



An  
Bord  
Pleanála

## Inspector's Report ABP-301271-18

### Development

Permission for development will consist of an indoor multi-activity adventure sports complex (4540 sq.m ground floor area with 555 sq.m mezzanine floor area and with maximum overall height of 21.45m) with car parking, landscaping and associated site development works including demolition of a non-habitable derelict cottage and outbuilding.

### Location

Redcow, Old Newry Road, Dundalk, County Louth

### Planning Authority

Louth County Council

### Planning Authority Reg. Ref.

17/786

### Applicant(s)

Handlova Ltd. T/A Cooley Spring Water

### Type of Application

Permission

### Planning Authority Decision

Grant

### Type of Appeal

Third Party

**Appellant(s)**

Eileen Kirk

**Observer(s)**

None

**Date of Site Inspection**

21<sup>st</sup> September 2018

**Inspector**

Niall Haverty

## **1.0 Site Location and Description**

- 1.1. The appeal site, which has a stated area of 2.306 ha, is located in the townland of Redcow, c. 2km north of Dundalk Town Centre. It is located on the eastern side of a local road, c. 0.4km south of Junction 18 of the M1 Motorway. A roundabout c. 0.2km south east of the appeal site connects the R215 and N52, with connections to the R173 and M1 at the Ballymascanlon Roundabout (Junction 18).
- 1.2. The local road on which the site is located forks to the north of the appeal site, and both forks terminate in vehicular cul de sacs close to the M1. There is an access road to an industrial development opposite the appeal site, which appears not to be in use.
- 1.3. The appeal site is relatively level and mainly comprises undeveloped grassland, with a densely planted conifer plantation covering the southern portion of the site, and a derelict house and outbuildings to the front (west) of the site, which are in ruinous condition. There are a number of mature trees in the vicinity of the derelict house, with hedgerows and trees along the boundaries. The Raskeagh Stream runs along the northern boundary of the site flowing from west to east, and a drainage channel runs through the site parallel to the river. With the exception of the industrial development and roads infrastructure referred to above, the surrounding area is generally in agricultural use, with a number of one-off dwellings to the north and south.

## **2.0 Proposed Development**

- 2.1. The proposed development, as described in the statutory notices, consists of an indoor multi-activity adventure sports complex (4,540 sq m ground floor area with 555 sq m mezzanine floor area and with maximum overall height of 21.45m) with car parking, landscaping and associated site development works including demolition of a non-habitable derelict cottage and outbuilding.
- 2.2. The proposed indoor sports complex would be located in the north western corner of the appeal site, with an access road and car parking to the south. It is proposed to

raise ground levels on this part of the site to accommodate the sports complex building and car park.

- 2.3. A fence would separate the easternmost part of the site, and a wayleave and compensatory flood area would be located in this area. Approximately half of the existing coniferous plantation would be removed and existing boundary planting would be retained. A 10m wide easement is proposed along the Raskeagh Stream, with a separate access gate provided to this easement from the local road. 2.4m high paladin fencing is proposed along the northern easement and the southern boundary, and separating the eastern part of the site. A boundary wall with railing is proposed along the western (roadside) boundary.
- 2.4. The floor plans for the indoor sports complex indicate a range of uses and activities within the sports complex, including sky diving, climbing wall and towers, soft play area, trampoline arena, eight party rooms, café and seating areas, bar, function room, viewing galleries, offices, toilets and other ancillary elements.
- 2.5. The proposed building would generally have a height of 12.45m, with a higher area over the sky diving and climbing wall area having a height of 21.45m. The northern elevation would thereby comprise an area of 90m x 21.45m, while the southern elevation would have an area of 90m x 12.45m. The proposed entrance to the building would be on the southern elevation, with a projecting 9.3m element with extensive glazing. The proposed finishes generally comprise smooth plaster to the ground floor, with Kingspan metal cladding above, with a note stating 'exact colour scheme to be agreed with planner prior to commencement'. Elevated signage is indicated on all four elevations, stating "we are vertigo". With the exception of the main entrance, there are no windows or glazed panels on the proposed building. A series of what appear to be emergency exit doors are proposed on the west, north and south elevations.
- 2.6. The application was accompanied by an Appropriate Assessment Screening Report, Infrastructure Report, Archaeological Impact Assessment and Plantation Assessment Report.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. Louth County Council decided to grant planning permission. The following summarised conditions are noted:

- **C3(a) and (b):** Visibility splays.
- **C3(c):** Flood risk mitigation measures to be implemented.
- **C5:** Existing woodland area to the south of the site and hedgerow along the northern boundary to be protected and retained.
- **C6:** Proposed front boundary walls with railings to be limited to the main entrance and immediate environs. The remainder of the front boundary to be planted with native hedgerow.
- **C8:** Construction management plan to be submitted.

### 3.2. Planning Authority Reports

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

- Applicant has submitted a comprehensive response to the request for further information.
- Proposed use (recreation) is considered open for consideration under the zoning objective.
- Proposed development is acceptable given that by its nature it requires a large and expansive site to cater for its massing, car parking etc. and to protect residential amenities.
- Given the secluded nature of the site, it will not have a negative impact on the visual or residential amenities of the area.
- Proposal is in compliance with Policies S07 and RA1.
- Proposed development will have a range of employment activities and will have strategic importance.

- Proposed development is well served with road infrastructure and access to the M1 Motorway.

### 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.

3.4.2. **Department of Culture, Heritage and the Gaeltacht:** On the basis of the information in the Archaeological Impact Assessment there are no further archaeological requirements in this case.

### 3.5. Third Party Observations

3.5.1. Two third party observations were received, from the appellant and Philip Kirk on behalf of Air Bound Trampoline Park, Dundalk, respectively. The issues raised in Mr Kirk's observation related to the impact of the proposed development on the existing Air Bound Trampoline Park facility, while the issues raised in the appellant's observation were generally as per the appeal, as well as the following:

- Traffic impact.
- Archaeology.
- Tree preservation.

## 4.0 Planning History

### 4.1. Appeal Site

4.1.1. **PL15.246173 (Reg. Ref. 15/520):** Outline planning permission refused for a single storey leisure centre and associated development. The Board refused permission for the reason that:

“Having regard to the lack of foul sewerage infrastructure serving the subject land, it is considered that development of the kind proposed on the land would

be premature by reference to an existing deficiency in the provision of sewerage facilities. The Board is not satisfied, in the absence of information to the contrary, that there may be an existing and more suitably located premises available that would be a more appropriate venue for the development proposed. The Board queried the appropriateness of seeking outline permission for a proposed development of this nature.”

## 4.2. Surrounding Area

- 4.2.1. **Reg. Ref. 09/879:** 10 Year Permission granted in January 2011 for development consisting of site development works associated with a business park on lands zoned for employment mixed use. This site is located opposite the appeal site, and the permitted development includes a foul pumping station.
- 4.2.2. **PL15.238860 (Reg. Ref. 10/102):** Permission refused for an integrated sports, leisure and recreation facility with a gross floor area of 44,246 sq m on a 13 ha site. The development included the raising of ground levels by 2.2 – 2.6m as a flood defence measure. The Board refused permission on the grounds that the proposed development would lead to the creation of an unsustainable car-dependent development, that the level of intervention required to make the site, which is in area subject to coastal flooding, suitable for development (importation of 750,000 cu m of fill material) would constitute an unsustainable approach to development, and that the need for the development on the environmentally sensitive site had not been justified.

## 5.0 Policy Context

- 5.1. Section 2.16.4 of the Louth County Development Plan 2015-2021 (CDP) states that the statutory Development Plan for the urban and surrounding environs area of Dundalk is currently the Dundalk & Environs Development Plan 2009-2015 (DEDP) and that the CDP will be an over-arching Development Plan for the entire county including Dundalk and Drogheda. It goes on to state that following the adoption of the CDP, the existing DEDP will be reviewed and ultimately replaced by a Local Area Plan which will be a sub-set of and will be consistent with the provisions of the CDP.

- 5.2. This is supported by Policy SS 3 “to review the Dundalk and Environs Development Plan 2009 – 2015 and to prepare a Local Area Plan for Dundalk and Environs which will be consistent with the provisions of the County Plan”.
- 5.3. I note that Section 11C(a) of the Planning and Development Act 2000, as amended, states with respect to the dissolution of town councils that the development plan for the administrative area of such a town council shall continue to have effect to the extent provided for by that plan and be read together with the development plan for the administrative area within which the dissolved administrative area is situated.
- 5.4. Having regard to the abovementioned provisions of the CDP and the Planning and Development Act, I have therefore had regard to both the CDP and the DEDP in my assessment.
- 5.5. **Dundalk and Environs Development Plan 2009-2015**
- 5.5.1. The appeal site is zoned Strategic Employment Mixed Use (SEMU). This zoning objective seeks to provide a range of Business and Employment activities which have strategic importance. Under the zoning matrix, ‘sports facilities’ are open for consideration, while ‘tourism facilities’ are permitted in principle. ‘restaurant/café’ is also open for consideration.
- 5.5.2. The SEMU zoned lands are within the ‘Northern Environs’, which is identified as one of a number of key opportunity sites and areas.
- 5.5.3. I note that other zoning objectives under the Development Plan include
- Retail, Leisure and Recreation: To provide for retail warehousing and the sale of bulky goods where not more than 10% of the floor area is allocated to sale of small goods. The provision of strategic largescale retail development of significant scale and nature to draw from a regional catchment and to support the development of Dundalk as a regional shopping destination and the provision of large scale recreation and leisure facilities.
  - Tourism and Leisure: To provide for large scale tourism and leisure proposals, with related retailing, of regional, national and international importance.
- 5.5.4. The following Policies and Objectives are noted:



- **Strategic Objective SO7:** Protect and enhance existing recreation and amenity faculties within the town and to secure the provision of additional facilities subject to demand and availability of resources.
- **Policy EC 6:** Encourage and facilitate development of identified key opportunity sites and areas in order to generate economic activity and renewal.
- **Policy EC 23:** Support the provision of large scale facilities for conference, sports and leisure generated tourism which creates a welcoming and safe environment for the tourist and visitor.
- **Policy EN 5:** Apply a presumption against permitting development within areas at risk of flooding and within flood plains subject to the application of the sequential test and or justification test to site selection.

## 5.6. Natural Heritage Designations

- 5.6.1. The appeal site is not located within or immediately adjacent to any sites with a natural heritage designation. The closest such sites are the Dundalk Bay SPA and SAC (Site Codes 004026 and 000455, respectively) which are c. 1.1km to the east. Dundalk Bay is also a pNHA, and the stream which runs along the northern boundary of the appeal site ultimately connects to the Bay.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. One third party appeal was lodged by Stephen Ward Town Planning and Development Consultants on behalf of Eileen Kirk. The issues raised in the appeal can be summarised as follows:
- This is the third application for a development of this nature. The Board refused permission in 2016 (PL15.246173), and the reasons for refusal still apply. There has been no change in circumstances.
  - Site is unserviced and at the outer limits of the Dundalk and Environs area.

- Documentation relating to construction of the pumping station suggests that it has been a stagnant process. There is no evidence to suggest that construction is due to commence any time soon, or that agreements are in place between the applicant and adjoining landowners.
- Development is premature pending the development of sewerage infrastructure with reference to Section 7.3.5 of the Development Management Guidelines.
- Irish Water noted a 450mm raw watermain and a 375mm foul sewer routed through the site. This suggests that the applicant may have to consider connections to services in adjacent lands.
- Previous Board refusal considered that there may be more suitably located existing premises available which would be a more suitable venue. This matter was overlooked by the applicant and Planning Authority. The National Planning Framework supports development of brownfield sites over greenfield sites.
- Appellant has identified numerous large floorplate buildings within Dundalk where sports facilities and tourism facilities would be permitted in principle uses.
- Proposed development would materially contravene the SEMU zoning objective. There are other land use zones which specifically allow for large-scale leisure/recreational facilities. A bar is also proposed, which is a non-permitted use.
- Appeal site is located within Flood Zone A. Proposed development does not come within the exceptional circumstances outlined in the Guidelines for development of such sites. Only water compatible development is suitable in Flood Zone A.
- Proposed development materially contravenes Policy EN5 of the Development Plan, which applies a presumption against development in flood risk areas.
- The Board refused permission in 2012 (PL15.238860 for an integrated sports, leisure and recreational facility for a site nearby, to the south. One of the

reasons for refusal related to the level of intervention required to facilitate the development in an area subject to coastal flooding. The circumstances are similar to this appeal and a precedent has been established.

- Development is of excessive height, scale, bulk and mass. It is 7m higher than the adjacent industrial unit to the west.
- Proposed development would be visually obtrusive, out of proportion and over-scaled in relation to its location, context and the surrounding pattern of development.
- Proposed development will impact on the viability of the town centre and existing adventure and activity centres in the Dundalk area.

## 6.2. Applicant Response

6.2.1. A response to the appeal was submitted on behalf of the applicant by P. Herr & Associates. The issues raised can be summarised as follows:

- 10 year permission for the Red Cow pumping station and rising main was granted as part of site development works for the business park to the west under Reg. Ref. 09/879.
- A number of landowners have formed a consortium and agreed a mechanism to fund the pumping station. A Director of the applicant company is a Director of the consortium company.
- The consortium has been engaged in consultation with Irish Water regarding the design and proportioning of costs and agreement in principle has been reached. The design is sufficiently advanced for tenders to be sought and Section 7.3.5 of the Development Management Guidelines is not applicable.
- Irish Water has not objected to the proposed development.
- Construction of the development would not commence until construction of the pumping station commences. Development shall not proceed in the event of the pumping station not proceeding.
- The 450mm raw watermain is not longer functional, but Irish Water wish to retain it for possible future use. The water supply for the proposed

development will be taken from the existing public watermain on the public road to the front of the site. The 375mm foul pipeline is an emergency overflow from the existing pumping station and it is not proposed to connect to it. Both pipelines will have wayleaves and will not be affected.

- Proposed building is a bespoke design for the proposed facilities, including a climbing wall, ski slope and trampoline zones. The alternative vacant buildings identified in the appeal are either too small or of insufficient height. The appeal site is in close proximity to Junction 16 of the M1 Motorway and the N52, R132 and R173 road networks shall facilitate non-local visitors to the site while minimising the impact on the internal road network.
- Proposed development is compatible with zoning objective and supported by Strategic Objectives SO7, 3.4.1 and Policies EC 6 and EC 23.
- Extensive tracts of zoned lands in Dundalk and Environs are susceptible to coastal and fluvial flooding. This is acknowledged by the OPW in the CFRAM Study and extensive flood protection works are proposed for the Dundalk area.
- The Flood Risk Management Guidelines do not specifically prohibit development in flood zones in established urban settlements, many of which are at risk of flooding. The Guidelines note that to do so would be contrary to policies which support compact and sustainable urban forms
- Proposed development is a 'less vulnerable development'. Proposed building and car park would lie outside the fluvial flood zone.
- The raising of the ground level will ensure that this area is no longer susceptible to fluvial flooding. Proposed floor level would provide 0.5m freeboard above the extreme flood level.
- Flood water storage capacity will be retained within the site due to the lowering of ground levels in a portion of the site. No flood waters will be displaced into third party lands.
- Proposed development satisfied the justification test. No reference to flood risk was contained in the Board's previous decision.

- Integrated tourism and leisure development referred to by appellant is not comparable. It was ten times larger and included highly vulnerable development, such as a hotel.
- Building size, shape and height is a product of the activities to be carried out within. High quality architectural panels will be utilised, and the higher portion will be located to the rear.
- Proposed development is at a different level and category than existing leisure facilities in the area and will not provide direct link-for-like competition. Commercial impact on other facilities is not a planning consideration.
- Provision of a bar would be ancillary to the main activity and is a standard feature of most large tourism/sports/leisure facilities. The applicant would have no objection to this element of the development being omitted if deemed appropriate by the Board.

6.2.2. The applicant's response included a number of appendices, including information relating to the pumping station and details of the panel cladding system.

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

6.3.1. No further comment.

### 6.4. **Observations**

6.4.1. None.

### 6.5. **Further Responses**

6.5.1. None.

## 7.0 **Assessment**

7.1. I consider that the key planning issues arising from the appeal are as follows:

- Principle of proposed development.
- Alternative sites.

- Flood risk.
- Foul Sewerage.
- Visual and residential amenities.
- Roads and traffic.
- Other issues.
- Appropriate Assessment
- Environmental Impact Assessment

## 7.2. Principle of Proposed Development

- 7.2.1. The appellant contends that the proposed development would materially contravene the SEMU zoning objective which applies to the appeal site and that there are other land use zonings under the DEDP which would be more appropriate.
- 7.2.2. The SEMU zoning objective seeks to provide a range of Business and Employment activities which have strategic importance. Under the zoning matrix, 'sports facilities' are open for consideration, while 'tourism facilities' are permitted in principle. 'Restaurant/café' is also open for consideration. The SEMU zoned lands are within the 'Northern Environs', which is identified as one of a number of key opportunity sites and areas. I note that Policy EC 6 seeks to encourage and facilitate development of identified key opportunity sites and areas in order to generate economic activity and renewal.
- 7.2.3. The DEDP includes a number of relevant Policies and Objectives, including Strategic Objective SO7 which seeks to protect and enhance existing recreation and amenity facilities within the town and to secure the provision of additional facilities subject to demand and availability of resources, and Policy EC 23 which seeks to support the provision of large scale facilities for conference, sports and leisure generated tourism which creates a welcoming and safe environment for the tourist and visitor.
- 7.2.4. While there are other areas within the DEDP area which are zoned for 'Retail, Leisure and Recreation' and 'Tourism and Leisure', I consider that the proposed development could be considered to represent a strategic employment mixed use development. It includes a wide range of activities and ancillary facilities and will

have c. 50 employees according to the applicant, which seems reasonable given the scale and nature of the development. Given the extensive nature of the activities and adventure sports proposed, I consider that the proposed development would represent a 'tourism facility' as well as a 'sports facility' and that it would be likely to attract visitors to Dundalk and act as a generator of economic activity in the Northern Environs of the town. In this regard it could be considered strategic to the development of the Town, and I do not consider, therefore, that the proposed development would materially contravene the zoning objective.

7.2.5. The appellant also contends that the proposed bar within the sports complex building is a non-permitted use. Having regard to the nature of the proposed facility and the minor scale of the proposed bar area (c. 1% of overall floor area), I would concur with the applicant that the inclusion of such a bar facility is a relatively standard element of many sports and leisure facilities and that it is ancillary to the main use. In this regard I note that the bar is located at mezzanine level, that it is not separated from the surrounding activities, and that it can only be accessed from within the sports complex and does not have its own separate entrance.

7.2.6. In conclusion, therefore, 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. Alternative Sites**

7.3.1. The appellant contends that there are numerous vacant buildings in the Dundalk area which could accommodate the proposed development, and draws attention to the Board's previous refusal of outline planning permission, where it stated that it was not satisfied that there may be existing and more suitably located premises available that would be a more appropriate venue for the development proposal.

7.3.2. I would accept the applicant's contention that the various buildings identified by the appellant are primarily retail warehouse type structures, and would most likely not be suitable for the proposed development, particularly with regard to the footprint required and the height required to accommodate the indoor sky diving and climbing wall/towers aspects of the development.

- 7.3.3. The appeal site is, however, somewhat remote from the town centre and the issue of site suitability should be considered.
- 7.3.4. It appears from the information submitted by the applicant that a key factor in the selection of the appeal site was its proximity to roads infrastructure, with access to the M1, N52, R132, R215 and R173 available a short distance to the east and north of the appeal site, which would facilitate non-local visitors to the development.
- 7.3.5. Having regard to the nature of the proposed development, which is not comparable to a typical leisure or sports centre, I consider that it is likely to attract visitors from outside the Dundalk area and therefore the applicant's desire to choose a site with good access to the strategic road network is reasonable. I note that the site is also linked to the built-up area of the town centre with footpaths and cyclepaths and that two bus routes pass within 250m of the site.
- 7.3.6. The appeal site is located on zoned lands, and the intervening lands between the appeal site and the existing built-up area of the town are also generally zoned for development. There does not appear to be any phasing requirements within the DEDP for the development of non-residential zoned lands, and having regard to the location of the appropriately zoned site within the area designated as the 'Northern Environs', which is identified as one of a number of key opportunity sites and areas and where Policy EC 6 seeks to encourage and facilitate development of these opportunity sites and areas in order to generate economic activity and renewal, I consider that there is sufficient justification for the choice of the appeal site for the proposed development on policy and accessibility grounds.

#### 7.4. **Flood Risk**

- 7.4.1. The appellant contends that the proposed development is unacceptable on the basis of flood risk, and that it would materially contravene Policy EN5 of the DEDP, which applies a presumption against development in flood risk areas.
- 7.4.2. A Flood Risk Assessment was submitted with the planning application, and subsequently amended on foot of the request for further information. With regard to coastal flooding, the entire site is located within Flood Zone A (i.e. 0.5% AEP), with a significant portion of the site subject to coastal flooding for the 10% AEP. With regard to fluvial flooding, the western part of the site is located within Flood Zone A (i.e. 1%



AEP), with a further area at the centre of the site located within Flood Zone B (i.e. 0.1% AEP). It is clear from the above that the appeal site is subject to significant flood risk, despite being zoned for development, and in this regard the zoning objectives of the DEDP would appear to conflict with Policy EN5 of the DEDP.

7.4.3. In order to mitigate flood risk it is proposed to raise ground levels across c. 1.285 ha of the site, from the existing levels of 2.8 – 3.5m to a minimum of 4.2m, with the finished floor level of the sports complex at 4.75m. This floor level would give a freeboard greater than 0.5m above water levels for the 0.5% AEP coastal flood scenario and the 0.1% AEP fluvial flood scenario. A compensatory flood storage area is also proposed in the eastern portion of the appeal site. This will entail the lowering of ground levels by an average of 0.35m within an area of 800 sq m, to provide up to 275 cu m of storage. The FRA calculates that the volume of water displaced from the developed portion of the appeal site during a 0.1% AEP fluvial flood scenario would be 100 cu m. It appears that flood water would enter the compensatory area through overland flow, with water discharged back to the stream via an outlet pipe with non-return valve, as well as through percolation to subsoil.

7.4.4. I note that the proposed compensatory storage area is sized to cater for the loss of a small area of fluvial flood plain for the 0.1% AEP, equating to 800 sq m. However, no compensatory storage is proposed for the loss of flood plain associated with coastal flooding scenarios, which in the 0.5% AEP scenario covers the entire site. The applicant's justification is that the infilling of the lands will not displace coastal flood waters, since the area of the site is infinitesimal relative to the coastal flood plain of the Irish Sea. While I would agree with this statement on the macro scale, tidal flooding can occur via various mechanisms, including a mix of overland and fluvial flooding. Having regard to the information submitted, I am not satisfied that the applicant has adequately demonstrated that the raising of ground levels on c. 1.285 ha of land in an area subject to a particularly high coastal flood risk (i.e. c. 50% of the site is indicated as flooding in the 10% AEP coastal scenario) would not be likely to result in increased flood risk to third party lands in the local area, including to lands that may not otherwise have flooded.

7.4.5. I therefore recommend that planning permission be refused on the basis of flood risk.

## 7.5. Foul Sewerage

- 7.5.1. The Board refused outline planning permission on the appeal site in 2016 for a similar form of development to that proposed (Ref. PL15.246173), because of the lack of foul sewerage infrastructure serving the subject land. The Board considered that development would be premature by reference to an existing deficiency in the provision of sewerage facilities. The appellant contends that there has been no material change in circumstances, that there is no evidence to suggest that construction is due to commence any time soon and that the proposed development remains premature.
- 7.5.2. I note that neither the Infrastructure Section of the Local Authority nor Irish Water objected to the proposed development. The Irish Water submission states that “the provision of a strategic sewerage pumping station and rising main which would serve the Northern Environs of Dundalk shall be fully agreed between Irish Water and the Applicant”.
- 7.5.3. Planning permission was granted in January 2011 (Reg. Ref. 09/879) to McParland Bros (Ire) Ltd. & P & J McParland on a site on the western side of the local road, opposite the appeal site, for development consisting of site development works associated with a business park. This permitted development includes a foul pumping station opposite the appeal site, which it is proposed to connect to.
- 7.5.4. The applicant states that the permitted pumping station is intended to replace an existing substandard pumping station, and that it will service c. 80 ha of zoned lands in the north west sector of Dundalk. A consortium of landowners (Marlish Ltd.) has been formed, and the applicant contends that a mechanism has been agreed to fund the capital costs associated with the pumping station and rising main.
- 7.5.5. Correspondence in relation to this matter was submitted with the planning application, but dated to 2016. However, it appears that the situation with regard to the permitted pumping station has now moved on somewhat, albeit that construction works have not yet commenced. The applicant’s response to the appeal includes a letter from a Consulting Engineer acting on behalf of Marlish Ltd. setting out the current situation with regard to the pumping station, and it includes an email from the Asset Management Section of Irish Water. This email states that the design and capacity requirements of the pumping station were substantially agreed in March

2018, that it is anticipated that these details will be finalised by end April/mid May 2018 and that Marlish Ltd. will then be in a position to complete statutory requirements, contract documents and construct the pumping station and associated works if they so wish.

- 7.5.6. Considering that permission for the pumping station is in place, that design details and funding matters requiring agreement between Irish Water and the various landowners appear to be nearing resolution, and that Irish Water has confirmed this situation, I do not consider that the proposed development would still be premature with regard to the provision of sewerage facilities. Therefore, rather than refusing permission on the basis of prematurity, should the Board be minded to grant permission, I consider it more appropriate that a condition be included requiring that the development not commence until the permitted foul pumping station and associated infrastructure is constructed and operational and the developer has been informed of that fact in writing by Irish Water and/or the Planning Authority.

## **7.6. Visual and Residential Amenities**

- 7.6.1. The appellant contends that the proposed development would be excessive in height, scale, mass and bulk and would be visually obtrusive and over-scaled in relation to its location and context.
- 7.6.2. The proposed building would measure c. 50m x 90m on plan, with the northern part of the building having a height of 21.45m, and the southern part having a height of 12.45m. The building is relatively industrial in form and character, with metal cladding to the walls, and no windows. Colour images included in the response to the appeal indicate a gradated colour pattern on the wall panels, fading from blue to white which adds a degree of visual interest to what are otherwise utilitarian and blank facades.
- 7.6.3. While the surrounding area is generally still in agricultural use, it is zoned for development, including 'Strategic Employment Mixed Use' and 'Employment Mixed Use'. There is an extant permission for site development works associated with a business park development on lands to the west, and one relatively large industrial type building has been built on those lands.

7.6.4. I do not consider the appeal site or surrounding area to be particularly visually sensitive. The site is currently occupied by a number of ruinous structures and comprises agricultural lands which are poorly maintained with a dense coniferous plantation on part of the site. There are no existing houses within c. 140m of the appeal site, and views in the area are generally short-range due to the flat landscape and mature hedgerows and boundary planting. It is proposed to retain some of the existing trees along the southern boundary of the site, which will not screen the development to any significant degree, due to its height, but which will serve to soften the development and embed it within the landscape. Similarly, it is proposed to retain existing boundary hedgerows to north and south. If the Board is minded to grant permission, I would concur with the Planning Authority's condition requiring the planting of a native hedgerow along the roadside boundary, rather than a wall and railing.

7.6.5. While the proposed development could be considered out of character with the current pattern of development, it is clear that the character of this area will significantly evolve as the extensive areas of employment zoned lands are brought forward for development. In this regard I note that the proposed development is similar in scale and massing to the existing industrial structure to the west, albeit that the northern part of the building is c. 7m higher. Having regard to the nature of the landscape character and existing visual amenities, the separation distances from existing residential receptors, and noting the land use zoning of the surrounding area, I consider the design and layout of the proposed development to be broadly acceptable, and I do not consider that the proposed development would have a significant adverse impact on visual or residential amenities.

## **7.7. Roads and Traffic – New Issue**

7.7.1. As noted in Section 7.3 above, it appears from the information submitted by the applicant that a key factor in the site selection was the proximity to roads infrastructure, with access to the M1, N52, R132, R215 and R173 available a short distance to the east and north of the appeal site. The appeal site is located on a cul de sac, which terminates short of Junction 18, to the north of the site. This cul de sac roadway was formerly part of the R132 and it is wide, straight, in good condition and is currently very lightly trafficked.

- 7.7.2. I also note that there are existing footpaths and cyclepaths between the appeal site and the existing built-up area of Dundalk Town Centre, with two bus routes in the vicinity.
- 7.7.3. Having regard to the nature and range of activities and facilities included in the complex, which is far in excess of a typical leisure or sports centre, I consider that the proposed development is likely to attract visitors from a wide area and not just the Dundalk area. Indeed, this forms part of the rationale for the proposed development, as outlined by the applicant in the application and appeal documentation.
- 7.7.4. A 'Traffic Impact Assessment' was submitted with the planning application. The assessment notes the high standard road network in the vicinity, and contends that traffic will generally be generated outside of peak hours, with evenings and weekends being the busiest periods. Due to the proximity to the M1, it states that vehicles will be able to access the appeal site without passing through residential areas. 90 No. car parking spaces are proposed, and the report estimates that these will have a turnover of 6 vehicles per space per day, resulting in 540 vehicle trips per day, with 65% via the M1 and 35% split across the other three roads.
- 7.7.5. The report also makes reference to a previous planning application for an integrated sports, leisure and recreational facility on a nearby site, which was refused by the Board (PL15.238860). That development had a GFA of 44,246 sq m and 791 car parking spaces and 32 coach parking spaces. The report states that the TIA in that instance concluded that the existing road network was capable of accommodating the generated traffic and that the Inspector had concurred with that conclusion.
- 7.7.6. I accept that the scale of the proposed development is not comparable to the refused integrated sports, leisure and recreational facility, however, I am not satisfied that the applicant has provided a sufficiently robust assessment of the potential traffic generation and associated traffic impacts of the proposed development. Given that there are 8 No. party rooms within the building, for example, this aspect of the development alone could generate substantial traffic, where children are being dropped and collected to parties.
- 7.7.7. The traffic report submitted is not a comprehensive Traffic and Transport Assessment as per the NRA/TII Traffic and Transport Assessment Guidelines 2014.

I note that Table 2.1 of the Guidelines includes thresholds above which Transport Assessments are required. The threshold for 'retail and leisure development' is 1,000 sq m. Similarly, Table 2.2 of the Guidelines sets out advisory thresholds where National Roads are affected, and again sets a threshold for 'retail and leisure development' of 1,000 sq m. The proposed development has a stated floor area of 5,095 sq m, i.e. five times higher than the threshold.

7.7.8. Given the proximity of the appeal site to Junction 18 of the M1 Junction, where there is a confluence of Regional and National Roads, the reliance of the proposed development on this strategic road network, and the likelihood that it will attract visitors from outside the Dundalk area, I consider that a comprehensive assessment is required.

7.7.9. I consider that this is a new issue, and as I am recommending refusal on other substantive grounds, I have not addressed it further. However, if the Board does not agree with my recommended reason for refusal, it may wish to consider requesting the submission of a Traffic and Transport Assessment and /or request a submission from TII in respect of the proposed development.

## 7.8. **Other Issues**

### 7.8.1. Archaeology

7.8.2. An Archaeological Impact Assessment (AIA) was submitted with the planning application. The assessment included a desktop review as well as a number of test trenches. It concluded that no archaeological material remains are likely to be preserved within the site, and that there will therefore be no impact on in-situ remains from the proposed development. No further archaeological works are proposed. The Department of Culture, Heritage and the Gaeltacht stated in their submission that there are no further archaeological requirements in this case. Having reviewed the AIA, I would concur, and if the Board is minded to grant permission, I do not consider it necessary to include any conditions regarding archaeological monitoring or testing.

### 7.8.3. Existing Services

7.8.4. The appeal site is traversed by an existing 450mm raw watermain and 375mm foul pipeline, which run in a south west/north east direction. The appellant contends that

the applicant may have to connect to services in third party lands, but I note that it is not proposed to connect to either pipeline. In accordance with the requirements of Irish Water, as expressed in their submission, the applicant is proposing to maintain a 10m wide wayleave over these pipelines. The pipelines are also located in an undeveloped part of the site, between the sports complex and the proposed compensatory flood area. On the basis of the information submitted, I am satisfied that the proposed development will not impact on these existing services.

## 7.9. Appropriate Assessment

- 7.9.1. The appeal site is not located within or immediately adjacent to any sites with a natural heritage designation. The closest such sites are the Dundalk Bay SPA and SAC (Site Codes 004026 and 000455, respectively) which are c. 1.1km to the east. Both the Raskeagh Stream which runs along the northern boundary of the appeal site, and a drainage ditch between the wooded area and the field, which runs parallel to the stream, ultimately connect to the Bay.
- 7.9.2. The qualifying interests of the Dundalk Bay SAC are Estuaries [1130], mudflats and sandflats not covered by seawater at low tide [1140], perennial vegetation of stony banks [1220], salicornia and other annuals colonising mud and sand [1310], Atlantic salt meadows (*Glauco-Puccinellietalia maritima*) [1330] and Mediterranean salt meadows (*Juncetalia maritimi*) [1410].
- 7.9.3. The qualifying interests of the Dundalk Bay SPA are Great Crested Grebe (*Podiceps cristatus*) [A005], Greylag Goose (*Anser anser*) [A043], Light-bellied Brent Goose (*Branta bernicla hrota*) [A046], Shelduck (*Tadorna tadorna*) [A048], Teal (*Anas crecca*) [A052], Mallard (*Anas platyrhynchos*) [A053], Pintail (*Anas acuta*) [A054], Common Scoter (*Melanitta nigra*) [A065], Red-breasted Merganser (*Mergus serrator*) [A069], Oystercatcher (*Haematopus ostralegus*) [A130], Ringed Plover (*Charadrius hiaticula*) [A137], Golden Plover (*Pluvialis apricaria*) [A140], Grey Plover (*Pluvialis squatarola*) [A141], Lapwing (*Vanellus vanellus*) [A142], Knot (*Calidris canutus*) [A143], Dunlin (*Calidris alpina*) [A149], Black-tailed Godwit (*Limosa limosa*) [A156], Bar-tailed Godwit (*Limosa lapponica*) [A157], Curlew (*Numenius arquata*) [A160], Redshank (*Tringa totanus*) [A162], Black-headed Gull (*Chroicocephalus ridibundus*) [A179], Common Gull (*Larus canus*) [A182], Herring Gull (*Larus argentatus*) [A184] and Wetland and Waterbirds [A999].

- 7.9.4. The Conservation Objectives for the SAC and SPA are to maintain the favourable conservation condition of the various habitats and bird species for which the sites have been selected.
- 7.9.5. An Appropriate Assessment Screening Report was submitted with the planning application. I note that the report is dated December 2015, and that it appears to relate to the previous application for outline planning permission, rather than the development proposal that is before the Board.
- 7.9.6. The ecological inspection of the site described in the AA Screening Report did not identify any protected habitats or species within the appeal site, and there was no evidence of bird or bat roosts within the derelict structures.
- 7.9.7. Having regard to the site context and the nature of the proposed development, I consider that, subject to a condition requiring the foul pumping station to be operational prior to commencement of development, the principal adverse impacts that could occur to the qualifying interests of the Natura 2000 sites are related to the spread of invasive species and sediment/pollutant release to Raskeagh Stream, which flows into Dundalk Bay. The risk of both will be at their greatest during the construction phase, when relatively extensive earthworks will be undertaken to raise the level of a portion of the site as a flood protection measure, and there will be a considerable amount of construction traffic, imported fill material and other storage at the site.
- 7.9.8. It is proposed to retain a 10m wide easement along the Raskeagh Stream where there will be no change to ground level. Having regard to this buffer zone, and subject to the undertaking of construction in accordance with standard good practice for works in the vicinity of watercourses, such as silt fencing, storage of fuels/oils in bunded areas, availability of spill kits etc. I do not consider that the construction works would be likely to have a significant effect on the designated sites.
- 7.9.9. During the operational phase, the design of the proposed development includes a Sustainable Urban Drainage System, attenuation storage, rainwater harvesting, hydrobrake and a hydrocarbon interceptor, which I am satisfied would ensure that there would be no adverse effects on surface water quality during operation.
- 7.9.10. Therefore, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the



proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the Dundalk Bay SPA and SAC (Site Codes 004026 and 000455, respectively), or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## **7.10. Environmental Impact Assessment**

7.10.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest sensitive locations, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **8.0 Recommendation**

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

## **9.0 Reasons and Considerations**

1. The proposed development is in an area which is at risk of flooding. The Board is not satisfied, on the basis of the information lodged with the planning application and in response to the appeal, that the proposed development would not give rise to an increased risk of flooding either on the proposed development site itself, or on other lands in the vicinity. The proposed development would, therefore, be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

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Niall Haverty  
Planning Inspector

22<sup>nd</sup> October 2018