



An
Bord
Pleanála

Inspector's Report ABP - 302842 - 18.

Development	Construction of 16 no. dwellings in 3 terrace blocks together with all associated site works and services.
Location	'The Loakers', Blackrock, Dundalk, Co. Louth.
Planning Authority	Louth County Council.
Planning Authority Reg. Ref.	18157.
Applicant	Michael White.
Type of Application	Planning Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party.
Appellants	<ol style="list-style-type: none">1. Bothar Maol Residents Association.2. Niall & Margaret Casey.3. Karen Varley.
Observers	None.
Date of Site Inspection	25 th February 2019.
Inspector	Patricia-Marie Young.

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	5
3.4. Third Party Observations	5
4.0 Planning History.....	6
5.0 Policy and Context.....	6
5.1. Local Planning Provisions	6
5.2. Sustainable Urban Housing.....	7
5.3. Natural Heritage Designations	7
6.0 The Appeal	8
6.1. Grounds of Appeal	8
6.2. Applicant’s Response.....	9
6.3. Planning Authority Response	10
6.4. Observations	10
6.5. Further Responses.....	10
7.0 Assessment	10
8.0 Recommendation.....	24

1.0 Site Location and Description

- 1.1. The appeal site is located c120m to the west of the Bothar Maol's junction with the R172 (Dundalk to Blackrock Road), c1.5km to the north of the settlement of Blackrock and c3.2km to the south-east of Dundalk's town centre.
- 1.2. The site can be described as having an irregular L-shape with part of the northern boundary of the site extending in an easterly direction behind a detached dwelling that bounds the southern part of the eastern boundary of the site. The site is relatively flat, with ground levels appearing to be slightly higher than Bothar Maol. It is also overgrown and unkempt containing some vegetation along part of its western and southern boundaries. In addition, the southern and part of the western boundary contains deep drainage ditches.
- 1.3. The northern boundary of the site runs alongside the southernmost edge of 'The Loakers' residential development at a point where it is called 'Edenhill'. This residential estate is mainly characterised by groups of semi-detached and terrace 2-storey properties. There is a cul-de-sac access road terminating roughly midway along this boundary. The southern boundary of the site runs alongside Bothar Maol. There is no apparent opening from the site onto this road. This road is of a restricted width, is poorly surfaced, has an undulating as well as meandering alignment. In addition, it contained no pedestrian footpaths or lighting. Linear development characterises either side of Bothar Maol. This development consists of detached dwellings on large garden plots. To the west the site is adjoined by warehouse/industrial type development estate (Finnabair Industrial Estate).
- 1.4. The surrounding area to the north, east, south and along the southern side of Bothar Maol to the west of the site has a predominantly residential character whereas to the west and north west the land contains industrial and warehouse type development. At its nearest point the site is located c0.4km from the coastline of Dundalk Bay.

2.0 Proposed Development

- 2.1. The proposed development consists of the construction of 16 no. 2-storey 3-bedroom dwellings in three blocks (2 terrace groups containing 5 no. dwelling units

and 1 terrace block containing 6 no. dwelling units) together with all associated works and services.

2.2. Each dwelling has a stated 102.12m² gross floor space with variable in size rear gardens, two car parking spaces to the front and are orientated in an east west direction addressing the proposed access road. Access to the public road network would be via a proposed opening onto an existing cul-de-sac in the 'Edenhill' portion of 'The Loakers' residential estate. 'The Loakers' residential estate has a single entrance onto the public road network. This entrance opens onto the R172 c0.2km to the north east of the appeal site. The submitted documentation indicates the provision of a pedestrian access onto Bothar Maol.

2.3. On the 7th day of September, 2018, significant further information was submitted. New public notices were also provided. The following is a summary of the revisions -

- Revised detailing, treatments and finishes to principal façades.
- Revised site layout plan. This included the introduction of pedestrian access to the rear of dwelling units labelled No. s 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 with dwelling units 1, 2 and 16 having individual rear access. With the provision of shared pedestrian access to dwelling units No. s 3 to 15 there was also a reduction to the size of the rear garden areas of dwelling units 5 to 14.
- Revised boundary treatment for Bothar Maol.
- Revised pedestrian access from the proposed scheme onto Bothar Maol.
- Revised open space provision of 665-m².

2.4. The applicant's further information response was accompanied by additional infrastructural, services and flooding details. Their response also clarified that a minimum of 25% of the energy requirements of each dwelling shall be from a renewable source and it included the following documentation Appropriate Assessment Screening Report; Engineering Report; and, a Design Statement. These revisions resulted in the overall site area being reduced to 4,640m².

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority **granted** permission subject to 9 conditions. **Condition No. 3** sets out detailed infrastructure and services works to be carried out.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The **final Planning Officer's Report** is the basis of the Planning Authority's decision.
- The **initial Planning Officer's Report** concluded with a request for further information. In total 12 separate items were included in this request and they related mainly to the matters of dwelling design, dwelling mix, flooding, infrastructure, public realm and boundary treatments.

3.2.2. Other Technical Reports

- **Infrastructure Planning Report:** No objection, subject to a detailed infrastructure and service condition in the event of a grant of permission. In addition, the Engineering Officer was satisfied that the applicant had detailed an emergency exit route from the site during extreme flooding events.
- **Housing:** No objection.

3.3. Prescribed Bodies

- **Irish Water:** No objection.
- **Inland Fisheries Ireland.** No objection.

3.4. Third Party Observations

- 3.4.1. 11 no. 3rd party observations were made at planning application stage, with a further 5 observations following the receipt of further information. The issues raised are the same as those raised by the appellants in their appeal submissions to the Board.

4.0 Planning History

4.1. Relevant Planning History

- **P.A. Reg Ref. No.18/798:** There is a concurrent application with the Planning Authority for planning permission for a dwelling house together with all associated works on the applicants adjoining land. It is currently subject to a request for additional information.
- **P.A. Reg Ref. No. 12/213:** Outline planning permission was **granted** for dwelling together with all associated works. This was not implemented and has expired.
- **P.A. Reg Ref. No. 11/462:** Outline planning permission was **granted** for dwelling together with all associated works. This was not implemented and has expired.
- **P.A. Reg Ref. No. 11/528:** Outline planning permission **granted** for dwelling together with all associated works. This was not implemented and has expired.

5.0 Policy and Context

5.1. Local Planning Provisions

5.1.1. Louth County Development Plan, 2015-2022.

Section 2.16.4 of the above stated County Development Plan indicates that the statutory plan for the urban and surrounding environs area of Dundalk is currently the Dundalk & Environs, 2009-2015, and that the County Development Plan will be an overarching plan for the entire county including Dundalk.

5.1.2. Dundalk and Environs Development Plan, 2009 to 2015.

The policies and provisions of the Dundalk and Environs Development Plan, 2009-2015, are applicable. The site lies within an area of land zoned '*Residential 1*' (RES 1) which has a stated objective "*to protect and improve the existing residential amenities and to provide for infill and new residential developments*" (Table 6.1).

The Development Plan indicates that this zone contains established residential areas within the defined town centre area but falling outside the town's retail core and that

the established housing stock will be protected by way of restricting incongruous development that would detract from the residential amenity of the area. It states: *“only proposals which do not detract from the residential amenities of the area will be favourably considered”*.

CS1 of the Development Plan states that the Planning Authority will seek *“to promote sustainable development on brownfield/infill sites by excluding such sites from the requirement to comply with the phasing strategy throughout the Plan Area”*.

5.2. Sustainable Urban Housing

- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, (DEHLG 2009) and the accompanying Urban Design Manual: A Best Practice Guide, (DEHLG 2009).
- Design Manual for Urban Roads and Streets (DMURS) (DECLG and DTTS 2013).
- National Planning Framework (2018).

5.3. Natural Heritage Designations

- Special Area of Conservation: Dundalk Bay SAC (Site Code: 00045) is located c0.2km to the east of the appeal site at its nearest point.
- Special Protection Areas: Dundalk Bay SPA (Site Code: 004026) is located c0.3km to the east of the appeal site at its nearest point.

5.4. Environmental Impact Assessment

- 5.4.1. As set out in Section 5.3 above the site is in close proximity to two Natura 2000 sites. I consider it is highly probable that the site conditions including its lack of apparent soakage; its high-water tables and the evidence of water loving vegetation within the confines of the site that it is hydrologically connected to one or all of these particular Natura 2000 sites.
- 5.4.2. The assessment of the proposed development as originally sought raised concern that in terms of the capacity of existing infrastructure to adequately treat the wastewater from the scheme. Based on the information provided the Planning

Authority were not convinced that the proposed development, if permitted, would not have a significant effect upon the sites set out in Section 5.3 above. It was concluded prudent to request the applicant to prepare a Stage 1 Appropriate Assessment to determine any impacts on these sites. This was requested by the Planning Authority by way of a request for further information.

5.4.3. In response to the Planning Authority's further information request and forming part of the applicant's further information an 'Appropriate Assessment Screening Report' was submitted. This concluded that the proposed development is neither directly connected to nor necessary to the management of the Natura and Proposed Natura 2000 sites identified in Section 5.3 of this report or indeed any other sites within the wider geographical area. Further, it concludes that no negative impacts upon any of these sites would occur and a finding of no significant impact was reached following on from a detailed assessment of all aspects and elements that such a development would give rise to. This report concluded that the proposed development does not necessitate or warrant progression to a 'Stage 2 - Appropriate Assessment'.

5.5. Having regard to the serviced nature of the site which has surplus capacity in its public mains water and drainage to meet the requirements of the revised development, the infrastructural measures proposed to deal with the surface water drainage requirements of the site and the quantum of development proposed in order to deal with the sites poor soakage and high water table, I consider that there is no real likelihood of significant effects on the environment arising from the proposed development if it were permitted. I therefore concur with the Planning Authority in this case that the need for a 'Stage 2 - Appropriate Assessment' is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The Board received 3 no. Third Party appeals. The substantive issues raised in them can be collectively summarised as follows.

- The density proposed for this site is too high.
- This proposal does not include dwellings of different types, sizes and tenures.

- The inclusion of shared alleyways would be out of character with the surrounding area
- Concerns are raised in relation to safety and anti-social behaviour in the proposed unrestricted back alleyways.
- The removal of the 'Edenhill' cul-de-sac is objected too. Its removal would give rise to road safety, traffic hazards and would diminish the amenities of existing residential development, near the subject cul-de-sac.
- The proposed pedestrian access would result in access for c100 dwellings onto Bothar Maol and its provision is objected too.
- The proposed development would give rise to overlooking, overshadowing and would be visually obtrusive as well as overbearing for neighbouring residential properties.
- Bothar Maol is not suitable for emergency service access or for significant additional vehicle and pedestrian traffic/circulation.
- Bothar Maol is in private ownership.
- Reference is made to a flooding event in 2014 in the locality of the proposed amended pedestrian access onto Bothar Maol.
- The adequacy of the proposed public open space provision is questioned.
- The design of this residential scheme is repetitive and regimented.
- In the event of a grant of permission it is requested that conditions are imposed relating to the pedestrian access onto Bothar Maol and boundaries.

6.2. Applicant's Response

6.2.1. The response is summarised as follows.

- There is no history of flooding on the subject site.
- The applicant has no objection to the removal of a pedestrian access onto Bothar Maol by way of condition; notwithstanding, the applicant has provided documentary evidence to support their legal rights to provide this access.
- The applicant has no objection to providing a higher wall along Bothar Maol.

- This proposal would not give rise to significant overlooking and/or overshadowing.
- This proposal does not include a variety of house types as this is not a Development Plan requirement.
- The main public open space provision represents 14% of the total site area. It is contended that it is well orientated and benefits from good passive.
- The proposed development is compliant with DMURS and traffic calming measures have been incorporated into the proposed layout.

6.3. **Planning Authority Response**

- 6.3.1. The Planning Authority considered that the concerns raised by the appellants have been addressed in their assessment of the proposed development. They conclude with a request for the Board to uphold their decision.

6.4. **Observations**

- 6.4.1. None.

6.5. **Further Responses**

- 6.5.1. None.

7.0 **Assessment**

7.1. **Introduction**

- 7.1.1. I consider that the main issues in this appeal case are those raised in the grounds of appeal and I am satisfied that no other substantive planning issues arise. I propose to deal with the issues under the following headings -

- Principle of the Proposed Development
- Density
- Design, Mix and Variety
- Access onto Bothar Maol

- Access via ‘The Loakers’ onto the Public Road Network
- Residential Amenity
- Flood Risk
- Drainage Issues
- Public Open Space Provision

7.1.2. The matter of ‘Appropriate Assessment’ also needs to be addressed.

7.2. Principle of the Proposed Development

7.2.1. The appeal site is situated on land zoned under the Development Plan as ‘Residential 1 (RES 1)’. The objective for such lands is “*to protect and improve the existing residential amenities and to provide for infill and new residential development*”. In addition, under CS1 of the Development Plan it indicates that the Planning Authority will seek “*to promote sustainable development on brownfield/infill sites by excluding such sites from the requirement to comply with the phasing strategy throughout the Plan Area*”. I therefore consider that the principle of the proposed development which essentially consists of the provision of 3 residential terrace groups with a total number of 16 dwelling units together with associated works would accord with the said zoning objective, is consistent with local planning policy for infill/brownfield sites on the fringe of the settlement of Dundalk and is in keeping with the land use planning history of the site, subject to safeguards.

7.3. Density

7.3.1. The proposed development would equate to a density of 34.5 units per hectare. This would be above the average density that characterises residential development to the east, west and south of it particularly along Bothar Maol. It would also appear to be a higher density than ‘The Loakers’ the adjoining residential scheme to the north. However, Section 6.2.1 of the Development Plan in relation to residential zoned land sets out a general average density of 40 units per hectare in terms of calculating potential additional households that could be accommodated on such lands. The Development Plan indicates that this is subject to safeguards.

7.3.2. Further Section 6.7.1 and Policy HC 18 of the Development Plan on the matter of density indicates that regard shall comply with the provisions set out in the

'Sustainable Residential Development in Urban Areas, 2008' guidelines as well as other relevant national guidelines. I am cognisant that the national planning policy provisions generally encourage an increase residential density in existing settlements on serviced lands, subject to safeguards.

- 7.3.3. I therefore consider that the general principal of the density proposed is acceptable and I propose to examine whether the proposed development achieves a reasonable balance in terms of ensuring a quality of place, a quality of residential accommodation and ensuring appropriate levels of protection is provided for the amenities of properties in its vicinity while balancing the need to provide for additional residential development on residentially zoned land at sustainable increased densities.

7.4. **Design, Mix and Variety**

- 7.4.1. The appeal site is currently vacant and in an unkempt state. It adds little to the visual qualities and amenities of its setting. Its southern frontage is particularly porous and in a poor state with wide views over the site available from Bothar Maol. When viewed from the public domain of Bothar Maol the condition of the site could be argued to diminish the visual amenities the adjoining streetscape scene of Bothar Maol. I therefore accept that securing an appropriate functional temporary or permanent land use for it would be a desirable outcome.
- 7.4.2. I acknowledge that the Planning Authority by way of its request for further information achieved some qualitative improvements to the original residential scheme proposed under this application. These improvements included but were not limited to improvements to the principal facades of the three terrace groups proposed. These facades were also improved by way of improved detailing and palette of materials which ultimately sought to introduce a level of visual variety to these facades. It also included the introduction of front canopies. While I acknowledge that this revision resulted in improved animation and improved street frontages within the proposed residential scheme and as viewed from the surrounding public domain I am of the opinion that the overall design and layout is mediocre, repetitive and monotonous. If permitted it would add little in terms of creating a sense of place or indeed an appropriate level of integration with its surroundings, in particular in terms of Bothar Maol.

- 7.4.3. This conclusion is based on the proposed provision of matching in overall built form, scale and mass three-bedroom dwelling units with little in terms of notable variety between them. Outside of two of the terrace units containing 5 dwelling units and the other containing a slightly larger number of 6 dwelling units. Each terrace unit has a similar east west orientation and address one extended internal access road that links into 'The Loakers' on the northern boundary of the site. I note that the proposed extension to 'The Loakers' internal access road doesn't carry through any level of visual softening that exists within the access roads serving 'The Loakers' including the tree planting which is a characteristic feature of this estate when journeying through it and this planting visual links with the open spaces contained within it.
- 7.4.4. Despite echoing the 2-storey building height, the terrace built form and the palette of external finishes that are present within the adjoining 'Loakers' development to the north I consider that there is a tangible built form, height and massing variety within the overall design and layout of the proposed scheme. This in my view is visually reinforced by the design resolutions failure to harmonise with the variety that is present along Bothar Maol; to the east of it along the western side of the R172 and the more substantial in height structures present within the Finnabair Industrial Estate to the west and north west.
- 7.4.5. Moreover, if granted, I consider that it would result in a missed opportunity to add to the variety present in the built stock in this area, an area that appears to be very well provided for in terms of 2-storey 3-bedroom dwellings. Arguably this would result in a development that would be inconsistent with Policy HC30 and Section 6.5.4 of the Development Plan. This policy seeks the provision of an appropriate mix of house types within an area and Section 6.5.4 seeks that such developments incorporate a wide variety of house designs including variety in building heights, deviations in widths and so forth.
- 7.4.6. Further, under Section 2.6 of the National Planning Framework recognises that creating more compact development in Ireland has been traditionally more difficult to achieve than continuously pushing development outwards towards 'greenfield' locations and it indicates that focus is needed in four key areas. The third key area identified is identified as 'Tackling Legacies' and it encourages more mixed tenure and integrated communities.

- 7.4.7. The further information revisions also introduced pedestrian access ways to the rear of each of the proposed dwelling units within the scheme despite maintaining the three terrace groups originally proposed. While I consider that the general principle of providing access to the rear of each dwelling unit is positive one as it allows access to the rear amenity spaces through to allows for the storage of waste receptacles outside of collection times out of view from the public and semi-private domain. Notwithstanding, I am not convinced that the provision of restricted in width access pathways/laneways that have no public lighting, have little in the way of passive surveillance, are bound by c2m in height mainly high solid boundaries, is a positive introduction to the overall design and layout of this proposed scheme.
- 7.4.8. I also raise a concern that the Site Layout drawings submitted still indicate the provision of waste storage areas between car parking spaces to the front of many of the dwelling units proposed. Where this is shown there appears to be associated boundaries; however, their details are unclear.
- 7.4.9. In my view maintaining bin storage to the front of the dwelling units, i.e. in their semi-private domain with little in the way of visual buffering would result in a visual diminishment of the proposed streetscape scenes and would also result in visual clutter as appreciated from the public domain.
- 7.4.10. Moreover, I consider that successful pedestrian accesses within residential schemes are ones where they provide a sense of safety to the user, are well supervised and do not give rise to a greater potential for crime and/or anti-social behaviour to occur. I am therefore not convinced that the access provided to the rear of dwelling units labelled No's 3 to 15 is a successful design solution. I am also of the view that it is a design solution that magnifies the inappropriateness of the density of this proposed scheme. It would be preferable to provide each dwelling unit with the benefit of an independent rear access. Moreover, while several the drawings accompanying this application seem to suggest the presence of rear accesses being available to the rear of 'The Loakers' and within the neighbouring land by the inclusion of double boundaries with spaces between them this is not the case. I could find no examples of similar rear pedestrian accessways in the surrounding area. I therefore consider that it is not characteristic of residential developments in this area and it is a feature that would give rise to safety and access concerns for future residents.

- 7.4.11. I also raise a concern that the design solution shows a lack of imagination in terms of the overall design and layout of the proposed dwellings and their connection to 'The Loakers', the adjoining residential scheme to the north. In that, if permitted, in the form proposed it would result in a significant extension to an access road that already serves several cul-de-sacs within 'The Loakers' residential development and is already c0.2km in length. Despite the applicant's assurances of the use of traffic calming measures within the proposed scheme I am not convinced that the resulting length of this combined internal access road would be appropriate or consistent with Section 6.6.1 of the Development Plan. This section of the states that: "*new residential layouts should have user friendly designs to the forefront*"; that "*excessively long cul-de-sac layouts should be avoided*" and that "*traffic calming measures should be incorporated into the design and layout of the development rather than by the retro-fitting of measures*".
- 7.4.12. Of further concern, at the point where 'The Loakers' and the proposed residential development would link there is an existing cul-de-sac that terminates alongside part of the northern boundary with a hammer head design and layout. At the time of my inspection this area was in use for on-street parking.
- 7.4.13. I also observed throughout 'The Loakers' that there appears to be a prevalence of 'on-street' car parking. The proposed development seeks to provide each of the 16 dwelling units proposed with two car parking spaces to the front of their principal facade. No visitor parking is proposed within this scheme.
- 7.4.14. I am not convinced that the proposed development would not give rise to any traffic conflict at the point where the proposed access road serving the development accesses onto the internal road network of 'The Loakers'.
- 7.4.15. Further, I am not convinced that the hammerhead design of the cul-de-sac at the southernmost end of 'Edenhill' and the placement of 2-meter high boundary running alongside the proposed car parking spaces to the front of dwelling unit labelled No. 2 together with the placement of the terrace group containing dwelling units labelled No. 2 to 10 has been properly thought through. It provides a poor transition between the existing residential development at 'The Loakers' and the proposed scheme in terms of the placement of boundaries, height of boundaries being maintained on

either side of the opening into 'The Loakers' residential scheme, building lines through to parking provision.

7.4.16. Having regard to the location of the proposed development, if permitted, it would be remote from public transport provisions. As such I consider its residents would be highly car dependent. In the absence of any visitor or overspill parking provision I raise a concern that on-street car parking could occur alongside the roadside edge of the open space and at the southernmost end of the cul-de-sac proposed. If this arises it could result in potential for traffic conflict to arise. It could also result in obstruction for service vehicles including but not limited to emergency service vehicles through to refuse collection lorries.

7.4.17. In relation to the revisions to the southern portion of the site and its boundary with Bothar Maol I am not convinced that the design and layout approach is appropriate as it fails to orientate any of the frontages to address Bothar Maol. This concern is irrespective of whether there would be an access from the scheme onto it. On this matter I do not consider that the proposed design solution puts forward a successful response to the public domain of Bothar Maol nor does the proposed placement of buildings, hierarchy of spaces, the building lines through to the boundary treatments integrate in a successful manner with the existing buildings adjoining and neighbouring the appeal site on Bothar Maol. In my view it would be appropriate for any residential scheme at this location to address and to provide active frontage onto Bothar Maol alongside having cognisance within its design and layout to existing building lines, staggered built forms, massing and heights. The latter approach would be consistent with Section 6.6.1 of the Development Plan.

7.4.18. Based on the above considerations, I am not satisfied that the revised design and layout is a successful design response to this site.

7.5. Access onto Bothar Maol

7.5.1. The appellants argue that the applicant does not benefit from a legal right of way to use Bothar Maol to serve the proposed development. They contend that this roadway is in private ownership as well as is privately maintained. I am not convinced that this has been substantiated in their appeal submissions to the Board whereas the applicant has submitted documentation that would appear to

demonstrate that they have a legal right to provide the pedestrian access proposed onto this road.

- 7.5.2. I acknowledge that Bothar Maol is in a poor state of repair, it does not contain any pedestrian footpaths or lighting that would link the site to the nearest public road (R172 to the west). Despite these concerns it is desirable to create places that align with existing routes and that are cognisant of desire lines that the design as well as layout of a residential scheme would give rise to. This allows the creation of permeable and interconnected hierarchy of route that are easy and logical to navigate around. It is also consistent with local and national policy provisions which seek to focus such developments on streets both existing and proposed. I consider it is logical that the design resolution included a level of interconnection to Bothar Maol. It is also consistent with local and national policy provisions to have provided some level of connection for future residents of the proposed scheme onto Bothar Maol.
- 7.5.3. What is however of concern is the question of whether Bothar Maol could accommodate the potential level of pedestrian movement that the proposed development, if permitted, alongside its proposed linkage to 'The Loakers' a much larger residential development scheme would give rise to.
- 7.5.4. I am also minded that any decision on a planning application does not purport to determine the legal interests held by the applicants or indeed any other interested party. Indeed, Section 34(13) of the Planning and Development Act, 2000 as amended indicates that *"a person shall not be entitled solely by reason of a permission or approval under this section to carry out a development"*.
- 7.5.5. In addition, the Development Management Guidelines for Planning Authorities advise that the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land and that these are ultimately matters for resolution in the Courts. Further, Section 7.3.3 of these Guidelines states that conditions should be capable of being complied with.
- 7.5.6. In this instance I am not convinced based on the information provided in this file that there it would be doubtful that the applicant in an event of a grant of permission could make amendments to the southern boundary of the site, including the provision of a pedestrian access onto Bothar Maol. Notwithstanding, I raise

significant concerns based on the level of traffic I observed on Bothar Maol and the poor conditions of this lane to accommodate any significant increase in pedestrian movements in the absence of any substantive upgrading. This adds to my concerns on whether the density of development sought under this application is appropriate at this location.

7.6. Access via 'The Loakers' onto the Public Road Network

- 7.6.1. To facilitate the proposed development, a new vehicular access is proposed connecting to an existing internal access road that serves the southern portion of 'The Loakers' residential estate on the north boundary of the site.
- 7.6.2. 'The Loakers' residential scheme has one access point onto the public road network and this is located c0.2km to the north east of the appeal site as the bird would fly. It is located c0.3km by foot or by car from the where the proposed link between the proposed development and 'The Loakers' development would be created. The proposed internal access road serving would extend c0.2km, thus resulting in a significant extension to the length of the existing internal road within 'The Loakers'.
- 7.6.3. I observed that the existing access opens onto the heavily trafficked R172 at a point where the posted speed limit is 80kph applies. Currently it serves c100 properties and despite the large number of vehicles I observed using this road alongside the high speed of traffic at this location sightlines in both directions was good. I concur with the Planning Authority that this entrance has the capacity to safely absorb the additional quantum of traffic the proposed development would generate.
- 7.6.4. Notwithstanding, as previously discussed I am not convinced that the design resolution which seeks to significantly extend a cul-de-sac to serve the proposed development is appropriate. In my view this requires reconsideration as part of a significant design and layout amendment. In my view this is not something that could be amended by way of a condition.

7.7. Residential Amenity

- 7.7.1. Having regard to all the information available on file, I am of the view that the proposed residential scheme, will have no serious, or disproportionate negative impact on the established residential amenity of properties in its vicinity.

- 7.7.2. I have considered potential threats to residential amenity including but not limited to visual obtrusion/overbearance, loss of daylight, overshadowing and overlooking arising from the proposed development. I consider that the proposed design includes ample lateral separation distance between the rear elevation of the proposed terrace groups and the rear elevations of properties in the vicinity.
- 7.7.3. I acknowledge that the loss of the termination of the cul-de-sac at the southernmost portion of the 'Edenhill' portion of 'The Loakers' residential scheme would result in a less tranquil environment with potential for diminishment of amenity by way of increased levels of noise and the like. Notwithstanding, I consider this can be expected in the context of a suburban landscape particularly where one adjoins zoned greenfield, infill through to backland sites that have latent development potential. In such contexts it is desirable to create high levels of permeability as much as practical.
- 7.7.4. Subject to the appropriate boundary treatments, landscaping and reinforcing of planting I consider that the residential amenities of properties near the proposed development would not be significantly adversely impacted should the Board be minded to grant permission.

7.8. Open Space Provisions

- 7.8.1. The proposed open space meets the Development Plan standards in terms of area, notwithstanding, the details and quality provided in terms of both landscaping and potential amenity provision are poor.
- 7.8.2. In addition, following on from the concerns raised in relation to the overall design and layout of the proposed residential scheme I raise a concern that the hierarchy of spaces and the placement of buildings could achieve better integration with their surroundings particularly, in terms of how the scheme addresses Bothar Maol. Notwithstanding, this concern should the Board be minded to grant permission for the proposed development I recommend the inclusion of a condition that seeks qualitative improvements to this space and that there is a qualitative improvement in greening the overall residential scheme.

7.9. Flood Risk

- 7.9.1. The applicant proposes to serve the development by way of connection to the public mains water and drainage supply alongside providing on-site provision for surface water drainage and attenuation.
- 7.9.2. A Flood Risk Assessment (FRA) was submitted with this planning application and forms part of the document titled 'Engineering Report'. This concludes that the site itself is not at risk from flooding.
- 7.9.3. This assessment was in my view rightly supplemented on foot of a request of information by the Planning Authority having regard to the fact that despite the FRA indicating that the site is not located on land vulnerable to Coastal or Fluvial Flooding the section of the R172, parts of 'The Loakers' residential development and the easternmost stretch of Bothar Maol in the vicinity of its junction onto the R172 are. The CFRAM mapping indicates that these areas in relation to flooding would have an annual exceedance probability (AEP) of 10%. Whereas the site would have an AEP of 0.5%. It would therefore appear that the site would be cut off from the main approach proposed i.e. the R172 and pedestrian linkage to the R172 via Bothar Maol as the 10%AEP suggests that these areas could become inaccessible during an adverse flooding event.
- 7.9.4. The applicant indicates in this application that in a flooding event that the site would be accessible via a pedestrian entrance onto Bothar Maol. I note that Bothar Maol accommodates two-way traffic despite its substandard condition and in a westerly direction links with the N52. As such it would be possible that pedestrian access and egress from the site would be available from the proposed pedestrian access onto Bothar Maol in an adverse flooding event.
- 7.9.5. I note that the Planning Authority raised no significant concern on this matter following on from demonstrating emergency access should a flooding event arise cutting off access to the R172.
- 7.9.6. Having regard to the residential zoning of the appeal site; its vacant and unkempt state which results in a diminishment of the visual amenities of its setting; the infill/Brownfield nature of the site, the finished floor level of the terrace groups; and the provisions on-site for surface water drainage, I do not consider that the proposed development is at risk of flooding but that in an adverse flooding event access to the site from the public road network would be limited to Bothar Maol which is a

substandard in its width, surface and alignment. This could give rise to potential difficulties for emergency service vehicles gaining access to the easternmost approaches of Bothar Maol near the R172. Arguably, the Board may consider it premature to allow such a high-density development at such a location and may wish to take a precautionary approach on the matter of flooding.

7.9.7. In the event a grant of permission I consider that the proposed development would not increase the flood risk elsewhere.

7.10. Drainage Issues

7.10.1. The revised documentation submitted with this application includes an assessment of surface water drainage and it describes the site area as 'free' draining. Despite the lack of visible water ponding particularly in the deep drainage ditches present on the site I found the ground levels spongy and wet underfoot on the day of my site inspection. There was also evidence of water loving plants.

7.10.2. This report indicates that the applicant intends to collect surface water through a series of gullies and discharge it into the existing infrastructure present at 'The Loakers'. It is also proposed to provide a sealed reinforced concrete storage tank with water entering the attenuation tank via a manhole within the scheme which would contain a sump and silt trap. The latter would pre-treat the water prior to entering the tank.

7.10.3. According to the documentation the attenuation system has been designed to cater for the runoff for the entire site. The proposed surface water drainage network includes an orifice flow control to limit the flow of surface water exiting from the underground storage tank. It is indicated that the post-development rates for the 30 to 100-year return period should be no greater than the pre-development rates.

7.10.4. I concur with the Planning Authority in relation to the surface water drainage methodology proposed, subject to standard safeguards, should the Board be minded to grant permission for the proposed development.

7.11. Appropriate Assessment

7.11.1. The appeal site is located c0.2km to the west of the Dundalk Bay Special Area of Conservation (Site Code 000455) and c 0.2km due Dundalk Bay Special Protection

Area (Site Code: 0004026), I consider that there is a direct pathway between the appeal site and the European sites.

7.11.2. The site synopsis for Dundalk Bay SPA states that it is of international importance because it regularly supports an assemblage of over 20,000 wintering water birds. It also qualifies as a site of international importance for supporting populations of Light-bellied Brent Goose, Knot, Black-tailed Godwit and Bar-tailed Godwit. A variety of other species occur in numbers of national importance, such as Great Crested Grebe, Greylag Goose, Shelduck, Teal, Mallard, Pintail, Common Scoter, Red-breasted Merganser, Oystercatcher, Ringed Plover, Golden Plover, Grey Plover, Lapwing, Dunlin, Curlew and Redshank. Other wintering species which occur include Red-throated Diver, Great Northern Diver, Cormorant, Grey Heron, Little Egret, Mute Swan, Wigeon, Goldeneye, Greenshank and Turnstone. The site also supports nationally important populations of three wintering gull species - Black-headed Gull, Common Gull and Herring Gull. In spring and autumn, the site attracts a range of passage migrants, including Little Stint, Curlew Sandpiper and Ruff.

7.11.3. The site synopsis states that Dundalk Bay SPA is one of the most important wintering waterfowl sites in the country and notes that Dundalk Bay is also a Ramsar Convention site.

7.11.4. The site synopsis of states that "*Dundalk Bay, Co. Louth, is a very large open, shallow sea bay with extensive saltmarshes and intertidal sand/mudflats, extending some 16 km from Castletown River on the Cooley Peninsula in the north, to Annagassan/Salterstown in the south. The bay encompasses the mouths and estuaries of the Rivers Dee, Glyde, Fane, Castletown and Flurry*". The site is a SAC selected for the following habitats -

- [1130] Estuaries
- [1140] Tidal Mudflats and Sandflats
- [1220] Perennial Vegetation of Stony Banks
- [1310] *Salicornia* Mud
- [1330] Atlantic Salt Meadows
- [1410] Mediterranean Salt Meadows

- 7.11.5. With regards to the Annex 1 qualifying habitats of the Dundalk Bay SAC, while none of these occur within the appeal site, Estuary, Mudflats and Sandflats and Atlantic Saltmarsh habitats are located within close proximity of the appeal site. The site is of significant conservation value because it supports good examples of a range of coastal habitats listed on Annex 1 of the EU Habitats Directive as well as large number of bird species, some of which are listed in the Birds Directive.
- 7.11.6. The conservation objectives for the SAC and SPA are to maintain the favourable conservation condition of the relevant habitats and bird species, as defined by specified attributes and targets for each qualifying interest.
- 7.11.7. A revised Appropriate Screening Report was submitted with this planning application on foot of the Planning Authority's further information request. This was based on a desk top study and a site inspection. In the Stage 1 Screening Statement. This assessment sets out the potential impacts that could arise from the proposed development if it were permitted individually and in combination with other plans or projects and crucially whether or not it would give rise to impacts on the Natura 2000 sites. Having regard to the nature of the proposed development and its position relative to the stated Natura 2000 sites, it concludes that a Stage 2 Appropriate Assessment is not required.
- 7.11.8. The proposed development sought under this application will be connected to the public water main and public sewer. Outfalls from the site are confined principally therefore to surface water during the construction and operation and possible contaminants e.g. suspended solids and hydrocarbons. I note that the applicant proposes to manage these emissions by the adoption of good practices during construction and via the controlled discharge of surface water (underground attenuation tank).
- 7.11.9. Given the scale of the proposed development, the arrangements for services, the distance from the site to Dundalk Bay SPA and SAC, the AEP of the site of 0.5% in the CFRAM map, the lack of any significant pathway between the site and European sites in its vicinity, I consider it reasonable to conclude that no Appropriate Assessment issues arise, and that the proposed development would be unlikely to have a significant effect individually or in combination with other plans or projects on a European site. In view of the site's conservation objectives of Dundalk Bay SPA and

SAC a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

8.1. Refuse planning permission based on the reasons and considerations set out below.

Reasons and Considerations

Having regard to the location of the site and the established built form and character of houses at 'The Loakers' residential estate and bounding either side of Bothar Maol, it is considered that the proposed development, by reason of its overall design and layout would be visually out of character with the pattern of development in the vicinity. In addition, the proposed development does not have an adequate mix of dwelling types and it comprises one dwelling type only, i.e. matching in design 3-bedroom terrace dwelling houses, it is considered that the proposed development would result in a substandard form of development which would be inconsistent with Policy HC 30 of the Dundalk & Environs Development Plan, 2009 to 2015. This policy seeks the provision of an appropriate mix of house types within an area. It would also be contrary to the National Planning Framework which encourages more mixed tenure. It is further considered that the proposed street layout would not be conducive to pedestrian safety and would militate against the provision of an attractive pedestrian environment. The proposed development would seriously injure the amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.

Patricia-Marie Young
Planning Inspector

11th March 2019