



Planning and Development Acts 2000 to 2022

Planning Authority: Louth County Council

Planning Register Reference Number: 24/60321

Appeal by Arthur O'Hare and Others of Doylesfort Road, Dundalk, County Louth and by Colette and Frank Brady of Brickfield House, Newry Road, Dundalk, County Louth against the decision made on the 1st day of August, 2024 by Louth County Council to grant subject to conditions a permission to FJ Developments Limited care of Genises Planning Consultants of Dean Swift Building, Armagh Business Park, Hamiltonsbawn Road, Armagh, Northern Ireland in accordance with plans and particulars lodged with the said Council.

Proposed Development: Provision of a total of 205 number residential units along with provision of a crèche. Particulars of the development comprise as follows:

- (a) Site excavation works to facilitate the proposed development to include excavation and general site preparation works which will include for infilling and raising of existing ground levels via importing inert material;
- (b) Provision of a total of 78 number residential dwellings which will consist of the following unit mix: - 38 number three bed semi-detached dwellings (house type A) - 20 number three bed semi-detached dwellings (house type B) – eight number three bed semi-detached dwellings (house type C) – eight number four

bed semi-detached dwellings (house type C) four number four bed detached dwellings (house type D);

- (c) Provision of a total of 127 number apartments/duplex units consisting of 10 number one bed units, 113 number two bed units and four number three bed units across six number buildings which will range in height from two storeys to five storeys;
- (d) Provision of a creche;
- (e) Provision of associated car parking at surface level via a combination of in-curtilage parking for dwellings and via on-street parking for the creche, duplexes and apartment units;
- (f) Provision of electric vehicle charge points with associated site infrastructure ducting to provide charge points for residents throughout the site;
- (g) Provision of associated bicycle storage facilities at surface level throughout the site and bin storage facilities;
- (h) Creation of a new access point for vehicles, pedestrians and cyclists from Newry Road to incorporate junction upgrade works;
- (i) Provision of a pedestrian and cyclist access from Forkhill Road;
- (j) Provision of internal access roads and footpaths and associated works;
- (k) Provision of residential communal open space areas and public open space areas to include a formal play area along with all hard and soft landscape works with public lighting, planting and boundary treatments to include boundary walls, railings and fencing;
- (l) Provision of one number ESB substation;

- (m) Internal site works and attenuation systems to include for a headwall along with a hydrocarbon and silt interceptor on the storm network prior to discharge to the storm outfall pipe from the site;
- (n) All ancillary site development/construction works to facilitate foul, water and service networks for connection to the existing foul, water, gas and ESB networks.

all on lands at Lisdoo Townland, Dundalk Town, County Louth.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

In arriving at its decision, the Board had regard to the following:

- (a) Policies and objectives set out in the National Planning Framework 2040 and the Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031.
- (b) Policies and objectives set out in the Louth County Development Plan 2021-2027 as varied, including the location of the site on lands subject to Zoning Objectives 'A2 – New Residential Phase 1', 'A1 – Existing Residential', and 'H1 – Open Space' and the permitted uses therein.
- (c) Housing for All, A New Housing Plan for Ireland, 2021.
- (d) Climate Action Plan, 2024.
- (e) Objectives and targets of the National Biodiversity Action Plan 2023-2030.
- (f) The Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities, 2024.
- (g) The Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2023.
- (h) The Urban Development and Building Heights, Guidelines for Planning Authorities, 2018.
- (i) The Design Manual for Urban Roads and Streets, 2013, updated 2019.
- (j) The Childcare Facilities, Guidelines for Planning Authorities, 2001.

- (k) The Planning System and Flood Risk Management, Guidelines for Planning Authorities, 2009.
- (l) The Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities, 2021, updated 2023.
- (m) The Development Management, Guidelines for Planning Authorities, 2007.
- (n) The nature, scale, and design of the proposed development.
- (o) The availability in the area of a range of social, community, and transport infrastructure.
- (p) The pattern of existing and permitted development in the area.
- (q) The planning history at the site and within the area.
- (r) The reports of the planning authority.
- (s) The submissions received by the planning authority from observers and prescribed bodies.
- (t) The grounds of appeal.
- (u) The response to the grounds of appeal by the applicant, and
- (v) The report and recommendation of the Planning Inspector including the examination, analysis and evaluation undertaken in relation to Appropriate Assessment and Environmental Impact Assessment.

Appropriate Assessment – Stage 1:

The Board completed a screening for Appropriate Assessment (Stage 1) and determined that the project may have significant effects on the Dundalk Bay Special Protection Area (Site Code: 004026) and the Dundalk Bay Special Area of Conservation (Site Code: 000455) in view of the sites' Conservation Objectives and qualifying interests. The Board determined that an Appropriate Assessment (Stage 2) is required of the implications of the project on same. The Board is satisfied that the possibility of likely significant effects by the project on other European Sites could be excluded in view of the nature and scale of the project, and the absence of meaningful pathways to other European Sites.

Appropriate Assessment – Stage 2:

The Board considered the Natura Impact Statement submitted by the applicant and all other relevant documentation, including submissions on the case file and completed an Appropriate Assessment (Stage 2) of the implications of the project on the Dundalk Bay Special Protection Area (Site Code: 004026) and the Dundalk Bay Special Area of Conservation (Site Code: 000455) in view of the sites' Conservation Objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

The Board concluded that the project, individually or in combination with other plans or projects, would not adversely affect the integrity of the Dundalk Bay Special Protection Area (Site Code: 004026) and the Dundalk Bay Special Area of Conservation (Site Code: 000455) in view of the sites' Conservation Objectives and qualifying interests.

This conclusion is based on:

- An assessment of all aspects of the project including proposed mitigation measures in relation to the Conservation Objectives of the Dundalk Bay Special Protection Area and the Dundalk Bay Special Area of Conservation.
- An assessment of in-combination effects with other plans and projects, including historical and current plans and projects.
- There being no reasonable scientific doubt as to the absence of adverse effects on the integrity of the Dundalk Bay Special Protection Area and the Dundalk Bay Special Area of Conservation.

Environmental Impact Assessment Screening:

The Board completed an Environmental Impact Assessment screening determination of the project and considered that the Environmental Impact Assessment Screening Report and other documents submitted by the applicant identify and describe adequately the direct, indirect, and cumulative effects of the project on the environment.

Regard has been had to:

- (a) The nature and scale of the project, which is below the thresholds in respect of Class 10(b)(i) and Class 10(b)(iv) of the Planning and Development Regulations 2001, as amended.
- (b) The location of the site on zoned lands and other relevant policies and objectives in the Louth County Development Plan 2021-2027, and the results of the strategic environmental assessment of this plan undertaken in accordance with the SEA Directive (2001/42/EC).

- (c) The greenfield nature of the site and its location in an outer suburban area which is served by public services and infrastructure.
- (d) The pattern of existing and permitted development in the area.
- (e) The planning history at the site and within the area.
- f) The location of the site outside of any sensitive location specified in article 109(4)(a) the Planning and Development Regulations 2001, as amended and the absence of any potential impacts on such locations.
- (g) 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).
- (h) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended.
- (i) The available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the EIA Directive, and
- (j) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including those identified in the outline Construction Management Plan, Ecological Impact Assessment, Natura Impact Statement, Landscape Management and Maintenance Plan, Arboricultural Report, Tree Protection Plan, Flood Risk Assessment, and Archaeological Impact Assessment.

In so doing, the Board concluded that by reason of the nature, scale and location of the proposed development, the development would not be likely to have significant effects on the environment and that an Environmental Impact Assessment and the

preparation of an Environmental Impact Assessment Report would not, therefore, be required.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that, subject to compliance with the conditions set out below, the proposed development would be consistent with the applicable 'A2 – New Residential Phase 1', 'A1 – Existing Residential', and 'H1 – Open Space' zoning objectives and other policies and objectives of the Louth County Development Plan 2021-2027, would result in an appropriate density of residential development, would constitute an acceptable mix and quantum of residential development, would provide acceptable levels of residential amenity for future occupants, would not seriously injure the residential or visual amenities of property in the vicinity, would not cause adverse impacts on or serious pollution to biodiversity, lands, water, air, noise or waste, would be acceptable in terms of pedestrian, cyclist and traffic safety and convenience, and would be capable of being adequately served by water supply, wastewater, and surface water networks without risk of flooding, and would be in compliance with the Climate Action Plan. Furthermore, the Board has performed its functions in relation to the making of its decision, in a manner consistent with Section 15(1) of the Climate Action and Low Carbon Act 2015, as amended by Section 17 of the Climate Action and Low Carbon Act 2021 and was satisfied that a permission for the proposed development would be consistent with national climate ambitions and with the relevant provisions of the Climate Action Plan 2024. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Mitigation and monitoring measures outlined in the submitted Natura Impact Statement shall be implemented.

Reason: To protect European Sites.

3. (a) Mitigation and monitoring measures outlined in the plans and particulars, including the outline Construction Management Plan, Ecological Impact Assessment, Landscape Management and Maintenance Plan, Arboricultural Report, Tree Protection Plan, and Flood Risk Assessment, submitted with this application shall be carried out in full, except where otherwise required by conditions attached to this permission.

(b) Prior to commencement of development, the developer shall submit a comprehensive list of mitigation and monitoring measures from the named reports and a corresponding timeline/ schedule for implementation of same to the planning authority for its written agreement.

Reason: In the interest of protecting the environment, public health, and clarity.

4. (a) Prior to commencement of development, the developer shall engage the services of a suitably qualified archaeologist to carry out under licence archaeological excavation/ conservation by record of the features and deposits identified in the Archaeological Impact Assessment report as AA1-AA3 and the post-medieval structural remains. All ground works associated with the proposed development shall be monitored under licence by a suitably qualified archaeologist.
- (b) Should further archaeological material be found during the course of the ground works, the work on the site shall be stopped pending a decision as to how best to deal with the archaeology. The developer shall be prepared to be advised by the Department of Housing, Local Government and Heritage with regard to any necessary mitigating action (e.g. preservation in situ, or excavation) and should facilitate the archaeologist in recording any material found.
- (c) Having completed the work, the archaeologist shall submit a written report stating their recommendations to the planning authority and to the Department of Housing, Local Government and Heritage.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

5. Prior to commencement of development, a Resource Waste Management Plan (RWMP) as set out in the EPA's 'Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects' (2021) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of proper planning and sustainable development.

6. Prior to the commencement of development, a Construction Environmental Management Plan (CEMP) shall be prepared and submitted to the planning authority for written agreement. The CEMP shall incorporate details for the following: collection and disposal of construction waste, surface water run-off from the site, on-site road construction, and environmental management measures during construction including working hours, noise control, dust and vibration control and monitoring of such measures. A record of daily checks that the construction works are being undertaken in accordance with the CEMP shall be kept at the construction site office for inspection by the planning authority. The agreed CEMP shall be implemented in full in the carrying out of the development.

Reason: In the interest of residential amenities, public health and safety.

7. (a) Prior to commencement of development, proposals for a development name and numbering scheme, and associated signage shall be submitted to and agreed in writing with the planning authority. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.
- (b) The development name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/ marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

8. Details of the materials, colours, and textures of all the external finishes to the proposed buildings and boundary treatments shall be as submitted with the application, unless otherwise agreed in writing with the planning authority.
Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

9. Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall take account of trees within Proposed Landscape Masterplan drawing number 7573-L-2000. Such lighting shall be provided prior to the making available for occupation of any residential unit.
Reason: In the interest of amenity and public safety.

10. Prior to commencement of development, the developer shall enter into a connection agreement(s) with Uisce Éireann to provide for a service connection(s) to the public water supply and/or wastewater collection network.
Reason: In the interest of public health.

11. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays, inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.
Reason: In order to safeguard the residential amenities of property in the vicinity.

12. The development shall be implemented subject to the following:

- (a) The development of the site shall be undertaken in a phased manner in accordance with Proposed Site Plan Phasing drawing number. 40389-207 subject to condition number 11(c) below, unless otherwise agreed in writing with the planning authority.
- (b) Construction of Phase 2 shall not be commenced until such time as the childcare facility (included in Phase 1) is constructed and available for use to the satisfaction of the planning authority.
- (c) The occupation of residential units within each phase shall be restricted until the public and/or communal open spaces to serve that phase has/ have been developed, landscaped, and made available for use, to the satisfaction of the planning authority.

Reason: In the interest of orderly development and to ensure the timely provision of amenities and infrastructure for future residents.

13. Drainage arrangements including (i) the attenuation and disposal of surface water, and (ii) maintenance of the storm network to its outfall with the Castletown River, shall comply with the requirements of the planning authority for such works and services.

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

14. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of visual and residential amenity.

15. All roads and footpaths and cycleways where applicable shown to adjoining lands shall be constructed up to the boundaries to provide access to adjoining lands with no obstruction, including the erection of any structure which would otherwise constitute exempted development under the Planning and Development Regulations 2001, as amended. These areas shall be shown in a drawing which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of permeability and proper planning and sustainable development.

16. The following shall be complied with:

(a) Prior to commencement of development, the developer shall submit to the planning authority for written agreement, a drawing(s) and traffic light signalling (phasing/ sequencing) for the main junction with the Newry Road (R215). All construction work associated with the junction and traffic signals shall be undertaken at the developer's expense and completed to the satisfaction of the planning authority prior to the occupation of any dwelling units.

(b) Upon completion and operation of the traffic signals, the applicant shall apply a new road surface to the area of public road(s) contained within the development boundary (i.e., Newry Road, Racecourse Road, and Seaview Terrace) in accordance with relevant TII Publication. Prior to undertaking said works, the developer shall liaise with the planning authority to agree the extent of road resurfacing works.

(c) The links with the adjoining development to the west (Lismullen Grove) shall be fully constructed to the satisfaction of the planning authority prior to occupation of any dwelling units.

- (d) Prior to commencement of development, the developer shall submit to the planning authority for written agreement a landscaping plan for the detention pond/attenuation area of the development. As part of this landscaping plan the developer shall submit from the Project Supervisor Design Phase (PSDP) a Designers Risk Assessment identifying risks, hazards and mitigation measures.
- (e) No temporary access arrangements to the development are permitted to/ from Armagh Road (R177). All work traffic/deliveries shall be via the main entrance on Newry Road.

Reason: In the interest of traffic, pedestrian and cyclist safety, and sustainable transport.

17. The internal road network serving the proposed development, including carriageway widths, corner radii, turning bays, junctions, set down/ drop off area(s), parking areas, footpaths, kerbs, pedestrian crossings, raised tables, and cycle lanes shall be in accordance with the detailed construction standards of the planning authority for such works, and design standards outlined in the Design Manual for Urban Roads and Streets and the National Cycle Manual issued by the National Transport Authority.

Reason: In the interest of traffic and pedestrian safety.

18. All the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving the residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

19. (a) The management and maintenance of the development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being so taken in charge.
- (b) The communal open spaces, hard and soft landscaping, car and cycle parking areas, access ways, refuse/bin storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by the legally constituted management company.
- (c) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

Reason: In the interest of orderly development and to provide for the satisfactory future maintenance of this development.

20. (a) The areas of communal and public open space in the development shall be reserved for such use, levelled, contoured, soiled, seeded, and landscaped (hard and soft) in accordance with the landscaping plans and particulars as submitted with the application unless otherwise agreed in writing with the planning authority.
- (b) Final design, finishes, methods of construction and/or installation of footpaths, cycle paths, seating, crossing points over ditches/ drains/ SuDS features, and equipment in play areas shall be submitted to the planning authority for its written agreement.

- (c) The landscaping work shall be undertaken in accordance with the phasing requirements stipulated in condition number 12 of this Order and shall be completed before the applicable residential units are made available for occupation, unless otherwise agreed in writing with the planning authority.
- (d) The landscaping and planting schedule shall be managed and maintained in accordance with the Landscape Management and Maintenance Plan submitted with the application, unless otherwise agreed in writing with the planning authority. This schedule shall cover a period of at least three years and shall include details of the arrangements for its implementation.
- (e) The areas of communal and public open space shall be reserved and maintained as such by the developer until taken in charge by the management company or by the local authority.

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

21. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials within each house plot and/or for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained and waste shall be managed in accordance with the agreed plan.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage for the proposed development.

22. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and sections 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

23. (a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant residential units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

24. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the planning authority and/ or management company of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

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

25. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Eamonn James Kelly

Eamonn James Kelly

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this *13th* day of *December*, 2024.