



Planning Appeals  
Commission



Water Appeals  
Commission

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██████████  
DfI Planning

**DATE**

16 October 2024

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By Email

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Dear ██████████

2021/C005 - a Public Local Inquiry under Section 26(10) of the Planning Act (Northern Ireland) 2011 for planning application LA10/2017/1249/F

2021/C006 – a Public Local Inquiry under Section 29(6) of the Planning Act (Northern Ireland) 2011 for planning application LA10/2019/1386/F

2021/C007 – a Public Local Inquiry under Section 29(6) of the Planning Act (Northern Ireland) 2011 for planning application LA11/2019/1000/F

Thank you for your letter dated 15 October 2024.

As you should be aware, the administration of the inquiry process has been set out in documents which are available on the Commission's website. As is usual practice, the Commission will outline our role at the start of the hearing sessions, but it is not for the Commission to inform the parties of the Department's position. This should be set out in your statement of case and you will also be provided with an opportunity to speak at the inquiry sessions. Whilst the Department is entitled to take a neutral stance it is expected that it will be in attendance, as referring authority, to respond to questions pertaining to the issues raised in respect of the planning applications.

Reference is made in your letter to a response from NIEA, but it is not clear if that relates to the consultation response dated March 2021. You will be aware that this issue was before the Department at the time of the Pre-Inquiry meeting, when you confirmed on behalf of the Department, that you would not be seeking further environmental information (FEI). Alternatively, it may relate to later correspondence which has not been shared with the Commission. As outlined in previous correspondence, the Commission does not have the power to request FEI when conducting a public inquiry. This is a power which rests with the Department when an application is processed under Section 26 or Section 29 of the Planning Act (Northern Ireland) 2011. The relevant provisions are set out under Regulation 23(1) and (2) of The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015 and Regulation 21(1) and (2) of the 2017 regulations.

If the Department is now of the opinion that FEI is required in light of the 'Finch judgement' and the

fisheries reports referred to in your letter, then it should take the appropriate steps in accordance with the statutory framework. To write to the Commission three days before the date for the submission of evidence and advise that it is for the applicant to '*consider whether*' such information should be provided is an abdication of authority and unhelpful, especially at such a late stage. If the Department considers that the information is necessary to inform its ultimate decision making then it should engage with the legislative provisions and correspond directly with the applicant. We would ask that the Commission is copied in on any requests for FEI given the implications that it may have on timings for the inquiry.

The Habitats Regulations Assessment is a matter for the competent authority to have completed prior to making their decision. It is therefore a matter outwith the confines of the public inquiry which as you rightly point out is to consider representations that have been made in relation to the applications for planning permission. Accordingly, the timetable set out in the Commission's correspondence of 11<sup>th</sup> September 2024 must be adhered to.

The Commission also takes this opportunity to remind the Department of the legislative requirement to publish notice of the inquiry. If the Department has already done so, we would ask that you forward a copy of the advertisement.

In line with the Commission's policy of openness and transparency, this correspondence will be uploaded to the Commission's website.

Yours sincerely

Chief Administrative Officer