



An
Bord
Pleanála

Inspector's Report ABP-304287-19.

Development	Outline planning permission for a dwelling house.
Location	Strand Road, Dillonstown, Drogheda, Co. Louth.
Planning Authority	Louth County Council.
Planning Authority Reg. Ref.	18820.
Applicant	Sinead Casey.
Type of Application	Outline Planning Permission.
Planning Authority Decision	Refused.
Type of Appeal	First Party
Appellants	Sinead Casey.
Observer(s)	None.
Date of Site Inspection	25 th July 2019.
Inspector	Patricia-Marie Young

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	6
3.4. Third Party Observations	6
4.0 Planning History.....	6
5.0 Policy and Context.....	6
5.1. Development Plan.....	6
5.2. Natural Heritage Designations	7
6.0 The Appeal	8
6.1. Grounds of Appeal	8
6.2. Planning Authority Response	8
6.3. Prescribed Bodies	8
7.0 Assessment.....	9
8.0 Recommendation.....	17
9.0 Reasons and Considerations.....	17

1.0 Site Location and Description

- 1.1. The rectangular shaped appeal site has a stated 0.32ha area and it forms part of a pastureland field that is located on the western side of the R166 (Strand Road). It is bound on either side by one-off dwellings and is situated in close proximity to the southern fringes of Annagassan Village, c0.8km to the south of its centre and c0.6km to the south of its junction with a local road (L-6225) that runs through the neighbouring Townland of 'Ballynagassan', in County Louth.
- 1.2. The appeal site is bound by existing mature low hedges on its southern and on its eastern side. These are porous in places. The eastern boundary also contains a low bank and a grass verge that bounds the R166. This roadside verge also contains 5 utility poles. The ground levels of the site fall by c1.5m or more from the road side boundary towards the centre and rear of the site. At the time of inspection, the ground was firm underfoot and there was no significant evidence of water loving plant species. The northern and western boundaries were not demarcated.
- 1.3. The adjoining stretch of the R166, in both directions, has a posted speed limit of 80kmph. The site is significantly remote from the 50kmph posted speed limit zone which I observed commences in close proximity to the L-6225 local road and continued in a northern direction into the main centre of the village. The R166 regional route showed signs of erosion along parts of its eastern roadside boundary. Erosion was also evident along the pedestrian footpath. This I note bounds the eastern roadside verge. Aligning the eastern side of this footpath there is a low wall and what appears to be a man-made flood/erosion prevention embankment.
- 1.4. The site benefits from panoramic views over the coastline and the surrounding area is characterised by its strong linear residential development that bounds the western side of the R166 behind which is agricultural land and a number of backland residential developments.

2.0 Proposed Development

- 2.1. Outline planning permission is sought for the construction of a dwelling house, a wastewater treatment system, percolation area, new entrance opening onto the R166

and all associated site works. According to the planning application form a new connection to the public mains is proposed to serve the subject dwelling.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to **refuse** retention permission for the following stated reasons:

“1. It is the policy of the Louth County Development Plan 2015-2021 (TC12) to ensure that the minimum visibility standards as outlined in Table 7.4 of the Louth County Development Plan 2015-2021 can be achieved at the junction of the vehicular entrance with the regional road. The site layout plan submitted does not show visibility splays of 125m x 3m x 1.05-0.6m in each direction. As such the proposed development would materially contravene Policy TC12 of the Louth County Development Plan 2015-2021 and would endanger public safety by reason of a traffic hazard and obstruction of road users.

2. It is the Policy of the Louth County Development Plan 2015-2021 (HER3) to ensure that all development complies with the DECLG ‘Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities 2010’. The site adjoins Dundalk Bay SPA and SAC (Natura 2000 sites). The applicant has not submitted an Appropriate Assessment Screening Report and, therefore has failed to demonstrate to the satisfaction of the Planning Authority that the proposal will not have any direct or indirect detrimental impact upon the integrity and qualifying interests of the protected habitats within Dundalk Bay SPA and SAC. As such the proposed development would materially contravene Policy Her 3 of the Louth County Development Plan 2015-2021 and would be contrary to the proper planning and sustainable development of the area.

3. The OPW Preliminary Flood Risk Maps, (PFRA), indicates that the proposed site is vulnerable to Coastal Flooding. Based on the limited information submitted the applicant has failed to demonstrate to the satisfaction of the Planning Authority that the proposed development is not at risk of flooding nor will exacerbate flooding

elsewhere thus if permitted the proposed development would be contrary to the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

3.2.1. Planning Reports

The final Planning Officer’s report recommended refusal as per Section 3.1.1 of this report and the initial planning officers report concluded with a request for further information on the following matters:

Item 1 & 2: Requested to demonstrate compliance with the Settlement Strategy.

Item 3: Requested an Appropriate Assessment Screening Report.

Item 4: New public notices requested to include the provision of a wastewater treatment system.

Item 5: Details relating to the provision of a wastewater treatment system was sought.

Item 6: Revised entrance layout demonstrating the required sightlines was sought.

Item 7: Requires the provision of revised public notices should the applicant’s further information response result in significant changes to the development sought.

3.2.2. Other Technical Reports

Infrastructure: The final report concludes with a recommendation of refusal in relation to the lack of demonstration of adequate sightlines and the lack of flood risk assessment to demonstrate that the development proposed is not at risk of flooding or would exacerbate flooding elsewhere.

Environmental Compliance: The final report considers that adequate information has been submitted to satisfy them; that the proposed development will be no threat to environmental pollution; and, recommends a number of safeguards for the provision of the waste water treatment system. This report also states *“advice without prejudice to flooding report. In the event the site is subject to probability of flooding of 1:200 year, or more frequent probability of flooding, the Environmental Compliance Section objects to the proposed development on public health grounds.”*

3.3. Prescribed Bodies

3.3.1. **Irish Water:** No objection.

3.4. Third Party Observations

3.4.1. None received.

4.0 Planning History

4.1. Appeal Site:

4.1.1. None.

4.2. Surrounding Area:

4.2.1. The Board has decided no similar cases in the vicinity.

4.2.2. The appellant refers to **P.A. Reg. Ref. No. 18672** in their appeal submission. I note that this application relates to a grant of planning permission for the construction of a single storey dwelling house, detached domestic garage, new vehicular entrance, installation of a wastewater treatment system together with all associated site works. A copy of this application is attached to file.

5.0 Policy and Context

5.1. Development Plan

5.1.1. The site is governed by the policies and provisions contained in the Louth County Development Plan, 2015 to 2021. The site is zoned 'Zone 3' which has the stated objective "*to protect the recreational and amenity value of the coast*".

5.1.2. Policy SS 9 of the Development Plan indicates that the Planning Authority will seek to promote & facilitate limited development within Level 3 Settlements that is commensurate with the nature and extent of the existing settlement, to support their role as local service centres and to implement the policies & objectives relative to each settlement (Appendix 2, Volume 2 (a)).

5.1.3. Chapter 2 of the Development Plan states that: "*Level 3 Settlements have experienced unprecedented residential growth during Ireland's property boom*"; and, that:

“economic development has not matched the rate of population growth and there has been severe pressure on social infrastructure and demand for school places”. It further states that: “the continued development of these villages in the absence of supporting infrastructure would exacerbate existing unsustainable commuting patterns and speculative development. Furthermore, such development would jeopardise the achievement of critical mass in Dundalk and Drogheda”.

- 5.1.4. Section 3.10.3 of the Development Plan on the matter of development on Zone 3 zoned land states: *“the coastline of County Louth stretches from the County Down border, along Carlingford Lough and Dundalk Bay to the Boyne Estuary outside Drogheda. It is of considerable intrinsic, special amenity and recreational value. Furthermore, the coastline is home to a variety of natural habitats and many species of flora and fauna. The coastline is protected by a number of statutory designations. Special Areas of Conservation (SAC), proposed Natural Heritage Areas (pNHA) and Special Protection Areas (SPA) designations cover much of the coastline”.*
- 5.1.5. Policy RD21 of the Development Plan requires: *“all proposed developments within 100m of the coastline of Louth, outside the settlements and in Zone 3, to submit supporting documentation on coastal erosion. New development will be prohibited unless it can be objectively established based on the best scientific information at the time of the application, that the likelihood of erosion at a specific location is minimal taking into account, inter alia, any impacts of the proposed development on erosion or deposition”.*

5.2. Natural Heritage Designations

- The site is adjacent to Special Protection Areas: Dundalk Bay SPA (Site Code: 004026) and Special Area of Conservation: Dundalk Bay SAC (Site Code: 000455) and is separated from them by the R166 that runs along the eastern boundary of the site.
- The site lies c7km to the east of Special Protection Areas: Stabannan-Braganstown SPA (Site Code: 004091).
- The site lies c11.5km to the north west of Special Area of Conservation: Clogherhead SAC (Site Code: 001459)

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of appeal can be summarised as follows:

- The proposed development consists of an infill development of a domestic dwelling on a site served by a water main and located within an established village. In time of a housing crisis this type of development should be supported and encouraged.
- The requirements for Appropriate Assessment and Flooding reports is questioned as the site is an infill development site.
- Concerns are raised with the lack of availability to discuss items in the further information request with the Planner dealing with the application.
- No third-party objections were received to the proposed development.
- The required sightlines can be achieved.
- The speed limit along this stretch of road decreases from 80kmph to 60kmph.
- Accompanying this appeal is an Appropriate Assessment.
- Accompanying this appeal is a Flood Risk Assessment.

6.2. Planning Authority Response

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

- The Board is requested to have regard to the Planning Officer's reports on file.

6.3. Prescribed Bodies

6.3.1. A letter from the Department of Culture, Heritage and the Gaeltacht was received by the Board. It can be summarised as follows:

- The proposed development has the potential to negatively impact on the conservation objectives of Dundalk Bay Special Protection Area and the Dundalk Bay Special Area of Conservation. It is considered that the potential impact may be caused by proximity of the development to these European sites.

- It is requested that a suitably qualified individual assessing the possible direct or indirect impacts on the conservation objectives and qualifying interests of the European sites be provided.

7.0 Assessment

7.1. Introduction

7.1.1. I consider that the key issues in determining this appeal case relates to the Planning Authority's reasons for refusal which I have set out under Section 3.1.1 of this report above and I propose to deal with these issues under the following broad headings:

- Road Safety
- Appropriate Assessment
- Flooding
- Other Matters Arising - Procedural

7.2. Road Safety

7.2.1. The first reason of refusal cited in the Planning Authority's decision notification relates to Policy TC12 of the Louth County Development Plan, 2015 to 2021. This Development Plan policy states that the Planning Authority will "*apply the visibility standards and vehicle dwell area requirements as set out in Tables 7.4 and 7.5 in accordance with the National Roads Authority Design Manual for Roads & Bridges (DMRB) for the national road network and to ensure that the standards set out in the Design Manual for Urban Roads & Streets (DMURS) apply to all urban roads & streets*". In this regard, the Planning Authority considered that based on the information submitted with this application that the required visibility splays of 125m x 3m x 1.05-0.6m in each direction have not been demonstrated. Based on this reason, the Planning Authority considered that the proposed development, if permitted, would materially contravene this policy and would in turn endanger public safety by reason of a traffic hazard and obstruction to road users. I further note that this reason reflects the final Planning Officer and the Infrastructure's reports both of which raised substantive concerns on this matter.

- 7.2.2. The appellant considers that this would not be the case as the proposed entrance submitted opens onto the R166 (The Strand Road) at a point where its alignment is straight and where traffic speed reduces in anticipation of the change in posted speed limit from 80kmph to the lower posted speed limit of the village.
- 7.2.3. The proposed vehicular entrance is located roughly midway along the eastern boundary. A splayed entrance is proposed onto the R166 and no setback of boundaries or sightlines in either direction are indicated. The applicant proposes to maintain the roadside boundary as is outside of the immediate area in which the proposed new entrance would be accommodated. This factor together with limits of the roadside boundary width in either direction that are within the appellants legal interest the appellant is not able to provide the required minimum sightline standard for this a regional road and for its posted speed limit at this location. The appellants have also not demonstrated that they benefit from the legal consent of adjoining and neighbouring property owners to remove obstructions in order to achieve the required sightlines together with the necessary fetters of having the legal right to maintain the sightlines into the future.
- 7.2.4. Of further concern, in my view, is Policy TC 13 of the Development Plan. This Development Plan policy indicates that it is the policy of the Planning Authority to avoid the creation of additional access points from new development where the speed limits greater than 60kmph apply. This policy states that *"this provision will apply to all categories of development, including individual houses in all control zones within the Plan area"*.
- 7.2.5. Moreover, the proposed development would result in two access points from the field which currently has a width of c74m. This fact together with the significant number of vehicular entrances opening onto this western stretch of the R166 adds to the concern that in the absence of adequate sightlines the proposed development, if permitted, would give rise to a traffic hazard and road safety issue for existing road users.
- 7.2.6. I also observed during my inspection of the site which I note occurred outside of peak hour traffic that this stretch of the R166 accommodated a constant flow of vehicles with many appearing to exceed the posted speed limit. I also observed in the wider environs pedestrians and cyclists using either side of this road.

- 7.2.7. While I consider that the traffic generated by the proposed development would be modest in volume and that an improved entrance through to a shared entrance to the field in which the site is located could be sought by way of condition it does not overcome the requirements that such applications are required to demonstrate compliance with Policy TC 12 and the presumption against such entrances under Policy TC 13 of the Development Plan.
- 7.2.8. I further draw the Boards attention to Section 2.19.15 of the Development Plan which states that: “*safe access to any new housing development must be provided, not only in terms of the visibility from a proposed entrance but also in terms of the impact on existing road traffic, through generation of stopping and turning movements*”; and, under Policy SS 59 of the Development Plan it states that the Planning Authority shall: “*require that access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic by demonstrating compliance with the appropriate visibility and traffic safety standards as set down in Section 7.3.6 of the Plan*”. The later has not been demonstrated by way of the failure to satisfactorily demonstrate that adequate sightlines can be achieved to serve the proposed development sought under this application and as such a safe means of access to the proposed dwelling has not been provided.
- 7.2.9. Based on the above, I generally concur with the Planning Authority’s first reason for refusal as set out in its decision notification. I also consider that this is sufficient reason in itself for the outline planning permission sought under this application to be refused. Notwithstanding, on the matter of “*materially contravene*” a policy of the Development Plan, I first of all advise the Board should they be minded to grant permission for the proposed development sought under this application, that they have regard to Section 37(2) of the Planning and Development Act, 2000, as amended. This Section of the said Act sets out that if the Planning Authority decided to refuse planning permission on the grounds that a proposed development materially contravenes the Development Plan, the Board may only grant permission in certain circumstances.
- 7.2.10. However, I hold a different view to the Planning Authority on the matter in that I consider that the development, if permitted, would not materially contravene the said Development Plan objectives as they seek to strictly control new accesses points where compliance with Policy TC 12 is demonstrated. Such policies are not prescriptive in nature in relation to the appeal site and as discussed above the proposal

would be contrary to the spirit of this policy alongside Policy TC 13 and Policy SS 59 of the Development Plan I do not consider that the proposed development, if permitted, would materially contravene the Development Plan.

7.3. **Appropriate Assessment**

- 7.3.1. The second reason of refusal cited in the Planning Authority's decision notification relates to Policy HER 3 of the Development which requires that all developments comply with the guidance set out in the document titled 'Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities', 2010, (DECLG). It indicates that no Appropriate Assessment Screening Report has been provided with this application to demonstrate to the Planning Authority's satisfaction that the proposed development would not have any direct or indirect detrimental impact upon the integrity and qualifying interests of the protected habitats within Dundalk Bay SPA and SAC. The Planning Authority therefore considered that to permit the proposed development would "*materially contravene*" the said Policy; and, would therefore be, contrary to the proper planning and sustainable development of the area.
- 7.3.2. The appellant submits an Appropriate Assessment Report with their appeal submission to the Board but maintain it is unreasonable that the Planning Authority requested the preparation of such a costly document by way of further information for a proposed development on an infill site where similar developments in the vicinity have not had to provide the same.
- 7.3.3. This report raises procedural concerns in terms of the Planning Authority's handling of this matter during their determination of this application for outline planning permission. It also alleges that the Planning Authority if they had assessed the site correctly and the conservation objectives of the European sites in its vicinity they would have been able to determine that the proposed development could not have adversely affected either the SPA and SAC of Dundalk Bay. As such it is considered that this reason for refusal should be rescinded.
- 7.3.4. The appeal site lies immediately 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) and it is in effect only separated by the R166, its associated pedestrian pathway and a low artificial embankment that seeks to mitigate

the coastline at this location from erosion. I consider that there is a direct pathway between the appeal site and the European sites.

- 7.3.5. The publicly available 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.
- 7.3.6. 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.
- 7.3.7. 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.
- 7.3.8. The publicly available site synopsis states that Dundalk Bay SPA is one of the most important wintering waterfowl sites in the country.
- 7.3.9. I also note that the wider coastal area that comprises Dundalk Bay is also a Ramsar Convention site.
- 7.3.10. The site synopsis for the 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 was 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

7.3.11. 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 arguably is of 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 by way of its greenfield nature.

7.3.12. 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.

7.3.13. The Appropriate Assessment submitted with this appeal submission does not appear to adequately examine or quantify the potential impacts that could arise from the proposed development, if it were permitted, either individually and in combination with other plans or projects. Nor does it put forward reasons as to why the proposed development, if permitted, would not have any direct or indirect detrimental impact upon the integrity and qualifying interests of the protected habitats within Dundalk Bay SPA and SAC based upon any measures that would be employed. For example, noise and other disturbances during the construction period. It does not suggest any measures to limit such impacts, i.e. by limiting construction and other associated works to be carried out outside of the certain months of the year where adverse impact is more likely.

7.3.14. The proposed development sought under this application will be connected to the public water main. 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 again note that the applicant does not propose any measures to manage these emissions by the adoption of good practices during construction and via the controlled discharge of surface water (underground attenuation tank).

7.3.15. I also note that the Department of Culture and the Gaeltacht in their observation to the Board notes the proximity of the site to the SPA and SAC of Dundalk Bay and that the

information provided does not allay its concerns in relation to the potential impact on their conservation objectives based on the lack of an adequate and suitable professionally prepared Appropriate Assessment. They therefore recommended that this be provided prior to any decision being made and that this assessment have regard to the possible direct or indirect impacts on the conservation objectives and qualifying interests of these European sites.

7.3.16. Given the scale of the proposed development, the arrangements for services for surface water and wastewater drainage, the AEP of the site of 0.5% in the CFRAM Map, the minimal separation distance between the site and European sites in its vicinity, I consider it reasonable to conclude that such an application be accompanied by an appropriate professionally prepared Appropriate Assessment that satisfactorily demonstrates 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 this case this assurance has not been provided and I am of the view that the Board is therefore precluded from granting outline permission for the development sought for this reason.

7.4. Flood Risk

7.4.1. The third reason of refusal cited in the Planning Authority's notification relates to the sites vulnerability to coastal flooding as indicated in the OPW Preliminary Flood Risk Assessment Maps. On this matter the Planning Authority considered that there was insufficient information submitted to their satisfaction that the proposed development is not at risk of flooding nor will it exacerbate flooding elsewhere. For these reasons they considered the proposed development to be contrary to the proper planning and sustainable development of the area.

7.4.2. The appellant as part of their appeal submission includes an examination of the site's risk of flooding and examines the OPW maps for 1 in 200-year event and a 1 in 1000-year event. They argue that a Flood Risk Assessment would not add any more information than what is contained in the OPW modelling and that to request the provision of a Flood Risk Assessment was unreasonable. This report further highlights what they perceive to be as procedural mishandling of the Planning Authority in the assessment of this matter.

- 7.4.3. I am cognisant that this application seeks outline permission for a dwelling house and that the site is relatively low with the main site area falling downwards by c1.5m to where it is proposed to locate the dwelling house and wastewater treatment system it is nonetheless situated on land adjacent to the coastline that under the OPW Preliminary Flood Risk Maps are vulnerable to coastal flooding. The site forms part of a larger parcel of land in this vicinity which would in its entirety be susceptible to flooding under the 1 in 200-year coastal flood scenario (Note: 0.5% AEP). In such an event that the site would be cut off from the public road network and emergency services.
- 7.4.4. From inspection of the site and its environs the coastline at this location is vulnerable due to its proximity to the shoreline with the adjoining stretch of the R166 on its eastern roadside boundary and the coastal pathway showing evidence of coastal erosion/flooding type events.
- 7.4.5. Many of the recently permitted dwellings in the immediate vicinity of this coastline and this stretch of the R166 I observed have finished floor levels that are substantially raised above the natural ground levels as well as ground levels that have been altered to help facilitate achieving higher ground levels. This allows them these properties and their associated on-site infrastructure to be above the flood risk level.
- 7.4.6. The information submitted with the flood risk assessment does not put forward any proposed raised finished ground levels for the proposed dwelling or any alterations of the existing ground levels of the site in order to achieve a finished floor level above the flood risk level including an allowance of 500mm for freeboard and 500mm for climate change. I am also cognisant that the level of ground alterations that would be required to ensure that the proposed development achieved a ground level above flood risk level on this site would be a type of alteration to the ground that would require planning permission.
- 7.4.7. I note that Policy ENV 33 of the Development Plan states that: “*new development should be avoided in areas at risk of flooding*”. It goes on to state that where “*justification to permit development can be provided on sustainability and planning grounds, cognisance must be taken of outputs of CFRAM Studies in the provision comprehensive flood protection and management measures; which should be fully*

implemented in conjunction with any development in flood risk areas. Appropriate land uses should also be incorporated into those areas at risk”.

- 7.4.8. This application has not put forward any justification for the choice of this site over other sites or in the immediate area that would be at less risk.
- 7.4.9. Because of uncertainty relative to these issues and due to the deficiencies of the Flood Risk Assessment submitted, I recommend that the proposed development is premature and that on this basis permission should be refused. Moreover, the proposed developments in locations that are at risk of coastal flooding are required to demonstrate compliance with the Planning System and Flood Risk Management Guidelines for Planning Authorities, November, 2009’. In this case this has not been demonstrated.
- 7.4.10. Based on the above considerations, I concur with the Planning Authority that a refusal of planning permission is warranted based on the documentation submitted with this application not satisfactorily demonstrating that the proposed development is not at risk of flooding nor would it exacerbate flooding elsewhere.

7.5. Procedural

- 7.5.1. The appellant raises several concerns in relation to the Planning Authority’s handling of this application. These are also reiterated as central arguments within the appellants accompanying Appropriate Assessment and Flood Risk Assessment when the focus and objectives of such documents are completely different. Moreover, the Board does not have an ombudsman type role on assessing such concerns. I have therefore confined my assessment to the substantive planning issues raised in this appeal case.

8.0 Recommendation

- 8.1. I recommend that outline permission be **refused** for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. On the basis of the information provided with the application and having regard to the Stage 1 Appropriate Assessment Screening Report submitted as part of the

appeal submission, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the designated Special Protection Areas: Dundalk Bay SPA (Site Code: 004206) and Special Conservation Area: Dundalk Bay SAC (Site Code: 000455), or any other European site, in view of their Conservation Objectives. In these circumstances the Board is precluded from giving further consideration to a grant of planning permission. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. The site is situated in close proximity to the coastline in an area at risk of coastal flooding. On the basis of the submitted documentation, the Board is not satisfied that the applicant has provided sufficient information to demonstrate compliance with the 'The Planning System and Flood Risk Management Guidelines for Planning Authorities, November, 2009'. The proposed development would, therefore, constitute an unacceptable risk of flooding, conflict with the said Ministerial Guidelines and be contrary to the proper planning and development of the area.
3. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a Regional Road (R166) at a point where sightlines are restricted in both directions and the maximum posted speed limit applies.

Patricia-Marie Young
Planning Inspector

31st July, 2019