity of this European site.

However, having regard to the foregoing assessment I disagree with this conclusion.

Based on the information provided, I am not satisfied that adverse effects arising from aspects of the proposed development can be excluded for the European site considered in the Appropriate Assessment, namely the Dungarvan Harbour SPA. No direct impacts are predicted. However, indirect impacts including water degradation and the loss of a significant and important ex situ winter feeding area for Brent Geese cannot be set aside.

Further, I am not satisfied that the information provided is adequate to allow for Appropriate Assessment. I am not satisfied that all aspects of the project which could result in significant effects

are considered and assessed in the NIS, including in-combination effects and suitable mitigation measures designed to avoid or reduce any adverse effects on site integrity have been included and assessed for effectiveness.

The proposed development could affect the attainment of the Conservation objectives of the Dungarvan Harbour Special Protection Area (SPA) (Site Code: 004032). Adverse effects on site integrity cannot be excluded and reasonable scientific doubt remains as to the absence of such effects.

Appropriate Assessment Conclusion: Integrity Test

In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on Dungarvan Harbour Special Protection Area (SPA) (Site Code: 004032) in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of S177U/ 177AE was required.

Following an examination, analysis and evaluation of the NIS, all associated material submitted and taking into account observations of the Department of Housing, Local Government and Heritage, WC&CCC Heritage Officer, WCCC Planning Authority Submission and third party Observations I consider that adverse effects on site integrity of the Dungarvan Harbour Special Protection Area (SPA) (Site Code: 004032) and ex situ winter feeding sites cannot be excluded in view of the conservation objectives of this SPA and therefore reasonable scientific doubt remains as to the absence of such effects.

My conclusion is based on the following:

- 1) The proposed development site is currently an important feeding and loafing site for Brent Geese and to a lesser extent Black-tailed Godwit, both of which are qualifying interests for the adjacent Dungarvan Harbour Special Protection Area (site code 004032).
- 2) The availability of suitable nearby terrestrial feeding sites is essential to maintain the favourable conservation condition of Brent Geese listed as a QI for Dungarvan Harbour SPA
- 3) The permanent loss of 7.5ha of ex situ grazing and foraging habitat as a direct impact of the proposed development, will result in a significant impact on the Conservation Objectives of the Dungarvan Harbour SPA and its QIs and in particular the Light-bellied Brent Geese

- 4) The NIS and EcIA assessment of abundant suitable alternative habitat is an oversimplification of the situation in Dungarvan
- 5) That significant effects are also likely due to the volume of infill material required to be imported to the site for the raising and reprofiling the level of the site to a new flood protection level of 3.42 AOD and the NIS has failed to identify and / or assess the significance of these indirect and secondary impacts.
- 6) The NIS as submitted has not established beyond reasonable scientific doubt based on available evidence that the development would not constitute an adverse impact on the Dungarvan Harbour SPA and in particular the Brent Goose population.

Appendix 5 - Water Framework Directive Impact Assessment

Stage 1 Screening			
Step 1: Nature of the Project, the Site and Locality			
ABP Ref.	ABP-321838-25	Townland, address	Duckspool, Dungarvan, Co Waterford
Description of project		Construction of 218 residential units (176 houses and 42 apartments), a creche and all associated site works with connections to Uisce Eireann Wastewater and Drinking water infrastructure.	
Brief site description, relevant to WFD Screening		The site is a greenfield site lying to the east of Dungarvan town. The site lies about 100m north of the R675 and about 200m north of Dungarvan beach. There is a local highpoint near the centre of the site, with an approximate level of +3.0m AOD. There are no water courses on the lands. The site is surrounded on three sides by ditches / watercourses which run to the coast. The sites slope gently in a southern and eastern direction, towards a stream that aligns the site boundary. There is an open ditch, from the western corner of the site, and along the southern and eastern boundaries. All surface water runoff, on the existing site, currently infiltrates to the natural ground or discharges to the local open ditches, which in turn convey the runoff to an open watercourse.	

	<p>The SFRA (Appendix 13 of the Waterford City and County Development 2022 – 2028) locates the SHD site (identified as Area 2) within Flood Zone B save for a small section within the centre of the site that is outside the flood zone.</p> <p>The GSI mapping for the area shows that the site is underlain by deposits of Glacial Till overlying Dinantian limestone bedrock.</p> <p>The site is bounded by a green field site to the east, established residential development to the south and west, a recently granted residential scheme, a primary and secondary schools to the north.</p>
Proposed surface water details	<p>It is proposed to separate the surface water and wastewater drainage networks, and provide independent connections to the adjacent watercourse and local wastewater sewer network respectively. Surface water run-off in the proposal will be collected, attenuated on-site, and discharged by gravity to the public network with significant Sustainable Drainage Systems implemented, where practicable.</p> <p>The proposed development incorporates SuDS features, including permeable paving, interception storage, natural infiltration (soils, planting, etc.), 3 no. geocellular storage systems (preceded by petrol interceptors) and limits on discharge. The surface water run-off will be discharged to the public network at greenfield rates. No capacity issues are identified.</p> <p>To address the issues of additional surface water created because of the loss of green field site, where natural soakage would usually occur to the ground, Sustainable Drainage</p>

	<p>Systems (SuDs) are an appropriate way to manage surface and storm water, whilst improving the quality of runoff water. SuDs measures will therefore assist with the slowing down of runoff, thus reducing the potential for flooding and aid to improve the water quality of surface water and storm water runoff in line with the Water Framework Directive (2000).</p>
Proposed water supply source & available capacity	<p>Uisce Eireann mains water connection. Uisce Eireann has provided Confirmation of Feasibility subject to upgrade of the existing 150mm diameter watermain to 200mm diameter for a length of approximately 300m. The upgrades will be required and funded by the developer, in order to facilitate the proposed development.</p> <p>A review of the Uisce Eireann Capacity Register (Published August 2025) on 2nd December 2025 indicated “capacity available” in the water supply in Dungarvan to support 2034 population targets.</p> <p>No capacity issues identified subject to upgrade works identified.</p>
Proposed wastewater treatment system & available capacity	<p>Uisce Eireann Wastewater connection. Wastewater will be collected and discharged by gravity to the public network for treatment. Uisce Eireann has provided Confirmation of Feasibility subject to the upgrading and provision of additional storage at Barnawee Wastewater pumping station. The upgrades will be required and partly funded by the developer, in order to facilitate the proposed development.</p> <p>A review of the Uisce Eireann Capacity Register (Published August 2025) on 2nd December 2025 indicated “spare capacity available” in the wastewater treatment capacity in Dungarvan to support 2034 population targets.</p>

	No capacity issues identified subject upgrade works identified.					
Other	<p>The site is located in Flood Zone B. It is proposed to provide a minimum finished floor level of 3.42mAOD to mitigate risk from tidal and fluvial flooding. This is achieved by raising ground levels in areas of the active floodplain and lowering ground levels in areas outside the active floodplain to provide compensation. There are concerns raised in relation to the volume of material to be imported and traffic implications for same and these are discussed in Section 18.71 of this report above and throughout the assessment.</p> <p>For the purposes of the Water Framework Directive Impact Assessment and subject to the mitigation measures outlined in the Flood Risk Assessment the development is not expected to result in an adverse impact to the existing hydrological regime of the area, will not impact or impede access to a watercourse, flood plain or flood protection and management facilities and would not increase the risk of flooding within the site to or to adjacent lands or property.</p>					
Step 2: Identification of relevant water bodies and Step 3: S-P-R connection						
Identified Waterbody	Distance to (m)	Waterbody name(s) (code)	WFD Status	Risk of not achieving Objective	WFD Identified pressures on the waterbody	Pathway linkage to water feature

River Waterbody	c920m	Deelish Stream (IE_SE_17D030100)	Moderate	Review	Non identified	Surface water run off	
Groundwater Waterbody	Underlying site	Dungarvan (IE_SE_G_052)	Good	Not at risk	Non identified	Drainage to groundwater	
Transitional Waterbody	C150m	Colligan Estuary (IE_SE_140_0100)	Moderate	At risk	Urban waste water	Surface water run off and wastewater	
Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.							
CONSTRUCTION PHASE							
No.	Component	Waterbody receptor	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure	Residual Risk (yes/no) Detail	Determination to proceed to Stage 2. Is there a risk to

							the water environment ?
1.	Site clearance / construction	Deelish Stream	None	Water Pollution - Deterioration of surface water quality from pollution of surface water run-off during site preparation and construction	Implement CEMP	No	Screened out
2.	Site clearance/ construction	Dungarvan	Drainage through soil / bedrock	Reduction in groundwater quality from pollution of surface water run-off	Implement CEMP	No	Screened out

3.	Site clearance/construction	Colligan Estuary	None	Water Pollution - Deterioration of surface water quality from pollution of surface water run-off during site preparation and construction and	Implement CEMP	No	Screened out
OPERATIONAL PHASE							
1.	Surface water run-off	Deelish Stream	None	Deterioration of water quality	Incorporation of silt and oil interceptors to ensure clean discharge	No	Screened out
2.	Groundwater discharges	Dungarvan	Drainage through soil/ bedrock	Reduction in groundwater quality	SuDS and greenfield discharge rates	No	Screened out

3.	Surface water run-off	Colligan Estuary	None	None	SuDS features	No	Screened out
DECOMMISSIONING PHASE							
1.	Decommissioning is not anticipated as this is a permanent residential development.						