S.37

File With

SECTION 131 FORM

Appeal No
PL-500109-WX

Defer Re O/H ☐

Having considered the contents of the submission dated/received **12/01/2026** from **Ellen Power** I recommend that section 131 of the Planning and Development Act, 2000 be/~~not be~~ invoked at this stage for the following reason(s):

No new issues raised.

Section 131 not to be invoked at this stage ☑

Section 131 to be invoked — allow 2/4 weeks for reply ☐

Signed: Cathy Carelton
EO

Date: 21/1/26

Signed
SEO/SAO

Date

M

Please prepare BP ..... — Section 131 notice enclosing a copy of the attached submission.

To

Task No

Allow 2/3/4 weeks: BP

Signed
EO

Date

Signed
AA

Date

Response

Correspondence Coversheet

Case Number	Case Priority	Case Lodged On	Case EO	PA Reg. Reference
PL-500109-WX	Normal	21/10/2025	Cathy Carleton	20250962W

Case Details

Planning Authority
Wexford County Council

PA Reg. Reference
20250962W

Summary Description
10 year planning permission for development of an Integrated Tourism Resort Complex. A Natura Impact Statement (NIS) and Environmental Impact Assessment Report (EIAR) has been submitted with the application.

Site Location
Beak and Nemestown, Kilmore Quay, Co. Wexford.

Correspondence Details

Correspondence Type	Received From	Lodged On	Validity	Valid OH Req
Response	Ellen Power	12/01/2026	Valid	No

Issue	Participant	Representative
BP23 — English	Ellen Power	—

Response Date Applicable	Number of Days Allowed	Keep Copy of Letter	Return Docs	Keep Envelope
☐	—	☐	☐	☐

Comments
—

Filing

Attach to File
☐

Return to EO
☑

Cathy

Signatures

Signed
Cathy Carleton
Cathy Carleton, Executive Officer

Date
14/01/2026

Signed
Anne Moloney
Lauren Simone Murphy, Administrative Assistant

Date
15/1/26

The Secretary,
An Coimisiun Pleanála,
64 Marlborough Street,
Dublin 1, D01 V902

9 January 2026

AN COIMISIÚN PLEANÁLA
LDG- _____
ACP- _____
1 2 JAN 2026
Fee: € _____ Type: _____
Time: _____ By: Reg post

Re: response of SCA Planning

Case Number PL-500109-WX, Reference Number 20250962W

Dear Sirs

I would like to reply to the submission of SCA Planning dated 01.12.2025:

Failure to Address Evidence-Based Objections on Physical Road Constraints

Multiple third-party submissions provided **measured, site-specific evidence** demonstrating that the existing road and footpath infrastructure—particularly through Echo Beach Estate—**cannot physically accommodate** the pedestrian, cycle and vehicular movements generated by the proposed development.

The developer's reply does not engage with this evidence. It does not dispute the recorded dimensions of the carriageway (4.88–5.32m), footpaths narrowing to 1.12m, or the presence of fixed boundary walls, piers and access gates creating pinch points. Nor does it provide revised drawings demonstrating how DMURS-compliant footpaths, cycle lanes and raised tables could be retrofitted within these constraints.

Instead, the response relies on general references to policy support for active travel and future design at construction stage. This is insufficient. Irish planning law is clear that **core access** arrangements must be demonstrated as feasible at application stage. A permission that depends on overcoming physical constraints which are not addressed in drawings or assessments is legally vulnerable. Conditions cannot be used to require the impossible.

This failure to address detailed, technical objections constitutes a material omission, particularly where those objections are supported by DMURS, NTA Cycle Design Manual and accessibility standards, all of which are mandatory considerations for the competent authority.



2. Unresolved Conflict Between Planning Conditions and Physical Reality

Wexford County Council attached conditions requiring:

- Minimum 2m footpaths throughout the development;
- Cycle lanes of at least 2m width;
- Raised tables giving pedestrian and cyclist priority at all junctions;
- Ramped crossings suitable for disabled users.

Objectors demonstrated that there is no physical corridor within the existing estate roads or along the proposed linkages to deliver these requirements without land take from third-party properties or removal of boundary walls and gates.

The developer's reply does not reconcile this conflict. It neither proposes land acquisition nor redesigns the access strategy to avoid constrained areas. This leaves the permission internally inconsistent: compliance with conditions would require works that are not assessed, not consented, and not legally secured.

An Bord Pleanála has consistently held that where compliance with conditions would necessitate third-party land or substantial redesign, the application must be refused rather than deferred.

3. Continued Reliance on Access Routes Without Legal Certainty

Several objections highlighted that the proposed pedestrian and cycle access routes rely on lands described as a "mass path" which, according to sworn landowner statements, do not exist in law or on the ground.

The developer's reply asserts that no access is proposed without consent, yet does not provide documentary proof of public right of way, dedication, or prescriptive access. Nor does it address the contradiction between its drawings and the landowners' evidence I Folios and historical use evidence.

This is not a minor technicality. Access is central to the sustainability narrative of the development. Where that access is legally uncertain, the development's compliance with mobility, climate and planning policy collapses. A competent authority cannot lawfully assume that access will be available in the absence of evidence.

4. Failure to Engage with Lived Evidence of Water Supply Failure

Residents' objections provided contemporaneous evidence of:

- Repeated water outages lasting 3–6 hours;
- Chronic low pressure;
- Inability of fishing trawlers to fill water tanks;
- Formal warnings from Uisce Éireann of further outages.

The developer's reply does not meaningfully engage with this evidence. Instead, it relies on theoretical yield calculations and short-term pumping tests, while asserting—without evidence—that the development will "improve" water supply to the village.

No reconciliation is offered between the claimed availability of 241 m³/day and the documented reality of frequent service failure. There is no drought-scenario modelling, no cumulative abstraction assessment, and no binding guarantee that the development will not draw on public supply during peak stress periods.

The precautionary principle applies where there is credible evidence of existing system failure. The reply's dismissal of climate stress as "uncertain" is inconsistent with statutory climate obligations and EU water law.

5. Wastewater Capacity Concerns Remain Substantially Unanswered

While water supply is discussed at length, wastewater treatment capacity is not subjected to equivalent scrutiny in the developer's reply.

Objectors highlighted that:

- The upgraded Kilmore Quay WWTP is already operating at or near capacity;
- Resort wastewater flows could exceed available headroom;
- Approximately 90% of water demand will return as effluent;
- This risks blocking capacity for permanent housing and local development, contrary to WCDP Objective TM53.

The reply does not provide updated hydraulic loading figures, seasonal peak analysis, or cumulative assessments incorporating tourism events, staff accommodation or climate-related inflow and infiltration.

In a coastal Natura 2000 context, this omission is particularly serious. Nutrient loading is a known pathway for indirect effects on designated sites, and uncertainty on wastewater capacity undermines the integrity of the AA/NIS conclusions.

6. AA/NIS Still Relies on Deferred and Unspecified Mitigation

Objectors consistently raised concerns that mitigation measures in the AA/NIS are:

- Introduced only at Stage 2;
- Described in general terms;
- Dependent on future Construction Environmental Management Plans, Ecological Clerks of Works, or "best practice".

The developer's reply does not cure this defect. It reiterates reliance on monitoring and oversight rather than presenting binding, spatially defined mitigation that allows the competent authority to conclude beyond reasonable scientific doubt that no adverse effects will occur.

EU case law (People Over Wind, Sweetman, Holohan) is clear that mitigation cannot be used to screen out impacts, nor can certainty be deferred to post-consent stages. The reliance on conditions requiring mitigation "within timescales listed in the EIAR and NIS" is particularly problematic where those timescales are not clearly specified.

7. Inadequate Response to Cumulative and In-Combination Effects

Numerous objections raised cumulative impacts arising from:

- Traffic growth;
- Lighting associated with roads, parking and public lighting conditions;
- Recreational pressure on sensitive coastal habitats;
- Climate-driven stressors including drought and storm intensity.

The developer's reply treats these issues in isolation and frequently normalises impacts by reference to existing development. This approach is contrary to EU law, which requires cumulative effects to be assessed precisely because background pressure already exists.

The imposition of additional public lighting as a condition directly contradicts assurances in the NIS that lighting impacts will be minimal, yet this contradiction is not addressed.

8. Internal Inconsistencies in the Permission Itself Remain Unexplained

Objectors identified a condition requiring EV infrastructure in a "multi-storey car park", despite no such structure being included in the application or assessed in the EIAR or NIS.

The developer's reply does not address this inconsistency. This raises serious legal issues:

- A multi-storey car park would materially alter visual impact, traffic circulation, lighting, drainage and fire safety considerations;
- None of these impacts were assessed;
- A condition cannot introduce an unassessed form of development.

This alone places the permission at significant risk.

9. Community and Economic Claims Remain Speculative

Objections questioned whether the claimed economic benefits would materialise locally, given the self-contained nature of the resort and documented staffing shortages in the hospitality sector.

The reply repeats aspirational statements but provides no binding mechanisms—such as local employment agreements, transport plans, or integration measures—that would secure the claimed benefits.

In contrast, the infrastructural and environmental impacts are immediate, quantifiable and borne by the existing community.

Summary for the Board

Taken together, the unresolved objections demonstrate that the developer's reply does not remedy the core weaknesses of the application. Instead, it:

- Avoids engaging with site-specific technical evidence;
- Defers critical feasibility issues to conditions;
- Relies on legally uncertain access arrangements;
- Downplays existing infrastructure failure;
- Leaves material environmental risks insufficiently assessed.

These deficiencies go to the heart of proper planning and sustainable development and expose the permission to legal risk under Irish and EU law.

Ellen Power

The Beak

Kilmore Quay