



An
Bord
Pleanála

Inspector's Report ABP-300353-17

Development	Permission for a two storey dwelling house with associated attached domestic garage, vehicular entrance and all associated site development works.
Location	Rockmount, Blackrock, Dundalk, Co. Louth
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	17/125
Applicant(s)	Padraig King
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	1. Oliver Brosnan 2. Colm and Eilish McKeown
Observer(s)	Denis McKeown
Date of Site Inspection	16 th February 2018
Inspector	Niall Haverty

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.085 ha, is located within the northern outskirts of Blackrock off a cul-de-sac known as Rockmount, which is accessed off the R172. This cul-de-sac serves a number of dwellings that have been built on a short peninsula that projects eastwards into Dundalk Bay. The appeal site lies towards the end of the cul-de-sac.
- 1.2. To the south of the appeal site lies a terrace of two storey Victorian dwelling houses and associated outbuildings, and to the east there is a detached Victorian dwelling house and associated boathouse. A substantial two storey modern detached house is located to the west of the appeal site, and there are also a number of modern detached dwellings of varying designs along the cul-de-sac between the R172 and the appeal site.
- 1.3. The appeal site itself is a greenfield site which is roughly rectangular in shape and it is elevated above the land upon which the terrace and detached dwelling houses are sited. An unpaved footpath/laneway runs along the western and northern boundaries of the appeal site and connects the cul-de-sac to a small beach to the north east. Access to the site is currently provided at the south west boundary, where an agricultural gate abuts the cul-de-sac. The boundaries to the site are currently comprised of a mix of hedging, post and rail fencing and blockwork walls.

2.0 Proposed Development

- 2.1.1. The proposed development, as amended on foot of a request for further information, would entail the construction of a two storey house. This house would have three bedrooms, utility room, bathrooms and attached garage on the ground floor and a kitchen, living area and office on the first floor. The ground floor utility room and garage are single storey, and a sun deck is proposed at first floor level over the utility room surrounded by 1.8m high blockwork and semi-opaque glazing. The total stated floor space of the proposed house would be 303 sq m.
- 2.1.2. The proposed house is roughly square in footprint, with the garage area forming a protrusion to the west. It would feature a mix of flat roof and monopitch zinc clad roof, and the elevations would comprise a mix of stone at ground floor level with

render at first floor level, and a feature zinc clad 'box' at first floor level over the front door. The house features extensive glazing, particularly on the rear (eastern) elevation facing the sea.

2.1.3. The proposed house would be accessed by means of the existing access to the appeal site from the west and landscaped garden areas would be laid out to the east, as well as hedgerow planting to all boundaries of the site. It is proposed to connect to the public wastewater and water supply systems, while surface water will be disposed of to two soakaways.

2.2. The planning application, as supplemented by the further information submitted, included a Natura Impact Statement, photomontages, Flood Risk Assessment, Coastal Erosion Report and a SuDS Design Report.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Louth County Council decided to grant planning permission, and the following summarised Conditions are noted:

- C2(i): All flood mitigation measures as outlined in the Flood Risk Assessment Report shall be fully implemented.
- C2(ii): All recommendations detailed in Section 7.0 of the Coastal Erosion Assessment shall be fully implemented.

3.2. Planning Authority Reports

3.2.1. The Planning Officer's reports can be summarised as follows:

- Principle of development of a dwelling on the site has been accepted by Louth County Council and the Board.
- Residential development is permitted on this site, subject to impact on Natura 2000 sites, residential amenity of adjoining dwellings and coastal erosion.
- Proposed development as revised by way of significant further information is acceptable and whilst the dwelling is significant in scale, it has been designed

to site reasonably within the site without having an unreasonable impact on existing residential or visual amenity in the vicinity.

- Environment section have no objection, as the site is above the flood risk level. The SuDS design will ensure the site is capable to cater for a 1 in 100 year storm event.
- Risks to the safeguarding and integrity of the qualifying interests and conservation objectives of the Natura 2000 sites have been addressed by the inclusion of a number of mitigation and preventative measures to ensure that that the proposed development has minimal significant impact on the Natura 2000 network. The risk of contamination of ground or surface water during construction can be reduced to a negligible level through the implementation of suitable mitigation/preventative measures.

3.3. Other Technical Reports

3.3.1. **Infrastructure Directorate:** No objection, subject to conditions.

3.4. Prescribed Bodies

3.4.1. **Irish Water:** No objection.

3.5. Third Party Observations

3.5.1. A number of third party observations were made and the issues raised were generally as per the appeals.

4.0 Planning History

4.1. Appeal Site

4.1.1. The appeal site has an extensive planning history. The most recent and relevant applications are summarised below:

4.1.2. **PL15.242727 (Reg. Ref. 13/64):** Permission **refused** for a two storey dwelling house and associated site works for the following reason:

- The proposed dwellinghouse would, due to its siting, height and bulk, lead to an overbearing relationship with the terrace of dwellinghouses to the south of the site and it would result in an excessively heightening sense of enclosure when viewed from habitable room openings in these dwellinghouses. The proposed development would seriously injure the amenities of properties in the vicinity and would contravene the zoning objective for the site as set out in the Dundalk and Environs Development Plan 2009-2015, which undertakes to protect and improve existing residential amenities. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

4.1.3. **Reg. Ref. 13/530:** Five year extension of duration **granted** in respect of PL15.228470 (Reg. Ref. 07/1913). Granted in February 2014.

4.1.4. **PL15.228470 (Reg. Ref. 07/1913):** Permission **granted** for a split-level detached dormer bungalow over basement level with a vehicle entrance and all associated site works.

4.1.5. **PL15.200774 (Reg. Ref. 02/737):** Outline permission **granted** for construction of a dwelling house and associated site works. Condition 2 stated:

- 1) The house shall not have the form shown on the site layout plan referred to in Condition 1 but shall be essentially rectangular in form with its roof ridge running roughly from north to south.
- 2) The house shall be in the form of a bungalow but may be a dormer bungalow with upper floor accommodation contained within its roofspace.
- 3) The ground floor level of the house shall not exceed the level of 99.500 metres by reference to the details shown on the revised plan referred to above.
- 4) The setback of the seaward face of the house shall be increased from the dimension of 17.8 metres shown on the revised plan referred to above to a minimum dimension of 22.8 metres.
- 5) The fenestration generally shall have a vertical emphasis.

Reason: To ensure that the house is assimilated into its surroundings in this sensitive coastal location.

4.1.6. **PL15.200694 (Reg. Ref. 02/547):** Permission **refused** for two storey dwelling house and associated site works on the grounds of visual amenity, encroachment onto a public footpath, and encroachment onto beach and attendant dis-amenity.

4.1.7. **PL15.125287 (Reg. Ref. 01/339):** Permission **refused** for a two storey dwelling house and garage for the following reason:

- It is considered that, by reason of its height, bulk and external design, the proposed house would be visually obtrusive in this exposed coastal location, would be out of character and scale with the pattern of development in the vicinity, would seriously injure the amenities of the area (including the beach) and of property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.

4.2. **Surrounding Area**

4.2.1. I am not aware of any recent relevant planning history in the surrounding area.

5.0 **Policy Context**

5.1. **Louth County Development Plan 2015-2021**

5.1.1. The Louth County Development Plan 2015-2021 is the Development Plan for County Louth, including the administrative area of the former Dundalk Town Council (i.e. including Blackrock Village). Blackrock is located within the environs of Dundalk and the County Development Plan states that the Dundalk & Environs Development Plan 2009-2015 will be replaced by a Local Area Plan. In the absence of a Local Area Plan the Development Plan for County Louth is the relevant statutory plan. The following provisions of the County Development Plan are considered to be relevant:

- Dundalk (along with Drogheda) is designated as a Large Growth Town 1 in the Development Plan, reflecting its position in the Settlement Hierarchy of the Regional Planning Guidelines for the Border Region, 2010-2022.
- Section 4.4 sets out guidelines in relation to housing layouts and states that new development needs to recognise the existing character, street patterns,

streetscape and building lines of an area and that this is imperative in the case of infill sites.

- Table 4.9 requires private amenity space provision at a rate of 80 square metres for 3 bed houses.
- Table 7.6 requires car parking provision at a rate of 2 spaces per dwelling.
- Policies RD 18 to RD 21 relate to coastal protection and coastal erosion.
- Policies ENV 31 to ENV 40 relate to flooding.

5.2. Dundalk & Environs Development Plan 2009 – 2015

- 5.2.1. In addition to the County Development Plan, I have reviewed the expired Dundalk & Environs Development Plan 2009 – 2015 as this provides the most recent zoning framework for the area. The appeal site, with the exception of a narrow strip of unzoned land along its eastern boundary, was zoned ‘Residential 1’ with an objective “to protect and improve existing residential amenities and to provide for suitable infill and new residential developments”.
- 5.2.2. The coastal road through Blackrock is designated as Scenic Route SR1, and a strategic view V10 is indicated in the vicinity of the appeal site, and is described as “views of Dundalk Bay and the Cooley Mountains from the Coast Road between McGuigan’s Rock and Dundalk Town Council’s Boundary”.
- 5.2.3. Map 2 of the Plan indicates a walkway and new and improved road network along the coastline to the north of the appeal site, which runs in front (east) of the appeal site, and westward along the Rockmount cul de sac road, linking back to the existing coast road. Policy TR 13 states that “It is the policy of the council, in co-operation with other agencies, bodies and developers, to implement an integrated pedestrian footpath and cycle path network throughout the plan area.”

6.0 The Appeals

6.1. Grounds of Appeal

6.1.1. Two third party appeals were made by Colm and Eilish McKeown, and Oliver Brosnan and Helen McKeown, respectively. The appellants are residents of Rockmount. The grounds of appeal can be summarised as follows:

- No objection in principle to a house on the appeal site, provided it is an appropriate design for its setting and doesn't negatively impact on the character and amenity of appellants' homes.
- Concerns regarding height, siting, bulk and overbearance of proposed house on appellant's homes.
- Lack of compliance with previous condition regarding width of the public right of way to the beach.
- Design does not take cognisance of the planning history or previous Board decisions.
- Overlooking from first floor viewing area of appellants' properties. Removal of this viewing area would facilitate lowering of garage wall. Current proposal impacts on skyline and public right of way.
- Applicant did not remove corner wrap around windows at first floor as requested in RFI. Proposal results in overlooking of the adjacent properties, particularly since living accommodation is at first floor level.
- Given the site history and condition limiting the development to a dormer dwelling, the large 300 sq m monolithic two storey dwelling is bulky and out of scale on the elevated site.
- Contrary to applicant's claim, the proposed development is larger than the previously permitted scheme under Reg. Ref. 07/1913 and has four times more floor space at first floor level.
- Proposed development is closer to southern boundary than Reg. Ref. 07/1913 and is double the height at this location. Site Section BB depicts outline of Reg. Ref. 07/1913 at its highest point, but this is not followed through on Site

Sections AA or CC, which would have demonstrated the falling height of the roof towards the boundary and adjacent houses. This makes Reg. Ref. 07/1913 appear taller and more bulky than it is.

- Reg. Ref. 07/1913 concealed its height and bulk in a way which allowed it to sit comfortably in the site context and it is not comparable to the subject proposal.
- Submitted photomontages are from the sea and do not demonstrate the relationship with the adjacent houses. Proposed design is overbearing and will tower over appellants' properties in a totally monolithic and unanimated way.
- Most recent application Reg. Ref. 13/64 was refused by the Board due to its height, siting and bulk at 235 sq m. Proposed house is 70 sq m larger and is higher at the boundary with appellants.
- Width of the public right of way is shown as 2337mm whereas in previous applications the design allowed for a 3m wide access. This is contrary to Condition 2 of PL15.200774.
- Difference in site levels between appellant's house and proposed development is not clearly indicated. Spot level survey submitted by appellant.
- Proposed viewing area with glazing results in overbearing on the Victorian terrace and an alley effect on the right of way.
- Proposal makes no attempt to engage or conduct a dialogue with the existing cluster of Victorian houses other than presenting a blank 30m x 8m wall surface at the boundary.
- Unsustainable design due to failure to orient house to take advantage of passive solar design.
- Area behind sheds, directly below the side wall of the proposed house is used as a recreation (barbecue) area during the summer months, and serves as a shelter from the winds to the front of the houses.

6.2. Applicant Response

6.2.1. A response to the appeals was submitted on behalf of the applicant by Coakley O'Neill Town Planning. The response can be summarised as follows:

- Proposed development is supported by planning policy, including the National Spatial Strategy and the Draft National Planning Framework
- Development Plan supports infill development.
- Appeal site is located within a long established almost exclusively residential area and the proposed development is entirely in keeping with the character of the area. The design respects building lines, heights, materials and roof profiles of surrounding buildings.
- Design has sought to address the concerns of neighbours as outlined in the site's extensive planning history.
- Appellants' references and arguments in many instances relate to a previous development proposal, including reference to a 30m long southern elevation.
- In urban contexts it can be expected that there is a degree of overlooking. Any overlooking in this instance would be acceptable.
- The appellants' primary private amenity space is to the rear of their properties, not the front. The area to the front is used for car parking.
- The proposed viewing platform is 30m from the terraced properties and the view is restricted. Nevertheless, the applicant is open to reducing the width of the viewing platform by 1.1m to restrict any southward views of the appellants' property.
- The wraparound windows on the eastern/southern elevation have extremely limited views southward and the separation distance is over 24m, in accordance with relevant standards. The Board Inspector in 2007 considered similar separation distances to be acceptable.
- The Board is asked to note the urban location of the site and the unavoidable impacts of some degree of overshadowing. Appellants are located to the south of the proposed dwelling and shadow analysis submitted under Reg. Ref. 13/64 demonstrates no impact in terms of overshadowing.

- The Board Inspector in 2007 was satisfied there would be no overshadowing.
- The views available from within the appellant's property are not identified as views worthy of preservation in the Development Plan. Furthermore, there is no right or entitlement to private views.
- That an outline permission in 1992 had a condition restricting the size to single storey, while informative, is not the determining factor. Similarly, the permission under Reg. Ref. 07/1913 cannot be seen to set the absolute limit of acceptable development of this site.
- Proposed development meets all relevant qualitative and quantitative standards and cannot be said to unreasonably impact upon the amenity of adjoining residents.
- The proposed dwelling compares favourably in terms of scale, height and resultant impacts with the permitted dwelling, which remains 'live' and implementable.
- The southern elevation is c. 13m, compared to 30m for the previous proposal under Reg. Ref. 13/64. Massing and bulk has been divided and proposal presents a more compact form.
- Revised design cannot be considered to be overbearing given the distance to existing dwellings and the limited extent of the southern elevation. The dwelling is in line with the existing garage structures to the south which are a material consideration in assessing the potential impacts.
- While a level difference of 1m exists between the subject site and the appellant properties, it should be noted that the finished floor level of the proposed dwelling is 5.400, while the floor level of the terraced dwellings is 5.200. It is also of note that the permitted dwelling has a FFL of 6.100, significantly higher than that now proposed.
- Flood risk assessment, SuDS report and coastal erosion report all had favourable conclusions with respect to the proposed development and were accepted by the relevant Council departments.
- Planning Authority clarified during discussions at Further Information stage that the coastal path objective did not apply to the subject site. Nonetheless,

should the Board wish to include provision for a coastal path at the eastern end of the site then the applicant is open to a condition requiring same. Alternatively, the existing path to the side of the site can easily accommodate this proposed coastal path, although the development plan map indicates that it is to run beside Denis McKeown's house to the east.

6.3. Planning Authority Response

6.3.1. The Planning Authority's response can be summarised as follows:

- No further observations to make. The Board is asked to uphold the Planning Authority's decision to grant permission.

6.4. Observations

6.4.1. One observation was made by Denis McKeown, another resident of Rockmount. The issues raised were generally as per the appeals, as well as the following:

- Observer lives in 'Star of the Sea', the landmark house at the sea point, which was built in 1910.
- Site is a height close to the first floor level of observer's house. Provision of living accommodation at first floor level will result in an invasive level of overlooking.
- Antisocial behaviour due to alleyway effect on right of way to the beach.
- Slipway for boats was built between the appeal site and the house to the north, and the field was fenced off in 1998/1999. During Storm Ophelia the emergency services had to access the beach via observer's property as the right of way was too narrow.

6.5. Further Responses

6.5.1. None.

7.0 Assessment

7.1. I consider that the key issues in determining the appeals are as follows:

- Principle of proposed development.
- Design and layout.
- Residential amenity.
- Coastal erosion.
- Flood risk.
- Other issues.
- Appropriate assessment.

7.2. Principle of Proposed Development

7.2.1. The appeal site is zoned 'Residential 1', a zoning objective which seeks "to protect and improve existing residential amenities and to provide for suitable infill and new residential developments". Having regard to this zoning objective, the undeveloped and serviced nature of the appeal site, and the planning history, I consider the proposed development to be acceptable in principle, subject to consideration of the planning issues identified in Section 7.1 above.

7.3. Design and Layout

- 7.3.1. The Victorian terrace of houses and the associated detached house which juts into the sea at Rockmount form an attractive cluster of vernacular structures which, while not protected, have a distinctive architectural and historic character and contribute to the wider character of the area, and the scenic visual nature of Blackrock. Having regard to the elevated and prominent nature of the appeal site relative to these houses and the adjacent coastline, I consider the site to be highly sensitive and that a high quality and carefully considered design response is required. It is also noteworthy that the coastal road (R172) is a designated scenic route, and that there are protected 'strategic views' (V10) of Dundalk Bay and the Cooley Mountains from the Coast Road.
- 7.3.2. I note that the appeal site has an extensive planning history, which is reflective of the sensitive nature of the site. There is an extant permission on the site for a split-level detached dormer bungalow over basement level (PL15.228470, extended to 2019

under Reg. Ref. 13/530), while permission was most recently refused on appeal in 2014 (PL15.242727) for a two storey dwelling house on the grounds that it would lead to an overbearing relationship with the terrace of houses to the south and would result in an excessively heightening sense of enclosure when viewed from habitable room openings in those houses.

- 7.3.3. The appellants contend that the proposed development will have a greater detrimental impact on residential amenity than the previously permitted house under PL15.228470, due to its size, bulk, massing, height and proximity to the site boundary.
- 7.3.4. Having reviewed the drawings associated with the abovementioned planning applications, I consider that the proposed development represents an improvement on that refused by the Board in 2014. The massing and bulk of the house has been broken up to form a less elongated structure, with the result that the southern elevation of the main house facing the appellants' properties would be c. 11.4m long, compared to c. 30m for the previously refused proposal. This reduced length is close in length to the existing sheds/garages located between the appeal site and the appellants' houses, which serves to lessen the visual impact of the proposed development to a degree. The proposed reduction in site levels of c. 600mm will also serve to somewhat lessen the visual impact of the proposed development.
- 7.3.5. However, notwithstanding the improvements that the proposed development represents when compared to the previously refused proposal, I consider that the proposed development by virtue of its elevated nature relative to the appellants' properties, its two storey design and its bulk would remain overly dominant and visually overbearing in its relationship with the existing houses at Rockmount. In support of this position I would refer to the site sections and photomontages which I consider demonstrate the overbearing nature of the development relative to both the existing houses and the shared amenity space to the front (north) of the houses.
- 7.3.6. Furthermore, while the proposed contemporary design is generally consistent with the existing detached house to the north west, I consider that is out of character when considered in the context of the cluster of houses at Rockmount, due to its orientation relative to these houses, its elevated positioning and the two storey relatively blank wall and flat roof parapet that it presents to the south.

7.3.7. In conclusion, I therefore recommend that planning permission should be refused on the basis that the proposed development, by reason of its design, scale, bulk and height, would be visually obtrusive, overly dominant and overbearing within the surrounding streetscape, and would be out of character with the pattern of development in the vicinity.

7.4. Residential Amenity

7.4.1. With regard to overlooking, the appellants' concerns primarily relate to the first floor windows, particularly the wraparound windows on the eastern elevation, and the first floor sun deck area. The only windows on the southern elevation of the proposed house facing the appellants' properties are small semi-opaque windows serving bathrooms, which will not result in overlooking. With regard to the windows on the eastern elevation, these are more than 24m from the existing terraced houses, and 31m from the detached house to the east, and will not result in any significant level of overlooking in my opinion. I note that the bedrooms in the proposed house are at ground floor level, with the more intensively utilised kitchen and living accommodation located at first floor level. A large window is located at first floor level on the northern elevation of the proposed house, within the kitchen area, which directly overlooks the private rear garden associated with the house to the north west. The wraparound window within the dining area similarly directly overlooks the private amenity space associated with that house. With regard to the proposed first floor sun deck, while the applicant is proposing to construct a 1.35m high parapet wall with semi-opaque glazing over, to a total height of 1.8m, I consider that this would still result in a level of overlooking of the house to the north west, and would be detrimental to the amenity of that property by reason of its overbearing and over dominant positioning and design. It would also result in a 4.5m high wall along the narrow lane to the beach, which in my opinion would be oppressive and detrimental to the character of the area. If the Board is minded to grant permission, I therefore recommend that the applicant be required to submit revised drawings for the agreement of the Planning Authority indicating: opaque glazing or other screening of windows at first floor level on the northern elevation; omission of the first floor sun deck and associated parapet wall; and a reduction in the height of the garage, such that this element of the structure has a maximum height of 3m.

- 7.4.2. With regard to overshadowing, the proposed house is north west of the terrace of two storey dwellings, and west of the detached house at the seafront. Having regard to this orientation and the separation distances between the structures, I do not consider that any significant overshadowing or loss of sunlight/daylight will occur. I note that the applicant, in responding to the appeals, submitted the shadow analysis previously prepared in respect of the previous application on the site (PL15.242727; Reg. Ref. 13/64). That proposal was of a similar height but greater length than the current proposal and was also closer to the appellants' properties. The shadow analysis indicated that no significant overshadowing would occur, and I consider that this holds true for the current proposal.
- 7.4.3. With regard to potential construction-related impacts on residential amenity, I note that there is exposed bed rock visible along the eastern part of the boundary with the houses to the south, due to the change in level either side of the boundary. While this bedrock appears to extend almost to the surface of the appeal site at this location, the two trial holes dug in connection with the SuDS report were dug to a depth of 1.2m and 1.6m respectively, which suggests that the visible bedrock may just be a localised outcropping. However, should rockbreaking be required in the construction phase, this has the potential to negatively impact on surrounding residents due to structural issues and noise/dust impacts. Therefore, should the Board be minded to grant permission, I recommend that a construction management plan be required by way of condition, to include site investigation results, construction methodology and mitigation measures to protect residential amenity.

7.5. Coastal Erosion

- 7.5.1. A Coastal Erosion Assessment Report was submitted with the application and I note that while the cover page of the assessment is dated January 2017, the preamble states that the report dates from 2013.
- 7.5.2. While the location of the appeal site within Dundalk Bay gives it a degree of shelter, I note from my inspection of the site that coastal erosion appears to have occurred at the appeal site in the years since the report was completed. In particular, Figure 7 of the report shows a fully vegetated slope from the appeal site to the beach, which has partially collapsed in the intervening years.

- 7.5.3. The report recommends that monitoring of the seaward area be regularly carried out to investigate any significant changes over time, and that should any such changes occur then alternative mitigation measures should be revisited. With regard to these measures, I note that the report states that the consequences of mitigation strategies such as hardening the shoreline or providing rip-rap/groynes can be increased erosion around the site, increased sand transport, impediment of natural processes and removal of habitat within the Natura 2000 sites.
- 7.5.4. Coastal erosion is a natural process, and I would have a concern that permitting the construction of a house on this undeveloped site where there is some evidence of coastal erosion in the five years since the report was prepared would be premature in the absence of greater certainty with respect to the extent and rate of coastal erosion that has occurred and that is likely to occur in the future. In the absence of adequate information in relation to coastal erosion, I therefore recommend that the Board refuse planning permission on the basis that it is not satisfied on the basis of the information submitted by the applicant that the appeal site and the proposed development is not at risk of coastal erosion, and that it is not satisfied that residential development on the site would not lead to future development pressure for shoreline hardening measures that could increase erosion elsewhere.

7.6. **Flood Risk**

- 7.6.1. A Flood Risk Assessment (FRA) was submitted with the planning application, and supplemented by an updated Assessment following a request for further information. The FRA considers the appeal site to be located within Flood Zone B, as per the classifications in the Planning System and Flood Risk Management Guidelines for Planning Authorities. This is based on OPW flood mapping produced in 2015 as part of the Neagh Bann CFRAMS study, and equates to a moderate probability of coastal flooding (between 0.1% and 0.5% AEP). In accordance with Table 3.1 of the Guidelines, a justification test is required for 'highly vulnerable development' in Flood Zone B.
- 7.6.2. I note that the appeal site, while immediately adjacent to the coastline, is relatively elevated with the result that the finished floor level of the proposed house is 5.4m OD. This is significantly above the 0.5% flood risk level, including an allowance of 500mm for freeboard and 500mm for climate change.

7.6.3. Having regard to the residential zoning of the appeal site, its infill nature, and noting the elevated finished floor level, I do not consider that the proposed development is at significant risk of flooding, or that it will increase flood risk elsewhere.

Notwithstanding this, I consider that the SuDS proposals and flood resilient construction measures outlined in the Flood Risk Assessment would be eminently sensible on this coastal site, and while I consider the proposed development to be acceptable from a flood risk perspective, I recommend that if the Board is minded to grant permission that a condition be included to require the implementation of these measures.

7.7. Other Issues

7.7.1. Coastal Walkway

7.7.2. Map 2 of the Dundalk & Environs Development Plan 2009 – 2015 indicates a walkway and new and improved road network along the coastline to the north of the appeal site, which runs to the east of the appeal site, before continuing westward along the Rockmount cul de sac road, linking back to the existing coast road. Policy TR 13 states that “It is the policy of the council, in co-operation with other agencies, bodies and developers, to implement an integrated pedestrian footpath and cycle path network throughout the plan area.”

7.7.3. Having reviewed the relevant map, I would concur with the applicant that the walkway does not appear to impinge on the appeal site, and the proposed development would not therefore prejudice the future delivery of any such walkway.

7.7.4. Existing Access to Beach

7.7.5. The appellants contend that the width of the existing access path to the beach, which wraps around the appeal site to the west and north, is shown as 2337mm on the drawings whereas in previous applications the design allowed for a 3m wide access. They contend that this is contrary to Condition 2 of PL15.200774.

7.7.6. The proposed development is located within the existing boundaries of the site and it does not appear to encroach on the existing access path to the beach. Having reviewed the Inspector’s Report in respect of PL15.200774, it appears that the width of the path has been a matter of contention for a considerable period of time. I consider that the width of the path, as proposed, is sufficient to maintain the existing

level of pedestrian access to the beach, and noting that the proposed development does not extend beyond the existing boundary, and that there is no objective under the relevant Development Plan to increase the width of the path, I consider it to be acceptable in this regard. However, should there be a separate legal basis for widening the right-of-way, I would note that as section 34(13) of the Planning Acts states, a person is not entitled solely by reason of a permission to carry out any development.

7.8. Appropriate Assessment

- 7.8.1. The appeal site abuts the Dundalk Bay SPA (Site Code 004026) and the Dundalk Bay SAC (Site Code 000455), and due to its elevated nature above the coastline, I consider that there is a direct pathway between the appeal site and the European sites.
- 7.8.2. The Site Synopsis for Dundalk Bay SPA states that it is of international importance because it regularly supports an assemblage of over 20,000 wintering waterbirds. It also qualifies as a site of international importance for supporting populations of Light-bellied Brent Goose, Knot, Black-tailed Godwit and Bar-tailed Godwit. A variety of other species occur in numbers of national importance, such as Great Crested Grebe, Greylag Goose, Shelduck, Teal, Mallard, Pintail, Common Scoter, Red-breasted Merganser, Oystercatcher, Ringed Plover, Golden Plover, Grey Plover, Lapwing, Dunlin, Curlew and Redshank. Other wintering species which occur include Red-throated Diver, Great Northern Diver, Cormorant, Grey Heron, Little Egret, Mute Swan, Wigeon, Goldeneye, Greenshank and Turnstone. The site also supports nationally important populations of three wintering gull species - Black-headed Gull, Common Gull and Herring Gull. In spring and autumn, the site attracts a range of passage migrants, including Little Stint, Curlew Sandpiper and Ruff.
- 7.8.3. The Site Synopsis states that Dundalk Bay SPA is one of the most important wintering waterfowl sites in the country and notes that Dundalk Bay is also a Ramsar Convention site.
- 7.8.4. The qualifying interests of the Dundalk Bay SAC are as follows:
- Estuaries.
 - Mudflats and sandflats not covered by seawater at low tide.

- Perennial vegetation of stony banks.
- Salicornia and other annuals colonising mud and sand.
- Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*).
- Mediterranean salt meadows (*Juncetalia maritimi*).

7.8.5. With regard to the Annex 1 qualifying habitats of the Dundalk Bay SAC, while none of these occur within the appeal site, Estuary, Mudflats and Sandflats and Atlantic Saltmarsh habitats are located within close proximity of the appeal site.

7.8.6. The conservation objectives for the SAC and SPA are to maintain the favourable conservation condition of the relevant habitats and bird species, as defined by specified attributes and targets for each qualifying interest.

7.8.7. A Natura Impact Statement was submitted with the planning application. In his Stage 1 Screening Statement, the applicant's ecologist considered that the proposed development has the potential to result in impacts to the Dundalk Bay European Sites as a result of noise and visual disturbance and the potential emission of contaminated surface water during construction. The ecologist therefore considered that a Stage 2 Appropriate Assessment was required. Having regard to the nature of the proposed development and its position on an elevated site above and abutting the Dundalk Bay SAC/SPA, I concur with the ecologist that a Stage 2 Appropriate Assessment of the proposed development is required.

7.8.8. Having regard to the site location and context, and noting the infill nature of the proposed development and the intention to connect to the public wastewater system, I consider that the principal adverse impacts that could occur to the qualifying interests of the abovementioned European sites arise during the construction phase, and as noted above include visual and noise disturbance to bird species and the release of contaminated water or other pollutants to the estuarine or sandflat and mudflat habitats.

7.8.9. The NIS states that construction will be undertaken in accordance with best practice guidelines, such as the CIRIA guidance on control of water pollution and NRA/TII guidance on watercourses, management of invasive species and protection of trees, hedgerows and scrub. It also sets out a series of mitigation measures, including a 20m buffer for the storage of potentially hazardous materials, covering of material

stockpiles, retention of vegetation where possible, restriction of construction works to the period between April and September to minimise disturbance to over-wintering birds etc.

- 7.8.10. I consider the proposed mitigation measures to be reasonable, appropriate to the nature of the qualifying interests of the European sites and readily capable of being implemented during the construction phase. If the Board is minded to grant permission, I recommend that a condition requiring compliance with the NIS mitigation measures be included, in the interests of clarity. I also recommend that a condition requiring the submission of a detailed construction management plan be included.
- 7.8.11. Subject to the implementation of these mitigation measures, I consider it reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the Dundalk Bay SPA (Site Code 004026), the Dundalk Bay SAC (Site Code 000455), or any other European site, in view of the sites' Conservation Objectives.

8.0 Recommendation

- 8.1. I recommend that planning permission should be refused for the reasons set out below.

9.0 Reasons and Considerations

1. Having regard to the prominent and elevated nature of the site and the established built form and character of houses at Rockmount, it is considered that the proposed development, by reason of its design, scale, bulk and height, would be visually obtrusive, overly dominant and overbearing within the surrounding streetscape, and would be out of character with the pattern of development in the vicinity. The proposed development would seriously injure the visual amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the location of the site, the Board is not satisfied that the applicant has demonstrated with sufficient certainty that the proposed development would not be at risk from coastal erosion, or that any attempt to mitigate this risk would not give rise to an increased risk of coastal erosion in other areas. In this regard, the Board notes the coastal erosion that appears to have occurred at the site in the period since the Coastal Erosion Assessment report submitted with the application was prepared. It is therefore considered that, in the absence of adequate information relating to the risk of coastal erosion and any necessary mitigation measures, the proposed development would be contrary to the proper planning and sustainable development of the area.

Niall Haverty
Planning Inspector

21st March 2018