



An
Bord
Pleanála

Inspector's Report ABP-301442-18

Development	Surface car park with 2-storey building (ESB substation, plant room & reconstructed Pigeon House), picnic areas, lighting, landscaping & associated site works.
Location	The Liberties, Omeath Road Carlingford, County Louth.
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	17/792
Applicant(s)	Carlingford Central Parking Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	John Woods Aideen McKevitt
Observer(s)	None
Date of Site Inspection	3 rd August 2018
Inspector	Karla Mc Bride

1.0 Site Location and Description

- 1.1. The appeal site is located along the approach road (R176) to the village of Carlingford in N County Louth, The Carlingford Mountains are located to the SW of the site and Carlingford Lough is located to the N. The surrounding area is mainly residential in character with a variety of single and 2-storey buildings on either side of the main road. The “L” shaped greenfield site slopes up from the site boundaries and the most elevated section is occupied by an 18th Century Pigeon House (Dovecote). The site boundaries are defined by mature trees and hedges to the NW and SE, a stone wall to the SW and a wire fence and hedges to the NE along the roadside boundary. The NE corner of the site is low-lying and contains a wetland area and several mature trees.
- 1.2. The site is bound to the SE by an existing residential area, to the NW by two detached houses on large plots, to the SW by agricultural land and to the NE by the public footpath. Vehicular access is off the R176 Greenore Road to the NE and Carlingford Fire Station is located to the SE of the site.
- 1.3. Photographs and maps in Appendix 1 describe the site and environs in more detail.

2.0 Proposed Development

- 2.1. Planning permission is being sought for the c.1.448ha site to provide:
 - Surface car park with 367 spaces (reduced to 352 by FI)
 - Single storey service building (increased to 2-storey by FI)
 - Reconstructed Pigeon House/Dovecote (FI)
 - Electric vehicle charging points
 - Picnic areas, landscaping, public lighting and site works.

Accompanying documents:

- Land Registry details
- Natura Impact Statement
- Infrastructure Report & Flood Risk Assessment

3.0 Planning Authority Decision

3.1. Further Information

The planning authority requested the following items of Further information:

1. Disabled parking spaces - 35 provided & overall reduction from 367 to 352.
2. Design details for provision of a right turning lane - details provided.
3. Combined Stage 1 & 2 Road Safety Audit for the right turning lane - provided.
4. Revised FRA report – no amendments.
5. Revised plans for the Pigeon House which should be dismantled and rebuilt on another part of the site - relocated to first floor of building.
6. Revised public notices.

3.2. Decision

Following the receipt of FI, the planning authority decided to grant planning permission for the proposed development which would comprise a 352-space car park, subject to 6 standard conditions.

- Condition no.3 set out infrastructural requirements relating to sightlines, public lighting, a construction programme, traffic signs and a Stage 3 Safety Audit.

3.3. Planning Authority Reports

3.3.1. Planning Reports

The Planning Officer recommended that planning permission be granted.

3.3.2. Other Technical Reports

Infrastructure: Requested FI and no subsequent report.

3.4. Prescribed Bodies

Irish Water: No objections.

3.5. **Third Party Observations**

Four submissions received from local residents who raised concerns in relation to right of way across the site; boundary treatment, over supply of car parking spaces, alternative car park locations available, need for traffic calming measures; and adverse impacts on built heritage (Pigeon House), ecology (European sties & birds) & residential amenity (picnic areas).

4.0 **Planning History**

The following history cases relate to the appeal site. None of the permissions were implemented.

Reg. Ref. 01/1455: O/L permission **refused** for 7 houses & site works.

Reg. Ref. 06/1644: Permission **refused** for a 24-unit residential development & petrol station for 3 reasons related to: - sewerage deficiency; injure of amenities of houses to the W; and impact of infilling the marsh area and flood risk.

Reg. Ref. 08/1350: Permission **granted** for a petrol station & shops in SE section.

Reg. Ref. 08/7435: O/L permission **granted** for a housing development.

Reg. Ref. 09/589: O/L permission refused for petrol station & house in SE section.

5.0 **Policy Context**

5.1. **National policy**

Architectural Heritage Guidelines for PAs 2005: These Guidelines provide a practical guide in relation to the Record of Protected Structure, Architectural Conservation Areas, Declarations and Places of Worship as well as development control advice and detailed guidance notes on conservation principles.

Flood Risk Management Guidelines for Planning Authorities 2009: The Guidelines seeks to avoid inappropriate development in areas at risk of flooding and avoid new developments increasing flood risk elsewhere (including from surface water run-off) and they advocate a sequential approach to risk assessment.

5.2. Louth County Development Plan 2015 to 2021

Settlement Hierarchy: site is located within the Level 3 Settlement of Carlingford.

Site Zoning: covered by the Residential (New) Zoning objective which seeks “To protect and/or enhance existing residential communities and provide for new residential communities.” The principal permitted land use is residential.

Adjacent zoning: The lands to the N, E and W are zoned Residential (Existing) and the lands to the W are zoned for Amenity, Open Space and Recreation.

Flood Zone A: NE section of the site & surrounding lands are located Flood Zone A.

Flood Zone B: Perimeter of Flood Zone A lands are located within Flood Zone B.

Protected Structures: Protected Structure to NE of site.

Trees & Hedgerows of Special Amenity Value: Along the SW site boundary.

Strategic objectives:

OBJ 1: seeks to protect and support Level 3 settlements as local service centres in the rural area & facilitate limited development that is commensurate with the nature and extent of the existing settlement and the availability of public services & facilities.

OBJ5: seeks to ensure that there is sufficient land zoned to meet the housing, employment, community facilities and amenity needs of the village.....

Carlingford:

CAR 1: seeks to support Carlingford in its role as a local rural service centre for its indigenous population and that of its rural hinterland, where the principles of environmental, economic and social sustainability including protection of the village’s heritage and the natural and built environment are enshrined.

CAR 2: seeks to promote and facilitate limited residential development that is commensurate with the nature and extent of Carlingford and which will assist in consolidating the village, over this Plan period, in compliance with the Core Strategy.

CAR 3: seeks to provide for any identified shortfall in community facilities and services commensurate with the size and scale of the village.

CAR 11: seeks to support sustainable tourism development in Carlingford.

CAR 13: seeks to alleviate traffic congestion and inadequacies in parking provision and improve provision for pedestrians and cyclists through the implementation of an agreed traffic management plan with relevant stakeholders.

Built Heritage:

HER 58: seeks to recognise the importance of the contribution of vernacular architecture to the character of a place and promote where feasible the protection, retention and appropriate revitalisation and use of the vernacular built heritage, including structures that contribute to landscape and streetscape character and discourage the demolition of these structures.

5.3. **Natural Heritage Designations**

The site is located in close proximity to the following sensitive sites:

- Carlingford Mountain SAC & pNHA
- Carlingford Shore SAC & Carlingford Lough SPA & pNHA
- Carlingford and Feede Mountains AONB & AHSQ

6.0 **The Appeal**

6.1. **Grounds of 1st Third Party Appeal (Aideen McKevitt)**

- Non-compliance with residential zoning objective and contravention of the Development Plan.
- Unsustainable development as the village cannot support the additional burden on the already over stretched services.
- It would serve the weekend tourist sector and not a local community need.
- Does not value the environment, contribute to health & wellbeing of the community and it would increase the number of cars in the medieval village.
- Adverse impact on ecology, several rare species on Slieve Foye, and Carlingford Lough is frequented by overwintering birds.
- Adverse impact on heritage & unacceptable reconstruction of Pigeon House.

6.2. Grounds of 2nd Third Party Appeal (John Woods)

- Appellant is the beneficial owner of a right of way and leave way where he has unrestricted access to a linear area that runs parallel to the N site boundary from E to W (maps & details attached).
- The purpose of the right of way is to allow for an entrance and access to Appellant's lands in accordance with Condition 2(a) of Reg. Ref. 537/86 which granted permission for a house on the adjacent lands (details attached).
- No objection in principle to the proposed car park, however the documentation has not clearly recognised the location of the right of way and no cross-sectional construction or structural support details provided.
- Reconstructed pigeon house and associated structure encroaches on the right of way reservation and reduces its width.
- The ground level in the vicinity of the right of way will be lowered to accommodate standard gradients for the car park layout & construction.
- There will be a cross fall from one side of the right of way to the other that will make the right of way impassable and require the Appellant to carry out ground modification works with undue interference with a right of way.

6.3. First Party Response

Aideen Mc Kevitt:

- Complies with zoning and planning policies & objectives and will contribute to public realm facilities, it will be the main car park for the town and day visitors, it will also reduce congestion in the village and contribute to the tourism offer.
- Recent improvements and upgrades at the WWTP have addressed the previous sewerage capacity issues with ample capacity for the proposed disabled toilets; surface water attenuation & drainage comply with SuDS; and maximum visibility splays provided along main road.
- Car park will be used by tourists and residents from the rural hinterland, it meets a quantifiable need and will alleviate congestion in the village, it provided a smart and integrated solution to several interconnected problems

and the site comprise the only remaining undeveloped parcel of land with direct access onto the main road.

- Site lies outside the medieval town walls and it is not within archeologically sensitive area or ACA; the Pigeon House is not a Protected Structure or Recorded Monument, it is in a poor state of repair & the Council satisfied with the proposed reconstruction in compliance with HER58; the design of the new building resembles a lighthouse or Martello tower which would be in keeping with the character of the area.
- Proposal was subject to a Stage 2 NIS which screened out any direct or indirect impacts on the SAC & SPA at Carlingford Lough & Shore and proposal complies with relevant policies & objectives, and there is no connective link between the car park and the European sites.

John Woods:

- This is a legal and not a planning matter.
- Note the Appellant's lack of objection to the proposed development.
- The Appellant was a party to the transaction which created the right of way.
- No ambiguity about the right of way, its extent and location and terms and conditions, and the application specifically excludes the right of way.
- Details of the agreement is set out in the attached letters and maps.
- Any breach of the right of way provisions is actionable at law.

6.4. Planning Authority Response

- Complies with Development Plan zoning, policies & objectives.
- Adequate separation with adjoining residential areas with no loss of amenity.
- Proposal will help address the chronic shortfall in village car parking.
- Disabled spaces, footpaths and amenity spaces will be provided.
- No objections from Irish Water and the Infrastructure section.

6.5. Prescribed Bodies

Dept. of Culture, Heritage & the Gaeltacht raised the following concerns:

- Potential to disturb the roosting habitat of a significant population of protected bat and the roosting habitat of protected bird species.
- Impact caused by the loss of the mature trees & hedgerows, alterations to the Pigeon House, and increased disturbance during the breeding season.
- Conditions should require and an Arboricultural Assessment, tree protection measures during construction, a bat survey and no tree, tree-line or hedge removal during 01/03 to 31/08.

An Taisce raised the following concerns:

- **Sustainable travel:** Lack of regard to Smarter Travel (2009-2020), scale of car park not justified and proposal will undermine sustainable travel policies.
- **Pigeon house:** demolition & reconstruction of the C18th structure would make a mockery of any genuine vernacular value the structure may have, given that its only real value is in-situ on top of a small hill, and the works would destroy many of its features (type of mortar, placement of stone & internal design).
- **Bats:** A recent bat survey suggest that it is a bat roost, the bats use the nearby wetland to the W to forage, and no bat survey submitted.

Ecology & Appropriate Assessment:

- Ecological site survey is inadequate as it only includes the improved grassland part of the site and ignores the NE section which contains a wildflower meadow, drainage ditches, mature hedgerows & trees and wetland.
- The extensive wetland area was constructed as a SuDS system for the adjacent estate which has transitioned into a Tall Herb Swamp that is frequented by damselflies, dragonflies, willow & sedge warblers, reed bunting, and may be used by protected bird species including little egret, grey heron, shelduck (possibly breeding) and a range of passerine species.
- Omission of the ecologically rich NE section invalidates the AA process.

- AA report states that the site is not hydrologically linked to the SAC/SPA which it clearly is via the wetland /SuDS area (but possibly after the infill) and that hydrocarbons and other contaminants could build up in the soil.

Water: Surface water runoff will infiltrate the subsoil, groundwater and the SPA/SAC via the wetland to the W that drains into Carlingford harbour, author does not state qualifications and hydrological assessment required.

6.6. Observations

None received.

7.0 Assessment

The main issues arising in this case relate to the following:

- Principle of development
- Visual & residential amenity
- Built heritage
- Movement & access
- Drainage & flood risk
- Nature conservation
- Other issues
- Appropriate Assessment

7.1. Principle of development

Section 2.3 of the Development Plan sets out the Core Strategy for the future development of the county. It seeks to support the realisation of more sustainable towns and villages appropriate to the scale of the settlement and its position in the settlement hierarchy. Section 2.6 and Table 2.2 set out the Settlement Hierarchy for the county and Carlingford is a designated Level 3 Settlement. Section 2.8 sets out the Preferred Development Strategy which seeks to achieve a moderate sustainable growth at key small towns including Carlingford. Section 2.9 deals with Future Population Growth and Table 2.4 sets out the Distribution of Existing and Proposed Populations in the Settlement Hierarchy, and a population increase of 339 with 125 equivalent residential units is anticipated for the combined Level 3 Settlements. Section 2.9.2 also notes a high rate of dwelling vacancy in Carlingford because of its attractive location for tourists and second home owners.

Appendix 2, Volume 2A of the Development Plan sets out the planning policy framework for Level 3 towns and Section 4 deals with Carlingford. The site is covered by the Zone 1 Residential (New) objective which seeks “To protect and/or enhance existing residential communities and provide for new residential communities” and the principal permitted land use is residential. The following uses

are also open for consideration: - educational facilities, nursing homes/ analogous services, crèches/playgroups, doctor/dentist surgeries, health centres, community halls and recreational facilities, cultural uses, guesthouses, local shops (not exceeding 50sq.m.) and services and public open space. The proposed car park is not listed as a use that is either permitted or open for consideration within this residential zoning objective.

The First Party submits that the proposed car park would constitute a service, community or recreational facility and is therefore open for consideration within Zone 1. The Development Plan states that the list of uses that are open for consideration include "... local shops (not exceeding 50sq.m.) and services and public open space." I would interpret this as meaning "local shops and services" and not "services" as a separate entity. It is also noted that car parks are specifically listed as being open for consideration on lands covered by the Zone 5 Community Facilities objective, provided that they are ancillary to the main community use of the lands (including religious, educational and community facilities).

In relation to road infrastructure, section 4.6 of Appendix 2 notes that the medieval street pattern in Carlingford Village pattern does not cope easily with modern traffic, that there is a one-way traffic system in place, and that there are several public car parks which frequently overflow onto the regional route at weekends and during events and festivals. Policy CAR 13 seeks to address this concern and to alleviate traffic congestion and inadequacies in parking provision, and improve provision for pedestrians and cyclists through the implementation of an agreed traffic management plan with relevant stakeholders. However, the acknowledgement of a car parking problem and the formulation of a policy to alleviate inadequacies does not, on its own, justify the provision of a car park on residentially zoned lands.

Having regard to the foregoing, I am satisfied that the proposed car park would not be compatible with the zoning objective for the area and that it would result in an inappropriate and unsustainable use of residentially zoned lands at a time when there is a national housing supply crisis. The proposed development would materially contravene a land use objective of the Development Plan and it would be contrary to the proper planning and sustainable development of the area.

7.2. Visual and residential amenity

The site is located along the Greenore Road on the approach to Carlingford Village which is a designated Recorded Monument and Architectural Conservation Area. Although the appeal site is not covered by any sensitive heritage designations there is an 18th Century Pigeon House (dovecote) located on the most elevated part of the site. The surrounding area is characterised by a variety of suburban style dwelling

houses with a large open space to the SW. The lands slope up from all of the site boundaries to form a hill which is topped by the Pigeon House. The site boundaries are defined by mature trees and hedgerows, and there are several mature trees, a meadow and wetland in the NE corner of the site. Many of the trees and hedgerows are located outside the site boundaries and those along the SW site boundary are identified as being of Special Amenity Value, although their value appears to have diminished in recent years.

The proposed development, as amended by way of Further Information, would entail the removal of the existing hill, the infill of the NE corner and the overall levelling of the site to provide a surface car park. The proposed car park would contain 352 car parking spaces, internal roads, landscaping, picnic areas, a 2-storey services building, a toilet block, kiosk, public lighting and signage. A c.8m wide reservation would be provided along the NW site boundary with the neighbouring site in accordance with Condition no.2(a) of Reg. Ref. 537/86. The site boundaries would comprise a mix of palisade and acoustic fencing with low-rise fencing and hedges along the road frontage. The perimeter car parking spaces would be set back between c.2m and 3m from the remaining site boundaries with the neighbouring houses and open space. Most of the mature trees and hedgerows within the site would be removed and the wetland area would be filled in. A series of picnic benches would be dispersed around the perimeter of the car park.

The proposed development would not have an adverse impact on the residential amenities of the area in terms of overlooking or loss of privacy subject to the omission of the picnic benches located close to the neighbouring houses. The use of acoustic fencing along the site boundaries with the existing houses would minimise noise disturbance which is acceptable. Although the submitted plans (original and FI response) state that the car park lighting locations are shown on the Site Layout Plan (Landscaping), the locations of the c.8m high structures have been omitted from the drawings so it is not possible to assess their impact on neighbouring residential amenity.

The overall levelling of the site and the loss of the mature trees and hedgerows within the site would have an adverse impact on the visual amenities of the surrounding area. Most of these features are not covered by any sensitive

designations with the exception of the SW site boundary where the trees and hedges are designated as being of Special Amenity Value. However, it is noted that the value of this feature appears to have lessened since its designation, although enhancement could be sought by way of a planning condition. The existing mature trees and hedgerows which grow along, but outside of the site boundaries should be protected during the works to ensure that their amenity value is not adversely affected. This could also be addressed by way of a planning condition.

The 2-storey service building would have a stone façade and it would occupy a position along the NW site boundary which is considered acceptable in terms of visual amenity and it would not overlook or overshadow the adjacent residential site to any significant extent. Issues related to the Pigeon House will be assessed in section 7.3 below. Most of the mobility car parking spaces and the small toilet block would be located parallel to the roadside boundary which is considered acceptable in terms of access and visual amenity. The dispersal of electric charging points throughout the site is considered acceptable with no adverse impacts on visual residential amenity anticipated.

Having regard to the foregoing, I am satisfied that most aspects of the proposed development would not have an adverse impact on the residential amenities of the surrounding area, notwithstanding the absence of details in relation to the location of the lighting structures.

7.3. Built heritage

The proposed development would entail the removal of the existing hill, the site would be levelled and the 2-storey service building would occupy a prominent position in the vicinity of the NW site boundary. The 18th Century Pigeon House would be dismantled and reconstructed on top of this stone fronted building.

The site is not located within an Architectural Conservation Area and the Pigeon House is not a protected structure. However, the lands occupy a visually dominant position on the main approach road to the medieval village and the Pigeon House is

located on a prominent elevated part of the site. The structure and its hilltop position therefore contribute to the historic character of the area. It is noted that previous proposals to redevelop the site, as outlined in section 4.0 above, sought to retain the Pigeon House in situ. Although the proposed relocation to the roof of the service building is a novel idea, it would be preferable to retain the Pigeon House in its original position and arrange for its restoration in-situ in the interest of visual amenity and heritage. However, it is acknowledged that this would not be possible under the current proposal to level the site.

7.4. Movement and access

Vehicular access to the proposed rear car park would be via a new entrance off the R176 Greenore Road within the 100km/hour speed zone.

The proposed development, as amended by FI, would provide for a new right turning lane off the main road and adequate sightlines and visibility would be provided in both directions. The proposed development would not give rise to a traffic hazard or endanger the safety of other road users, subject to compliance with Council requirements and the implementation of the recommendations contained in the applicant's combined Stage 1 and 2 Safety Audit. These recommendations relate to signage and road markings, the provision of tactile paving and dropped kerbs at the entrance, vehicular segregation at the entrance, and the maintenance of safe access to the neighbouring residential areas.

Some 10% of the proposed car parking spaces would be laid out as mobility parking spaces which would comply with minimum Development Plan requirements. Most of the spaces would be located parallel to the road frontage which is acceptable in terms of disabled access and convenience.

7.5. Drainage and Flood risk

The applicant submitted Surface Water and Flood Risk Assessment reports with the application (section 5 and 6 of the Applicant's Infrastructure Report).

Surface water drainage:

The Surface Water report states that it is proposed to implement SuDS principles through promoting the infiltration of run-off into the overlying sub-soil to the maximum

possible extent and allowing discharge of run-off into existing watercourses, or surface water sewers as a last resort.

Several test holes were excavated across the site, no groundwater or rock was encountered and the Infiltration Tests indicate that the site is capable of accommodating a direct infiltration system for all run-off from the proposed car park.

The report states that the proposed permeable block paving will ensure that surface water will ultimately discharge to the underlying subsoil via a layer of aggregate which will also provide attenuation under storm conditions. Runoff from the main access road will be collected in a series of gullies and then piped to a soakage trench located in the open space to the E of the entrance for ultimate discharge to subsoil via an aggregate layer. The report noted that the permeable paving system would allow for hydrocarbons to be filtered out of the surface water as it passes through the system, however an additional permafilter geotextile layer will be provided, given the proximity of the site to Carlingford Lough.

Discussion:

The content and conclusions of the report are noted. However, it is also noted that the trial holes were mainly located in the low-lying parts of the site and that the hillock and wetland area were not included in the investigation. I did not encounter all 7 of the trial holes during my inspection and not all of those encountered corresponded with the locations identified in Fig. 5.1 of the report. The proximity of T7 to the wetland area was not apparent in the photographs contained in Fig.5.2 of the report and one of the trial holes in the NE section was waterlogged.

Furthermore, An Taisce raised concerns in relation to the origin and function of the wetland area in the NE section which may have been originally constructed as a part of the SuDS system for the attenuation of surface water runoff from the adjacent housing estate, whilst the Council's Infrastructure report described it as a flood storage area. The wetland area would be filled in and the levels raised as part of the proposed works to level the site and there is no evidence to confirm that the proposed surface water drainage arrangements would function as predicted in this part of the site, or to assess the impact of the loss of the attenuation area on the surrounding lands.

Given that there is no trial hole data or infiltration test results for the elevated part of the site or the low-lying wetland area and the degree of waterlogging observed in the trial hole located in the NE section (despite the unusually dry summer), and having regard to the flood storage function of the wetland area, I am not satisfied that the management of surface water runoff has been adequately addressed.

Flood Risk Assessment:

The applicant's Flood Risk Assessment report utilised the AFA Draft Coastal Flood Map and Draft Fluvial Flood Maps for Carlingford and Greenore (which have since been adopted). The report states that the NE section of the site is located within Flood Zone B (moderate probability of flooding) whilst the W and S sections are within Flood Zone C (low probability). The surrounding area is susceptible to flooding however the proposed car park qualifies as "local transport infrastructure" and can be designated as a "less vulnerable development" as per Table 3.1 of the Flood Guidelines. It concludes that any consequences of flooding would be relatively benign with respect to the proposed car park relative to other more vulnerable uses such as houses.

The report states that fluvial flooding as a result of water overflowing from the stream that runs to the W of the site under high tide conditions presents the highest risk as water levels can rise to c.4m compared to the adjacent site levels of c.3.4m to c.3.7m. It is proposed to level the overall site and raise the ground levels in the S section of the site (close to the stream) to between 5.7m and 4.95m, and to between 4.7m and 4m in the N section (close to the wetland). It states that, with the exception of the area immediately surrounding the entrance, the site would be above the design flood level of 4.0m and that the FFL of the buildings would be c.4.3m.

The report concludes that the proposed development would not represent an unacceptable flooding risk nor exacerbate flooding in the immediate or wider area.

The Council's Infrastructure report noted that the applicant's FRA report stated that the proposed development will not exacerbate flooding elsewhere (s.6.4.9) and that it is proposed to raise ground levels in other parts of the site that are vulnerable to fluvial flooding (s.6.3.5). The Council's report raised concerns that the applicant had

not submitted any proposals to show how it intended to deal with the loss of the flood storage area and the displaced fluvial flood waters. Further Information was requested in relation to this issue and the applicant was requested to submit a revised FRA and to include appropriate volumetric calculations.

The applicant responded by stating that the proposal to slightly raise levels within the NE section of the site would have a negligible impact on flooding in other areas as fluvial flooding in the surrounding lands occurs as a result of high tides preventing the discharge of waters to Carlingford Lough, and that therefore compensatory storage is not required. The applicant did not submit a revised FRA with appropriate volumetric calculations.

Discussion

Carlingford is prone to a mix of coastal, fluvial and pluvial flooding. The site is located c.200m to the S of Carlingford Lough, there are wetland areas located in the NE section of the site and to the SW of the site along with a small stream along the SW site boundary. According to the Development Plan, the NE section of the site and surrounding lands are located within Flood Zone A (high probability of flooding) whilst the perimeter of the Flood Zone A lands within the site are designated as being within Flood Zone B (moderate probability of flooding) as the lands start to rise up towards the hillock.

The SW section of the site is prone to fluvial flooding from the stream along the SW site boundary which discharges to Carlingford Harbour and the extent of flooding is no doubt affected by high tides in Carlingford Lough. The NE section is prone to a combination of coastal, fluvial and pluvial flooding. The exact origin and function of the wetland/flood storage area located in the NE corner of the site is not entirely clear with regard to the attenuation of coastal, fluvial and pluvial flood waters. However, given its location within Flood Zone A and its close proximity to the adjacent housing estate it is likely that it serves to attenuate all three sources of flood water, and in particular surface run-off from the residential area.

It is proposed to level the overall site and raise ground levels above the flood level of the stream to the SW and to infill the wetland/flood storage area in the NE corner. The applicant has not addressed the potential impacts of raising the ground levels in the SW section of the site on the surrounding lands, including the existing house to

the N, or the potential impact of infilling the wetland/flood storage area on management of pluvial flooding on the surrounding lands, including the residential area to the E. It is also noted that reason no. 3 of the planning authority's decision to refuse permission for a residential development on the site (Reg. Ref. 06/1644) stated that the applicant had not adequately addressed the implications of infilling the marsh area and that the proposal could result in flooding of the adjacent lands. Having regard to the foregoing, I am not satisfied, on the basis of the information submitted, that the proposed development would not give rise to additional flooding on the surrounding lands, as result of increasing ground levels in the SW section and infilling the wetland/flood storage area in the NE section.

7.6. Nature conservation

The site is not covered by any sensitive nature conservation designations although it contains several features of ecological interest. This includes the elevated Pigeon House, the mature trees and hedgerows throughout the site, and the meadow and wetland area in the NE corner. All of these provide habitats and foraging for a wide variety of flora and fauna including several species of bird, bat and invertebrates, some of which are protected species.

The Department of Culture, Heritage and the Gaeltacht raised concerns that the proposed development has the potential to disturb the roosting habitat of a significant population of protected bat species and the roosting habitat of protected bird species as a result the loss of mature trees and hedgerows, alterations to the Pigeon House, and increased disturbance during the breeding season. The Department requested the submission of an Arboricultural Assessment and Bat Survey, the implementation of tree protection measures during construction, and that no there should be tree, tree-line or hedge removal during the breeding season. These concerns could be addressed by a planning condition. However, the Arboricultural Assessment and Bat Survey should be undertaken and submitted to the planning authority prior to the commencement of development. The Bat Survey should be carried out during the relevant seasons and at the appropriate times of the

day by a qualified ecologist who is also a bat specialist. Any bats present in the trees, hedges or Pigeon House should be removed and relocated to a suitable similar habitat under the supervision of the ecologist subject to a Derogation Licence from NPWS.

An Taisce also raised concerns in relation to bats and birds along with inadequacies in the ecological survey which omitted the trees, hedges, meadow and wetland area in the NE corner off the site. The submission also states that this ecologically rich wetland area may have been originally constructed as a part of the SuDS system for the adjacent housing estate for the attenuation of surface water runoff. The wetland area would be filled in as part of the proposed works to level the overall site for the car park and the Board may wish to seek further clarity in relation to the origin and function of the wetland area and its relationship to the neighbouring residential area.

7.7. **Other issues**

Environmental services: The proposed development would utilise the existing public water main and public sewer that run along the Greenore Road which is acceptable subject to compliance with the requirements of Irish Water and the planning authority. Refer to section 7.5 above in relation to surface water drainage.

Legal issues: The concerns raised by the Appellant (Mr Woods) in relation to the right of way are noted however the resolution of this dispute lies outside of the Board's jurisdiction and is a matter for the courts.

Slope stability: Detailed proposals to ensure the stability of the slope along the NW site boundary with the reserved right of way lands should be submitted to the planning authority for written agreement before development commences.

8.0 **Appropriate Assessment**

8.1. **Compliance with Articles 6(3) of the EU Habitats Directive**

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive

requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site.

8.2. **Natura Impact Statement**

The Stage 1 Screening Report described the site, the location and the proposed development, it carried out field and a desk top survey and it identified the European sites located within a 15km radius of the works. It confirmed that the proposed development would not be located within any European sites and it identified several European sites in the RoI and NI which are located within a 15km radius of the proposed works. It screened out the sites that would not be affected by the proposed development and retained 2 that could be affected (Carlingford Lough SPA and Carlingford Shore SAC). It described these sites and their respective qualifying habitats and species, it listed their conservation objectives and targets and attributes.

The Stage 2 Appropriate Assessment report identified the potential sources of direct, indirect and secondary impacts on 4 European sites (Carlingford Lough SPA, Carlingford Shore SAC, Dundalk Bay SPA & Dundalk Bay SAC), and it listed other plans and projects in the wider area. It assessed the potential impacts relative to the Conservation Objectives for each site during the construction and operational phases, in-combination impacts and the significance of impacts. It proposed mitigation measures (including measures to: - minimise disturbance to bird species, control of hazardous materials & sediments, protect ground water and invasive species prevention).

The Stage 2 AA concluded that the proposed development will not present risk for the habitats and species which are designated as Qualifying Interests for the SAC and SPA subject to the implementation of mitigation measures. It formally concluded that the proposed development will not present any direct or indirect detrimental impact, either alone or in combination with any other plan or project, upon the integrity and qualifying interests of the protected species or habitats within the

Natura 2000 site network or the conservation objectives of Carlingford Lough SPA or Carlingford Shore SAC.

It is noted that s.2.4 of the AA screening report stated that “The site and surrounding area is hydrologically linked to Carlingford Lough SPA and Carlingford Shore SAC whilst s.3.3 stated that the “Application site is not hydrologically connected to Carlingford Lough SPA and Carlingford SAC.”

8.3. AA Screening Assessment

The proposed development would not be located within an area covered by any European site designations and the works are not relevant to the maintenance of any such sites. The following European sites are located within a 15km radius of the site and their relevant Qualifying Interests and separation distances are listed below.

I am satisfied that all but 2 of these sites can be screened out of any further assessment because of the nature of the European site, the absence of relevant Qualifying Interests in the vicinity of the works, the absence of an aquatic connection between the European site and the car park site, or the location of the European site significantly outside of the core foraging range of birds.

European Site	Site Code	QIs & CIs	Distance
Carlingford Lough SPA	004078	Light-bellied Brent Goose Wetland & Waterbirds	c.200m
Dundalk Bay SPA	004206	Several bird species Wetland & Waterbirds	c.8km
Carlingford Shore SAC	002306	Annual vegetation of drift lines Perennial vegetation - stony banks	c.200m
Carlingford Mountains SAC	000453	Several mountain & bog habitats	c.2.5km
Dundalk Bay SAC	000455	Mudflats & sandflats Perennial vegetation - stony banks Salicornia & other annuals Atlantic salt meadows Mediterranean salt meadows	c.8km
Eastern Mourne SAC	UK0016615	Several mountain & bog habitats	c.6km
Rostrevor Wood SAC	UK0030268	Oak Woods	c.6km

AA Screening Conclusion

In conclusion, having regard to the nature and scale of the proposed development, to the separation of the application site from European sites, to the nature of the qualifying interests and conservation objectives of the European sites and to the available information as presented in the application regarding ground and surface water pathways between the application site and the European sites and other information available, it is my opinion that the proposed development has the potential to affect 2 of the European sites having regard to the conservation objectives of the relevant sites, and that progression to a Stage 2 Appropriate Assessment is required.

8.4. Appropriate Assessment:

The relevant details for the 2 remaining European sites are summarised below:

European sites	QIs & CIs	Conservation Objectives	Attributes & Targets
Carlingford Shore SAC	Annual vegetation of drift lines Perennial vegetation of stony banks	To maintain favourable conservation condition of these habitats as defined by the Attributes & Targets	Habitat area & distribution; Physical structure; Vegetation structure & composition
Carlingford Lough SPA	Light-bellied Brent Goose Wetland & Waterbirds	To maintain favourable conservation condition as defined by the Attributes & Targets To maintain favourable conservation condition of the wetland habitat as a resource for the migratory waterbirds that use it as defined by the Attribute & Target	Population trend & Distribution Habitat area

The potential indirect effects relate to:

- Transport of pollutants in ground or surface water flowing into the SAC/SPA via on-site tributaries and surface water run-off.
- Disturbance from noise and light pollution and emissions.
- Ex-situ impacts on qualifying species outside the SAC/SPA but which is an integral and connected part of the population of qualifying interest species.

Carlingford Shore SAC:

The Carlingford Shore SAC comprises the entire S shoreline of Carlingford Lough and continues round the tip of the Cooley Peninsula to just W of Cooley Point. It has been designated for its importance for Annual vegetation of drift lines and Perennial vegetation of stony banks, which are the Qualifying Interests (QIs) for this site. The site also has intertidal sand and mudflats, patches of saltmarsh, some areas of dry grassland, and an area of mixed deciduous woodland.

The proposed car park would not be located within this European site and there would be no **direct** effects on the SAC as a result of the proposed works.

Map 3 of the NPWS Conservation Objective Series for this SAC indicates that Perennial vegetation of stony banks has not been recorded in the vicinity of Carlingford village, although it is present at 3 locations to the far E and SE of the site at Greenore, Ballagan Point and Whitestown to Cooley Point. I am therefore satisfied that this QI habitat can be screened out from further assessment.

This SAC is located c.200m to the N of the car park site and the remaining QI habitat for this SAC (Annual vegetation of drift lines) is located to N of the car park site along the lough shore. Although there is potential for **indirect** effects on water quality and general disturbance during the construction and operational phases, it is unlikely that the proposed development would have an adverse effect on the attributes and targets for this Qualifying Interest habitat in relation to habitat area and distribution, physical structure, and vegetation structure and composition. The proposed construction phase mitigation measures would ensure that any fine sediments released during the excavation and construction works, or any contaminants resulting from accidental spills or accidents would not reach the SAC.

It can be reasonably concluded on the basis of best scientific knowledge therefore that the proposed development will not adversely affect the integrity of the Carlingford Shore SAC in view of the sites' Conservation objectives.

Carlingford Lough SPA:

The Carlingford Lough SPA comprises parts of the S side of Carlingford Lough between Carlingford Harbour and Ballagan Point. The predominant habitats are intertidal sand and mud flats and it has been designated for its importance for Light-bellied Brent Goose and Wetland & Waterbirds, which are the Conservation Interests (CIs) for the site.

The proposed car park would not be located within either of this European site and there would be no **direct** effects on the SPA as a result of the proposed works.

This SPA is located c.200m to the N of the proposed car park. There is potential for **indirect effects** on water quality and general disturbance during the construction and operational phases and there could be some minor loss of foraging habitat. However, having regard to the scale of the proposed works, is unlikely that the proposed development would have an adverse effect on the attributes and targets for the CI habitats in relation to site area, and the CI species in relation to population trends and distribution. The proposed construction phase mitigation measures would ensure that any fine sediments released during the excavation and construction works, or any contaminants resulting from accidental spills or accidents would not reach the SPA.

It can be reasonably concluded on the basis of best scientific knowledge therefore that the proposed development will not adversely affect the integrity of the Carlingford Lough SPA in view of the sites' Conservation objectives.

Conclusions:

I concur with the conclusions reached in the NIS that the proposed car park development will have no significant adverse effects (direct, indirect or in-combination) on the Conservation Objectives, Qualifying Interests or Conservation Interests for the Carlingford Shore SAC or the Carlingford Lough SPA, or for any other European Site.

8.5. Appropriate Assessment conclusion:

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 European site Nos. 002306 and 004078 or any other European site, in view of the site's Conservation Objectives.

9.0 Recommendation

Arising from my assessment of this appeal case I recommend that planning permission should be refused for the proposed development for the reasons and considerations set down below.

10.0 Reasons and Considerations

1. The site is located in an area covered by the Z1 Residential (New) zoning objective in the Louth County Development Plan 2015 to 2021 which seeks to "To protect and/or enhance existing residential communities and provide for new residential communities." The principal permitted land use within Z1 is residential, and car parks are not listed as a use that is open for consideration. The proposed car park would not be compatible with the Z1 zoning objective for the area and it would result in an inappropriate and unsustainable use of residentially zoned land at a time when there is a national housing supply crisis. The proposed development would materially contravene the Z1 Residential (New) zoning objective of the Development Plan and it would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Notwithstanding the plans and particulars submitted with this application, the Board is not satisfied, on the basis of the information provided, that the proposed development would not give rise to additional flooding on the surrounding lands as a consequence of the proposal to increase in ground levels in the SW section of the site and the proposal to infill the wetland/flood storage area in the NE section of the site. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Karla Mc Bride
Planning Inspector

30th August 2018