



An  
Bord  
Pleanála

## Inspector's Report PL15.248892

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<b>Development</b>	Outline Permission for dwellinghouse and associated works
<b>Location</b>	Chapel Pass, Blackrock, Dundalk, Co. Louth
<b>Planning Authority</b>	Louth County Council
<b>Planning Authority Reg. Ref.</b>	17/123
<b>Applicant</b>	Uwe Albrecht
<b>Type of Application</b>	Outline Planning Permission
<b>Planning Authority Decision</b>	Granted Outline Permission, with Conditions
<b>Type of Appeal</b>	Third Party
<b>Appellants</b>	John Bastible and Others
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	12 <sup>th</sup> October 2017
<b>Inspector</b>	L.W. Howard

## 1.0 Site Location and Description

- 1.1. The c.0.0924ha application site is located c.250m south along Chapel Pass from its junction with Rock Road.
- 1.2. The site comprises the north-western portion of the rear garden of an existing property developed with a large single house. This parent property is located at the northern end of Church Park, a cul-de-sac with its junction off the Coast Road / R172 to the southeast.
- 1.3. The site has a c.26m northern frontage onto Chapel Pass. At present the parent property has no opening onto Chapel Pass. Rather, the northern boundary frontage comprises mature, dense and overgrown hedgerow and fencing.
- 1.4. Topographically the site / parent property slopes north to south away from Chapel Pass. Whilst overgrown and generally un-kept, the site comprises what was a well landscaped and planted domestic garden to the large dwellinghouse on the parent property.

## 2.0 Proposed Development

- 2.1. A dwellinghouse and associated site development works.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. Outline planning permission granted, subject to 5no. Conditions.
- 3.1.2. In the context of the 3<sup>rd</sup> Party Appeal lodged, the following are considered relevant –
  - C3(i)-(iii) & (vii) Road access and traffic safety.
  - C3(iv) Surface water drainage and disposal.
  - C3(v) & (vi) Mitigation of impact to, and restoration of public road / footpath consequent of construction works.
  - C4(a) Removal of roadside hedgerow to enable access and satisfactory sight distances.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The Planning Officers reports can be summarised as follows :

#### Principle of Development

- Confirm application site location on 'Residential 1' zoned lands.
- The principle of the proposed residential development and the consequent site development works are in accordance with the 'Residential 1' zoning objective.

#### Core Strategy Variation No.1 Dundalk & Environs Development Plan

- Note application site location on Residential 1 lands, outside the urban core area and Phase 1 of the Core Strategy.
- Policy CS1 excludes development on brownfield / infill sites from having to comply with the phasing.
- The application site is c0.1ha in area and the proposed development is for 1no. dwellinghouse.
- Note the definition of an 'infill site' as provided in the 'Planning Guidelines on Sustainable Residential Development in Urban Areas 2007'. Accordingly consider the application site as an 'infill site'. Therefore, believe that development of the application site is precluded from the requirement to comply with the phasing set out in the core strategy (ie. as per Policy CS1).

#### Design, Scale and Form

- Being an application for 'outline planning permission', no detail of the proposed dwelling design is submitted.
- Note the FFL as +14.50m. This is below the existing road level along this section of Chapel Pass and c.1.3m below the level of the neighbouring house to the west. Consider this as acceptable as it would allow for a ridge-height suitable for a single storey or dormer dwellinghouse.
- The final design to be assessed and decided at the 'Permission consequent on Outline' planning permission stage.

### Open Space

#### Public Open Space

- No public open space required for a single dwellinghouse.

#### Private Open Space

- Objective HC19 requires that a minimum of 80m<sup>2</sup> be provided to serve the proposed development.
- The proposed development provides for both a front and rear garden, with the latter c.300m<sup>2</sup>. This greatly exceeds the minimum standard.
- Private open space proposed is of sufficient quality and area.

### Part V – Social and Affordable Housing

- Anticipate that the proposed development is exempt from the provisions of Section 96 of the Planning Act 2000 (as amended), regarding the provision of Part V housing (ie. social and affordable housing).
- However the applicant has not addressed this matter (ie. an Exemption Certificate)
- To be addressed by way of 'Further Information' (F.I.).
- Exemption Certificate 2017/21 lodged as F.I. with the Planning Authority.
- Determined that the proposal for a single dwellinghouse on the site is exempt from the provisions of Part V (ie. Social and Affordable Housing).

### Impact on adjoining properties

- No adverse impact on the residential amenities of property in the area to the west and / or the east, will result from this infill development.
- However, full assessment of threats to residential amenity reserved for the application for 'permission consequent of outline planning permission'.

### Natura 2000 Sites

- The application site is not located within a Natura 2000 site.
- The nearest such sites are c.125m away.
- However, no source / pathway / receptor routes are clearly apparent between the application site and the nearest Natura Site.

- Therefore the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on any Natura 2000 site.
- Accordingly, having regard to the nature and scale of development proposed, no appropriate assessment issues arise

#### Sanitary Services and Flooding Matters

- The site is served with public water services.
- Therefore, there are no concerns regarding 'public health'.
- The site is not located within either –
  - the area identified as 0.5% flood event or 1:200 (see OPW ICPSS Study 2010), or
  - the area of known fluvial flooding (see OPW flood maps)
- Therefore no concerns regarding flooding of the application site.
- Note 'Irish Water' request for further information (F.I.) detailing the proposed foul water connection.
- In response drawings submitted by the applicant detailing the proposed foul sewer connection. Distinguish that part of the proposed foul drain shall pass through lands outside of the application site boundary, but through lands owned by the applicant. Confirm that a 'wayleave agreement' ensuring access to this drain for repair and maintenance purposes, shall be registered as a burden on the title of these adjacent lands in the event that planning permission is granted and the foul drain installed.
- Subsequent to F.I. submission reference the 'Irish Water' no objection opinion.

#### Infrastructure Roads and Parking

- Reference the County 'Infrastructure Section' report dated 16<sup>th</sup> March 2017.
- The Infrastructure Section recommend no objection to the proposed development, subject to Conditions.

#### Development Contributions

- Having regard to Article 5.0 of the Louth County Development Contribution Scheme 2016-2021, contributions calculated as :

- €4,200 for Class 1 Infrastructure
- €1,200 for Class 2 Amenity
- Total contribution - €5,400.

#### Conclusion

- A dwelling could be facilitated on this site in principle and would be in accordance with the zoning objectives for the area.
- Recommend 'outline' permission be granted, subject to conditions.

### 3.2.2. Other Technical Reports

Infrastructure Section	No Objection, subject to Conditions. Of relevance is the Condition requiring revision and resubmission of the surface water design detail at the full application stage, should the proposed impermeable area be increased.
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### 3.3. **Prescribed Bodies**

Irish Water Further Information (F.I.) request detailing the proposed foul water connection. Subsequent to consideration of F.I. details recommend No Objection, subject to Conditions.

### 3.4. **Third Party Observations**

3.4.1. Seven (7no.) 3<sup>rd</sup> party submissions received by the Planning Authority in response to the application.

3.4.2. The issues argued included :

- The restrictive capacity of Chapel Pass, including the absence of footpaths is not conducive to the safe free flow of traffic and pedestrians.
- A more suitable access is available through Church Park.
- Site location close to a blind corner.
- The section of road in front of the site is not taken in charge. It is maintained by the residents along this section. The applicant has never contributed to this maintenance of the laneway.

- 04/1575 – historical permission granted on this site for a dwellinghouse. Access was via Church Park where there are only 4no. houses.
- Flooding on Chapel Pass. The proposed development would result in deterioration of Chapel Pass and the worsening of flooding.

## 4.0 Planning History

**04/1575** Outline Planning Permission granted to Uwe Albrecht for 2no. dwellinghouses, new site entrances and all associated site works, at Church Park, Blackrock, Dundalk, subject to 10no. Conditions

**17/14** Application by Uwe Albrecht for Outline Planning Permission for development consisting of a dwellinghouse and associated site development works.

Application - withdrawn

## 5.0 Policy Context

### 5.1. Development Plans

#### **Louth County Development Plan 2015 - 2021**

Enables a countywide framework

#### **Dundalk and Environs Development Plan 2009 - 2015**

Relevant provisions include (see copies attached):

#### Table 2.3 Land Use Zoning Objectives

Zoning Objective '**RES 1**' "Residential : To protect and improve existing residential amenities, and to provide for infill and new residential developments".

Residential land use is a "permitted use" within the '**RES 1**' Zone.

The application site is designated with the '**RES 1**' Zoning Objective.

## Ch6 Housing and Community Facilities

S6.5 Sustainable Residential Development

S6.6 Design Guidelines

6.6.7 Infill / Backland Development

Including – Density; Design and Scale; Access; Materials and Form and Open Space.

S6.7 **Residential Development Standards**

Including – Density; Private Amenity Space (Table 6.4 – 80m<sup>2</sup> required); Car Parking; Privacy and Spacing between buildings; Internal Space requirements; Waste Storage; Utility Services and Boundary Walls.

### **Variation No.1 – Core Strategy to the Dundalk and Environs Development Plan 2009 - 2015**

CS1 “To promote sustainable development on brownfield / infill sites by excluding such sites from the requirement to comply with the phasing strategy throughout the Plan Area”

CS2 “To apply the phasing of new residential development as per the phasing strategy set out, whereby residential development, other than infill, brownfield or mixed-use development shall only be permitted in the identified area within Phase 1. Only on completion of the development of 75% of these lands shall subsequent phasing be considered for additional residential development”.

#### **Other relevant Planning Policy References include :**

- Guidelines for Planning Authorities : The Planning System and Flood Risk Management, 2009.
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009.
- Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities, 2010.

#### **5.2. Natural Heritage Designations**

None.



## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows :

#### 6.1.1. Change in site access from a roadway to access from a lane

- Church Park has always provided access to this site
- Under **Reg.Ref.No.04/1575** planning permission was granted for a house with entrance from Church Park.
- The address on previous applications has been Church Park. This was changed to Chapel Pass for the current application.
- Church Park is closer to Blackrock Village than Chapel Pass.
- This change in access / entrance is not good planning.

#### 6.1.2. Unsuitability of Chapel Pass for additional traffic

- 4no. houses exist on Church Park. 24no. houses are along Chapel Pass.
- Chapel Pass, a long and narrow laneway is not adequate to safely sustain its current traffic loading.
- The right angled blind corner close to the application site worsens the threat.
- Utility / delivery vehicles have great difficulty using Chapel Pass, thereby constantly holding up residents. .
- Overflow from the local church carpark, increases the threat to traffic safety.
- Church Park has none of the issues which threaten safety along Chapel Pass.
- The proposed development would increase the imbalance in use between Chapel Pass and Church Park. This is not proper or orderly development.

#### 6.1.3. Increase in hazard to motorists on the lane

- The narrow sections of Chapel Pass do not enable the free flow of vehicles.
- 2-3 more cars from the proposed development would increase the traffic hazard.
- Traffic hazard is at the worst along the section approaching the junction with Rock Road.
- Sightline visibility at the junction with Rock Road are substandard.
- Increased traffic, increases the threat of an accident at the Rock Road junction.

- The bend near the application site is a blind corner, already used by the residents of 7no. houses. Being proximate the blind corner, vehicles entering / existing the site will increase traffic hazard.
- Reference that traffic congestion was a refusal reason given by the Board when refusing historical application (ie. **PL15.215279**).
- Church Park is wide enough for two cars to pass throughout its length and has none of the Chapel Pass hazards.

#### 6.1.4. Increase in hazard to pedestrians on the lane

- Chapel Pass is well used by pedestrians from throughout the local area.
- A new entrance on that section with the heaviest footfall (pedestrians and school children), would further increase the hazard to pedestrians.
- There are no footpaths along Chapel Lane.
- The Board previously refused an application (ie. **PL15.215279**) for similar reasons.
- Church Park is not a pedestrian route, but has footpaths. Therefore, access of Church Park would be safer for pedestrians.

#### 6.1.5. Issues with opening a new site entrance onto a private section of lane

- The new road opening specified, would be onto a private section of the lane, not taken in charge by Council.
- Existing houses along this section, when built, were granted a right of way to each site via this section of Chapel Pass.
- No right of way is apparent to the application site.
- Existing local residents have paid for its maintenance and upkeep over the years. The applicant was not involved in this.
- Construction traffic would degrade this private section of laneway.
- Church Park would be better option for construction vehicle traffic.
- It is not good planning to allow access off Chapel Pass, when Church Park is available.

#### 6.1.6. Effect on Flooding problems in Chapel Pass

- A dip in the laneway is prone to flooding.
- Depositions on the lane consequent of construction would worsen the flooding problem.
- Church Park has no such problems.

#### 6.1.7. Conditions – Inappropriate / Unachievable

- Condition 3(i) Compliance with the 46m sightline is not possible, as any entrance off Chapel Pass would be much less than 46m from the bend on this section of the laneway.
- Condition 3(vi) Notwithstanding, any damage caused would be to a private section of Chapel Pass.
- Condition 3(vii) The new road opening specified, would be onto a private section of the lane, not taken in charge. Council has no responsibility for maintenance of this section. They may not be able to enforce this Condition.

#### 6.1.8. Conclusions

- The proposed development would not constitute proper planning and sustainable development.
- Request that the Board refuse the application.

### 6.2. **Applicant Response**

#### 6.2.1. The proposed development complies with

- the 'RES 1' zoning objective for the site, as well as
- Policy CS1 of the Variation No.1 : Core Strategy of the Dundalk and Environs Development Plan 2009-2015, which enables exclusion of 'infill sites' such as the application site, from compliance with the phasing strategy for the Development Plan area.

#### 6.2.2. Unsuitability of Chapel Pass for additional traffic and Inadequacy of Rock Road access

- The 3<sup>rd</sup> party appellants assume that the traffic and activity associated with the addition of one dwellinghouse onto Chapel Pass will have a detrimental and exacerbating impact upon current circumstances.
- Access to the application site was chosen off Chapel Pass and not Church Park, as a vehicular access accommodating a visibility splay of 46m in Compliance with Development Standard could be achieved off Chapel Pass.  
This could not be achieved from Church Park without impacting 3<sup>rd</sup> party lands and property outside of the applicant's control, or ability to incorporate into the application site.  
It was also considered preferable to enable access off a local road (Rock Road), rather than a regional road (Main Street / R172).
- The application site is the last developable site along Chapel Pass. Against the existing context of traffic and human activity generated by the 24no. existing properties along Chapel Pass and using the Rock Road junction, the impact of one additional dwellinghouse will be negligible.
- Section 2.1 of the NRA's Traffic and Transport Assessment Guidelines (2014), sets out that traffic generated by a proposed development that exceeds 5% of any existing traffic flow would warrant a 'traffic impact assessment'. Only a 4.1% increase over existing volumes of traffic can be reasonably expected from the proposed development.  
By comparison with Church Park, developed with four properties / dwellinghouses, an additional dwelling off Church Park would represent a 20% increase.
- This cursory comparative assessment demonstrates the preferential nature of the Chapel Pass access over a Church Park option.
- The appellants argue the increased risk of collision along Chapel Pass. However, they fail to acknowledge that vehicles moving along Chapel Pass do so at very slow speeds.
- A more objective overview of Chapel Pass would establish that despite narrowing at one location, its width and overall configuration does not give rise to dangerous driving.
- The 3<sup>rd</sup> party appellants fail to acknowledge there has never been any vehicular or pedestrian accidents along Chapel Pass. Therefore, despite existing loading by both vehicles and pedestrians, they do so safely and without conflict.

- One additional property developed, with a new site entrance compliant with the 46m sightline visibility Standard, will not threaten public safety by way of traffic hazard. By way of comparison, the proposed entrance to serve the new dwellinghouse is safer than many of the existing entrances serving dwellinghouses along Chapel Pass.
- Reference that the objections made by the 3<sup>rd</sup> party appellants are not shared by the Louth County Councils 'Infrastructure Section'.
- The 3<sup>rd</sup> party appellants draw strong reference to the historical refusal by the Board under **Reg.Ref.No.PL15.215279**, due to increased hazard to motorists along Chapel Pass. Applicant argues this reference is misleading as the two application sites and proposed development of these sites, are very different. Point out that whereas under **Reg.Ref.No.PL15.215279**, the proposed development of 5no. dwellinghouses was refused, subsequently the proposed development of the same application site with 2no. dwellinghouses was granted planning permission.
- Councils 'Infrastructure Section' consider Chapel Pass as capable of safely accommodating the limited additional traffic movements anticipated from the proposed development.
- Traffic impact anticipated by the addition of one new dwellinghouse onto Chapel Pass, within the context of existing traffic and pedestrian movements generated by the 24no. along Chapel Pass, is of insufficient significance to warrant a refusal of outline permission.

### 6.2.3. Inadequacy of Rock Road entrance and Impact on Existing Traffic Flows

- The Chapel Pass junction with Rock Road is typical of the several private and public entrances onto this route. Despite the 50km/h restriction vehicles moving along Rock Road are accustomed to residents edging their way onto Rock Road (ie. Walls, fences and hedges).
- Speed of traffic movement along Rock Road is also reduced by the road alignment / geometry, and the uneven condition of the road surface.
- Having regard to the Chapel Pass / Rock Road junction, it was considered preferable and justifiable from a road safety perspective, to have the application site accessed from a slow local road (Rock Road), rather than a fast-moving

regional road (Main Street / R172). By comparison, the R172 congested with parked vehicles to both the north and south of the junction, and the right visibility splay from Church Park is obstructed by a heavily vegetated embankment.

- Comparatively, the Rock Road is much safer. Substantiate opinion with reference to the Road Safety Authority's 'online collisions map' illustrating all crashes that have occurred on the roads surrounding the application site between 2005 and 2013. The map (see Appendix 1) shows several accidents proximate to the Church Park junction, in comparison to none at or near the Chapel Pass / Rock Road junction.
- The objections argued by the 3<sup>rd</sup> party appellants are not shared by the County's 'Infrastructure Section'. Rather, the 'Infrastructure Section' are of the opinion that "this one 'infill' development appears to represent a minimal intensification of the L31612 and would appear an appropriate development".
- Traffic anticipated from the single new dwellinghouse will not materially increase that currently generated by the 24no. existing dwellings using the Chapel Pass / Rock Road junction safely, and without incident.
- Volume anticipated will be insignificant and well within the capacity of the Chapel Pass / Rock Road junction to safely be accommodated without hazard to other road users.

#### 6.2.4. Legal Entitlement to access onto Chapel Pass

- The application site benefits from all necessary and incumbent legal rights and entitlements of movement over Chapel Pass lane.
- Whilst not supported by documentary evidence, the 3<sup>rd</sup> party appellant objections in this regard are legal in nature and unrelated to planning.
- Accordingly, they should be dismissed.

#### 6.2.5. Impact on Flooding

- Development of the application site does not relate to, or impact on the localised flooding on Chapel Pass referred to by the 3<sup>rd</sup> party appellants.
- The site is not within an area prone to fluvial, pluvial or coastal flooding.

- Confirm proposed development is designed in compliance with the principles and specifics of Sustainable Drainage Systems (SUDS). No surface water will discharge from the site onto adjoining lands.
- Therefore, the proposed development will not adversely impact any localised flooding, occasionally occurring outside the site.
- Threat of impact from dirt and debris tracking onto Chapel Pass during construction, can be addressed by way of Condition requiring monitoring and immediate cleaning. Use of such a Condition is Standard in mitigation of such negative impacts during construction.

#### 6.2.6. Conditions of Permission

- The Conditions attached by the Planning Authority are of a type and detail typical of an application for outline permission.
- They also comply with the DoEH&LG's 2007 Development Management Guidelines for Planning Authorities requirements.
- The proposed entrance is designed to provide 46m visibility in both directions as required by the Development Plan. This is facilitated by the new site boundary being set back behind the visibility splay to avoid any obstruction.

Condition No.3(i) formalises this design layout through to the full application for permission consequent to Outline Permission.

- Conditions No.3(vi) and 3(vii) are standard Conditions, which can be implemented by the developer without hindrance. The issues argued against these Conditions by the 3<sup>rd</sup> party appellant do not invalidate them.

However, the applicant would have no objection to the removal of these Conditions should the Board deem it necessary.

#### 6.2.7. Conclusion

- Proposed development –
  - complies with the provisions of the Development Plan and the Core Strategy,
  - is in keeping with the grain of surrounding development,

- will contribute to consolidation of an existing urban settlement, thereby reducing the pressure of urban sprawl, and
- will have none of the assumed negative impacts on Chapel Pass and Rock Road entrance in terms of traffic congestion or the safety of other road users.
- The extent of impacts associated with the proposed development will be immaterial within the context of the existing level of development currently using Chapel Pass or the Rock Road entrance.
- The appellants have failed to substantiate their objection to the development of the site.
- The appellants opinions regarding the perceived inadequacies of Chapel Pass or the Rock Road entrance are beyond the control of the applicant, or within the scope of the appeal to remedy. These are the same as submitted at the application stage, and were considered and dismissed by the Planning Authority.
- The appellants have failed to demonstrate why the proposed development
  - is contrary to the areas zoning objective and planning policies, or
  - why the Planning Authority's assessment and decision to grant outline permission was wrong, or contrary to the proper planning and sustainable development of the area.
- Request the Board dismiss the 3<sup>rd</sup> party appeal and uphold the decision to grant outline planning permission.

### **6.3. Planning Authority Response**

- 6.3.1. The Planning Authority have no further submissions or observations to make. All planning assessments and recommendations stand.
- 6.3.2. The Planning Authority request the Board uphold their decision to grant outline planning permission for the proposed development.

### **6.4. Observations**

- 6.4.1. None.



## 6.5. Further Responses

6.5.1. None.

## 7.0 Assessment

7.1. I have examined the file and available planning history, considered the prevailing local and national policies, physically inspected the site and assessed the proposal and all of the submissions. The issue of appropriate assessment also needs to be addressed. The following assessment covers the points made in the appeal submissions, and encapsulates my *de novo* consideration of the application. The relevant planning issues relate to :

- Principle and Location of the proposed development
- Visual Amenity Impact / Streetscape – Chapel Pass
- Residential Amenity Impact
- Wastewater Treatment and Disposal and Flooding Matters
- Road Access and Traffic Safety
- Land-Legal Issues – Chapel Pass Laneway
- Appropriate Assessment

### 7.2. Principle and Location of the Proposed Development

7.2.1. Having regard to the designated “**RES 1** - Residential” zoning objective, that residential land use is permitted within the ‘**RES 1**’ zone, and to the existing development of the applicant’s parent property with a large single detached dwellinghouse, consistent with the prevailing pattern of single, large, detached dwellinghouses on large individual properties along Chapel Pass, I believe the planning principle of residential development has been clearly established.

7.2.2. Further, I share the view of the Planning Authority and the applicant, that the proposed development of the application site itself, complies with ‘**Policy CS1**’ of ‘Variation No.1 : Core Strategy’ of the Dundalk and Environs Development Plan 2009-2015, which enables exclusion of ‘infill sites’ such as the application site, from compliance with the phasing strategy for the Development Plan area.

7.2.3. In this regard, and whilst only for a single dwellinghouse, the proposed residential development would positively enhance the economic use of existing infrastructure

and serviced land, mitigate pressure for unnecessary urban sprawl, and reduce the need for new infrastructure investment through densification and infill. The Louth County Development Plan (2015-2021), the Dundalk and Environs Development Plan 2009-2015, together with 'Variation No.1 : Core Strategy', and the DoHP&LG's 2009 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' all commit to the more integrated and sustainable use of all residential zoned lands, to be characterised by higher residential densities and a more compact urban fabric, whilst ensuring the quality of the proposed residential environment.

- 7.2.4. In terms of the '**RES 1**' zoning objective, the primary consideration is to, whilst enabling infill and new residential development, ensure the protection and improvement of the residential amenity prevailing in the contextual, established Chapel Pass neighbourhood.
- 7.2.5. Having regard to the discussions below, I believe the proposed new residential development is satisfactorily compliant with the relevant provisions of the Dundalk and Environs Development Plan 2009-2015, and subject to Conditions, would be in accordance with the proper planning and sustainable development of the area.

### 7.3. **Visual Amenity Impact / Streetscape – Chapel Pass**

- 7.3.1. The sense of place of the Chapel Pass neighbourhood is clearly influenced by the pattern of residential development comprising low density, large single detached houses, on large well landscaped and planted properties, developed along either side of Chapel Pass from its junction with Rock Road. In fact, Chapel Pass laneway in itself positively contributes to this amenity
- 7.3.2. I have taken note of the established scale and pattern of residential development in the area. I believe there is a consistency in size and scale of the built environment with which the proposed new house is clearly compatible. This can be clearly seen from the photographs attached.
- 7.3.3. Accordingly, I believe that the resultant change in prevailing streetscape along Chapel Pass would not be overbearing on the common scale and uniformity of the immediate adjacent residents, and the neighbourhood in context, with no obvious negative impact on the prevailing residential amenity. Whilst the finer detail of site layout and house design is to be Conditioned for decision at the permission consequent of 'outline' planning permission stage, I believe that the proposed

development would be in accordance with the proper planning and sustainable development of the area.

#### **7.4. Residential Amenity Impact**

- 7.4.1. In as much as I understand amenity values as referring to those natural or physical qualities and characteristics of the Chapel Pass neighbourhood, that contribute to residents appreciation of its pleasantness, liveability and its aesthetic coherence, I believe on the information available at the 'outline' planning permission stage, that the proposed new single detached dwellinghouse at this location along Chapel Pass will have no serious disproportionate negative impact on the prevailing residential amenity.
- 7.4.2. I consider this to be the case having regard to the discussion of the impact on the prevailing visual amenity and local streetscape at 7.3 above, which I believe would not negatively influence the character and quality of the contextual residential amenity enjoyed in the neighbourhood.
- 7.4.3. At the low density of residential development existing along Chapel Pass, with which the proposed development is in my view consistent, I note that :
- generous separation distances will result between houses,
  - generous private amenity space on site will be available to future residents / occupiers of the house,
  - adequate natural light / direct sunlight to both the outside domestic garden spaces, as well as internal rooms is reasonably anticipated,
  - satisfactory privacy / freedom from observation will be available, and
  - satisfactory on-site car parking capacity will be available in accordance with Development Plan Standard.
- 7.4.4. I do acknowledge the potential for negative impact of construction activity on residential amenity, whilst site works and construction activity are on the go. This is a clear objection argued by the 3<sup>rd</sup> party appellants. However, I consider that these impacts are only temporary, are to facilitate the completion of the proposed development, and certainly cannot be regarded as unique to this development. Further, I consider that given these impacts are predictable and to be expected, they can be properly and appropriately minimised and mitigated by the attachment of appropriate conditions to a grant of 'outline' planning permission.

7.4.5. Accordingly, I believe that whilst the proposed development of a single dwellinghouse at this location on Chapel Pass would certainly bring change to the local neighbourhood, the proposal is in accordance with the zoning objective '**RES 1**' to improve and protect residential amenity, whilst delivering new, infill residential development. In my view, and subject to further detailed determination at the permission consequent of 'outline' planning permission stage, the proposed development would be in accordance with the proper planning and sustainable development of the area.

#### **7.5. Wastewater Treatment and Disposal and Flooding Matters**

7.5.1. I note at present, the application site is served with public water services. I therefore share the Planning Authority view that no serious concerns regarding 'public health' are apparent.

7.5.2. I do however note the initial concern expressed by 'Irish Water' regarding the need for detailing of the proposed foul water connection. In response, the applicant submitted drawings as F.I. detailing the proposed foul sewer connection. Noteworthy, is the distinction that part of the proposed foul drain shall pass through lands outside of the application site boundary, but through lands owned by the applicant (ie. the remainder of the parent property). The Planning Authority and Infrastructure Section determine that a 'wayleave agreement' ensuring access to this drain for repair and maintenance purposes, shall be registered as a burden on the title of these adjacent lands in the event that planning permission is granted and the foul drain installed. This appears a reasonable resolution of this issue. I also note that 'Irish Water' subsequent to consideration of the F.I. submission, expressed no objection.

7.5.3. I note further, the County 'Infrastructure Section' opinion that surface water drainage be managed as outlined in the application documentation. They however, express the further opinion that if at the permission consequent of 'outline' planning permission stage, the proposed impermeable area is increased, the surface water design detail would require corresponding revision and resubmission with relevant documentation at that final stage. This opinion appears reasonable and can be addressed by way of appropriate Condition, should 'outline' planning permission be granted.

- 7.5.4. I note the concerns argued by the 3<sup>rd</sup> party appellants regarding the negative impact of proposed development of the application site, on local flooding along Chapel Pass. However, both the Planning Authority and the applicant distinguish that the site is not located within either the area identified as 0.5% flood event or 1:200 (see OPW ICPSS Study 2010), or the area of known fluvial flooding (see OPW flood maps). Therefore, logically, no obvious threat of flooding of the application site in immediate context, is apparent.
- 7.5.5. In response to the 3<sup>rd</sup> party appellants concerns regarding the proposed development contributing directly to local flooding on Chapel Pass laneway, I note the applicant's response that proposed development of the site with a single house does not relate to, or impact on the local flooding on Chapel Pass. Besides the site location outside of areas threatened by fluvial, pluvial or coastal flooding, the applicant satisfactorily clarifies that the proposed development is designed in compliance with the principles and specifics of Sustainable Drainage Systems (SUDFS). Therefore, no surface water is expected for discharge from the site onto adjoining lands, and Chapel Pass laneway itself. Further security in this regard is apparent from the opinion of the 'Infrastructure Section' referenced above, that if necessary the surface water design detail shall be revised and resubmitted with relevant documentation at the permission consequent of 'outline' planning permission stage.
- 7.5.6. Accordingly in my view, the 3<sup>rd</sup> party appellants' arguments against the proposed development in this regard, cannot be sustained.

## **7.6. Road Access and Traffic Safety**

- 7.6.1. I understand the argued substandard capacity of both Chapel Pass laneway throughout its length and its junction at the northern end onto Rock Road, to adequately and safely sustain additional traffic generated by the proposed single, detached dwellinghouse, to be the primary objection by the 3<sup>rd</sup> party appellants against the proposed development. This also includes in my understanding the feasibility of and traffic safety of the proposed new vehicular entrance onto the application site.
- 7.6.2. The 3<sup>rd</sup> party appellants also include sustained reference to Church Park to the south of the applicants property, as the preferred vehicular accessway to serve the

proposed development (ie. rather than Chapel Pass). In response I acknowledge the historical permission granted with access off Church Park (**Reg. Ref.No.04/1575**). However, I have had regard to the current application for 'outline' planning permission de novo, and on its individual merits. The current application site has a road frontage onto Chapel Pass laneway only. The site has no frontage onto Church Park. This fact is reiterated by the County 'Infrastructure Section' who comment that whilst there would be merit in consideration of Church Park as access to the proposed development, the current application for 'outline' permission excludes Church Park as an option for direct access.

7.6.3. However, I do note with interest, the distinction with respect to traffic safety between Chapel Pass and Church Park, substantiated by the applicant (c/o EHP Services) in response to the 3<sup>rd</sup> party appellant arguments. These include :

- a sightline visibility splay of 46m in compliance with Development Standard, can be achieved off Chapel Pass (ie. set back of boundary frontage behind the visibility splay). This cannot be achieved from Church Park without impacting 3<sup>rd</sup> party lands and property outside of the applicant's control.
- preference to enable access off a local road (ie. Rock Road onto Chapel Pass), rather than a regional road (ie. Main Street / R172 onto Church Park).
- against the background context of existing daily use of Chapel Pass by traffic generated by 24no. existing properties, the impact of one additional dwellinghouse will be negligible.

Section 2.1 of the NRA's 'Traffic and Transport Assessment Guidelines (2014)', sets out that traffic generated by a proposed development that exceeds 5% of any existing traffic flow would warrant a 'traffic impact assessment'. Only a 4.1% increase over existing volumes of traffic can be reasonably expected from the proposed development.

By comparison with Church Park, developed with four properties / dwellinghouses, an additional dwelling off Church Park would represent a 20% increase in traffic loading. This albeit cursory comparative assessment reasonably demonstrates in my view, the preferential nature of the Chapel Pass access to the application site, over a Church Park option, were it to be available.

- Having regard to the Chapel Pass / Rock Road junction, it was considered preferable and justifiable from a road safety perspective, to have the

application site accessed from a slow local road (ie. Rock Road onto Chapel Pass), rather than a fast-moving regional road (ie. Main Street / R172 onto Church Park). By way of further comparison, the R172 is congested with parked vehicles to both the north and south of the junction, and the right visibility splay from Church Park is obstructed by a heavily vegetated embankment.

Comparatively, the Rock Road is much safer. Substantiate opinion with reference to the Road Safety Authority's 'online collisions map' illustrating all crashes that have occurred on the roads surrounding the application site between 2005 and 2013. The map (see Appendix 1) shows several accidents proximate to the Church Park junction, in comparison to none at or near the Chapel Pass / Rock Road junction.

- 7.6.4. The 3<sup>rd</sup> party appellants argue the increased risk of collision along Chapel Pass laneway consequent of the proposed development. However, they fail to acknowledge that vehicles moving along Chapel Pass do so at very slow speeds. In my view, these slow speeds are not consequent of statutory determined speed limit, but rather consequent of precisely the road narrowness, geometry and configuration considered such a problem and threat to public safety by the 3<sup>rd</sup> party appellants. Having both driven and walked the length of the Chapel Pass laneway, several times at the time of site visit, I confirm in my view, that forward visibility is in fact good throughout the length of Chapel Pass and notwithstanding the 'blind' corner argued by the 3<sup>rd</sup> party appellants as a serious threat to traffic safety. In my view this threat is reasonably mitigated by the maximum slow approach speeds possible to the corner and throughout the laneway.

I am therefore inclined to share the view of the Planning Authority, the 'Infrastructure Section' and the applicant, that a more objective overview of Chapel Pass laneway would establish that despite narrowing at one location, its width and overall configuration does not give rise to dangerous driving. This view is further supplemented by the reasonable observation made by the County 'Infrastructure Section' that "this section of shared vehicle and pedestrian roadway has similarities to a 'homezone' shared surface, that encourages slow vehicle speeds and as such this proposal would be appropriate in such an area". Accordingly, they consider that Chapel Pass laneway, as capable of safely accommodating the limited additional traffic movements anticipated from the proposed development.

7.6.5. The 3<sup>rd</sup> party appellants draw strong reference to the historical refusal by the Board under **Reg.Ref.No.PL15.215279**, due to increased hazard to motorists along Chapel Pass. In response, I note the applicant's argument that this reference is misleading as the two application sites and their respective proposed development, are very different.

Whereas under **Reg.Ref.No.PL15.215279**, the proposed development of 5no. dwellinghouses was refused by the Board, subsequently the proposed development of the same application site with 2no. dwellinghouses was granted planning permission by the Planning Authority (Planning Authority reference number unfortunately not available). Comparatively, a single dwellinghouse is proposed on the application site.

7.6.6. The Chapel Pass junction with Rock Road is typical of the several private and public entrances onto this route.

7.6.7. Having regard to the respective arguments made by each of the applicant, the 3<sup>rd</sup> party appellants, the Planning Authority and the County 'Infrastructure section', and to my own detailed observations made at the time of site visit, I conclude that one / 1no. additional property developed, with a new site entrance compliant with the 46m sightline visibility Standard, will not threaten public safety by way of traffic hazard. By way of comparison, having regard to my observations of existing entrances along Chapel Pass, I am inclined to share the view of the applicant, that the proposed entrance to serve the new dwellinghouse is safer than many of the existing entrances serving dwellinghouses along Chapel Pass laneway.

7.6.8. Accordingly, I conclude as reasonable that the traffic impact anticipated by the addition of one new dwellinghouse onto Chapel Pass laneway, within the context of existing traffic and pedestrian movements generated by the 24no. properties along Chapel Pass, is of insufficient significance to warrant the refusal of 'outline' planning permission requested by the 3<sup>rd</sup> party appellants.

## 7.7. **Land-Legal Issues – Chapel Pass Laneway**

7.7.1. I have taken careful note of the arguments made by the 3<sup>rd</sup> party appellants, in respect of land / legal matters relating to the proposed development and the proposed access off Chapel Pass onto the application site specifically. Briefly, the argument was made that the section of Chapel Pass onto which the application site fronts is in private ownership and has not been taken in charge by the Louth County Council. No parties to the proposed development dispute this. Without necessary



land-legal compliance by the applicant regarding use of and ongoing upkeep and maintenance of this section of Chapel Pass, the application lodged is invalid.

- 7.7.2. I have also had regard to the response by the applicant, that the application site benefits from all necessary and incumbent legal rights and entitlements of movement over Chapel Pass lane.
- 7.7.3. However, having regard to the arguments raised against the proposed development, and whether or not the applicant has demonstrated satisfactory clarity in his land-legal interest regarding use of Chapel Pass, I have had regard to the application for 'outline' planning permission on its planning merits alone, as set out in the above discussions. Rather, I am inclined to the view that any decision on the planning application does not purport to determine the legal interests held by the applicant, or any other interested party. Contrary to the arguments understood made by the 3<sup>rd</sup> party appellants, I tend to the view that any decision on the planning application does not purport to determine the legal interests and obligations held by the applicant, in relation to Chapel Pass laneway, and particularly that section onto which the site has direct frontage. I would also draw their attention to Section 34(13) of the Planning and Development Act, 2000 as amended, which relates as follows: "A person shall not be entitled solely by reason of a permission or approval under this section to carry out a development". In this regard, I make reference to the explanatory notes which read as follows – "This subsection ... makes it clear that the grant of permission does not relieve the grantee of the necessity of obtaining any other permits or licences which statutes or regulations or common law may necessitate". Consequently, I understand that any legal obligations on the applicant, to ensure that the legality of landownership and user privileges enjoyed by 3<sup>rd</sup> parties along Chapel Pass are not compromised, are covered.
- 7.7.4. Having regard to the above, I believe it proper that the current application for planning permission be deemed effectively as an application to be assessed de novo and on its specific merits, and having regard to the proper planning and sustainable development of the area, as provided for by the Dundalk and Environs Development Plan 2009-2015.
- 7.7.5. Accordingly, I do not believe these arguments by the 3<sup>rd</sup> party appellants against the proposed development to be reasonable, and substantive grounds for invalidating the application, or for refusal.

## 7.8. **Appropriate Assessment**

- 7.8.1. Having regard to the nature and scale of the proposed development, to the location of the site within a fully serviced urban environment, and to the separation distance to any European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 **Recommendation**

- 8.1. I recommend that 'Outline' Planning Permission be granted for the reasons and considerations as set out below.

## 9.0 **Reasons and Considerations**

Having regard to the zoning Objective "RES 1" for the area as set out in the Dundalk and Environs Development Plan 2009-2015, and to the pattern of residential development in the area, it is considered that, subject to compliance with the Conditions set out below, the proposed development would be in accordance with the relevant provisions of the Development Plan, would not seriously injure the amenities of the Chapel Pass neighbourhood or of property in the vicinity, would not be prejudicial to public and environmental health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

## 10.0 **Conditions**

1. This 'outline' permission relates solely to the principle of the development on this site, and it shall not be construed as giving consent to the following matters :
- (a) The overall site layout of the development.
  - (b) The design of the dwellinghouse to be developed.

**Reason:** In the interest of clarity.

2. Plans and particulars shall be lodged with, and approved by the Planning Authority, as a permission consequent of this grant of 'Outline' planning permission. These shall include :
- (i) A boundary treatment and a landscaping plan for the site, to include retention of existing mature trees and boundary planting.
  - (ii) Details relating to design, orientation, layout, height and external appearance of the proposed dwellinghouse. These design proposals shall have regard to the design and character of the built environment in the vicinity.
  - (iii) Details and layout of the proposed connection into the public sewerage network.
  - (iv) Details of the onsite drainage and disposal of surface water in compliance with Sustainable Drainage Systems (SUDS).
  - (v) Details and specifications for the new vehicular entrance off Chapel Pass onto the site.

**Reason:** In the interest of clarity and to define the subject matter for decision at the permission consequent of 'outline' planning permission stage.

3. At the permission consequent stage, water supply and wastewater drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.

**Reason :** In the interest of public health.

4. At the permission consequent stage, physical infrastructure and servicing arrangements to enable the proposed development, including the new vehicular entrance off Chapel Pass laneway, shall comply with the requirements of the Planning Authority for such works and services.

**Reason :** In the interest of public health, traffic safety and orderly development.

5. The proposed dwellinghouse on this site, shall not be occupied until such time as the new vehicular entrance off Chapel Pass, and inclusive of front boundary treatment, is completed to the satisfaction of the Planning Authority.

**Reason :** In the interest of orderly development.

6. All service cables associated with the proposed development (including electrical, television, telephone and broadband) shall be run underground within the site.

**Reason :** In the interest of visual amenity.

7. At the permission consequent stage, 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

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L.W. Howard

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Planning Inspector

16<sup>th</sup> November 2017