



An
Bord
Pleanála

Inspector's Report

ABP-309573-21

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| Development | Construction of 8 houses. Includes an N.I.S. received on 07/12/2020 |
| Location | Rampark, Jenkinstown, Dundalk, Co Louth |
| Planning Authority | Louth County Council |
| Planning Authority Reg. Ref. | 20611 |
| Applicant(s) | Beacon Parks Developments Ltd. |
| Type of Application | Permission. |
| Planning Authority Decision | Grant permission. |
| Type of Appeal | Third Party |
| Appellant(s) | Philomena O'Connor, William and Deirdre Elvin. |
| Observer(s) | None. |
| Date of Site Inspection | 4 th June 2021. |
| Inspector | Barry O'Donnell |

1.0 Site Location and Description

- 1.1. The subject site, which has a stated area of 1.83ha, is located in the village of Lordship, to the north of Dundalk and adjacent to Dundalk Bay. The site is to the south of the R173 Dundalk-Greenore road and is accessed via a private laneway which is shared with other residential properties and a commercial property. The laneway is narrow and undulating and it incorporates ad hoc sections of pedestrian footpath on both sides of the road.
- 1.2. The site is currently in an unfinished state and is one of a number of unfinished estates in the village. Permission was previously granted on the site in 2006 for residential development and to this point, foundations and concrete bases for the majority of houses have been provided. One house has been constructed to ridge level externally and another has been built to first floor level. The application documents indicate that the site has lain effectively abandoned for a number of years.
- 1.3. Lordship is a small village with a population of 486, the settlement pattern for which roughly follows the route of the R173 and with evidence of ribbon development along minor arms of the regional road.
- 1.4. There are detached properties on both sides of the laneway, including adjacent to the north, south and east site boundaries. A detached house has also been constructed on lands which although outside of the a

2.0 Proposed Development

- 2.1. The application was lodged with the Planning Authority on 14th August 2020, with further information submitted on 7th December 2020, following a request for further information dated 1st October 2020. Revised public notices were also submitted on 7th December 2020.
- 2.2. The development entailed within the public notices comprised the development of 8 houses and associated wastewater treatment systems, all of which were partially constructed under permission Reg. Ref. 06/881 and including associated site development works.
- 2.3. The development includes 4 house types, A-D inclusive, each of which is of the order of 260sqm GFA and between 9-9.3m in height. Separate accesses to each of the

proposed sites are provided from the internal carriageway, with parking areas provided to the front of each house.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority granted permission on 5th February 2021, subject to 17 No. planning conditions.

- Condition 2 required that, on completion, each dwelling shall be occupied for a period of 7 years by persons who are eligible under the qualifying criteria for the area, as set out in the development plan, with documentary evidence provided to the Planning Authority prior to occupation. The occupants of each dwelling were required to enter into a Section 47 written agreement with the Planning Authority and to provide written confirmation within 2 months of occupation, confirming first occupation of the house.
- Condition 3 required that mitigation measures contained within the NIS shall be carried out in full.
- Condition 6 states that the matter of access to the site from the R173, over the private laneway accessing the site, will not be a function of the Planning Authority. The condition also required that the private road shall be reconstructed between chainage 200 and chainage 370.
- Condition 8(b) required that prior to the commencement of development, surface water drainage proposals should be submitted, which resolve road drainage in the area of a sag curve in the vertical alignment of the private road.
- Condition 9 required that the developer shall be responsible for repairs to the adjoining road, from chainages 0-200 and that a pre-construction road survey shall be carried out, with quarterly inspections to identify and repair any identified defects. A final condition survey was required to be undertaken within 3 months of the completion of construction, with identified defects repaired within 15 working days.

3.2. Planning Authority Reports

3.2.1. Two Planning Reports were drafted, signed 23rd September 2020 and 1st February 2021. The first report outlined that the site comprises of an unfinished housing estate, granted permission on 25th September 2006 for a development of 9 houses. Regarding the Level 4 settlement location, the report outlined that the development plan permits the qualifying criteria to be submitted by the potential occupier of the house. Regarding compliance with Policy SS12, the Report stated that the Policy was intended to deal with new developments, rather than unfinished housing estates, and a preference was expressed for a timely completion of the estate including associated infrastructure. Concerns were expressed regarding potential impacts on the integrity of Dundalk Bay SAC and SPA, with reference to wastewater treatment systems on the site and the proliferation of such systems in the area. The report recommended that further information be requested in relation to a number of aspects of the development as follow: -

- A carriageway impact assessment was requested, to determine the condition and ability of the carriageway to accommodate additional loading.
- The applicant was requested to demonstrate sufficient legal title to gain access to the site from a private lane, including an undertaking from the landowner that a right of way agreement will be created.
- The applicant was requested to clarify proposed sightlines and to confirm 85th percentile speeds on the private lane, to show compliance with advice contained with DMURS regarding sightlines.
- The applicant was requested to demonstrate compliance with Section 4.4.5 of DMURS, including a revised drawing detailing alteration works, and to clarify whether remedial works are required to an existing boundary wall as part of the provision of visibility splays.
- An Appropriate Assessment Screening Report was requested.
- An Irish Water pre-connection enquiry was requested, including the IW response.

3.2.2. The second report followed receipt of the AI response and followed the submission of revised public notices and a further period of public consultation. The report summarised and responded to the responses to each of the further information request

items and stated that issues relating to access and visibility had been satisfactorily addressed. Regarding the issue of legal title, ongoing concerns were expressed regarding the applicant's ability to access the site, but it was considered that, in providing a legal letter in support of the application, sufficient interest had been demonstrated to allow a recommendation to issue. The Report outlined that a Natura Impact Statement had been submitted as part of the AI response and agreed with its conclusions, that the development would be likely to have an effect on 2 European sites. The report also accepted the proposed mitigation measures contained within the NIS as adequate to address the potential for detrimental impacts on the European sites. The Report recommended that permission should be granted, subject to 17 No. recommended conditions, which generally accord with the Planning Authority's decision.

3.2.3. Other Technical Reports

Infrastructure reports dated 18th September 2020 and 17th December 2020. The first report recommended that additional information be sought in relation to (1) the ability of the existing laneway to accommodate the development, (2) confirmation of the right to take access from the private laneway, (3) proposed sightlines and (4) compliance with DMURS. The second report followed submission of the additional information response and advised that there was no objection to the development subject to a number of recommended conditions. The report also advised that it is not envisaged that the access lane will be taken in-charge.

Environment report dated 31st August 2020, which outlined no objection to the development subject to a number of recommended conditions.

3.3. Prescribed Bodies

- 3.3.1. Irish Water made a submissions on 2nd September 2020, which outlined no objection to the development subject to a number of recommended planning conditions.

3.4. Third Party Observations

- 3.4.1. A number of third party letters of observation were submitted, the issues raised within which can be summarised as follows: -

- The development was considered excessive.
- Concerns were expressed that foundations poured on the site are larger than those originally permitted.
- Stated plot sizes were considered inaccurate and not in accordance with development plan minimum requirements.
- The development was considered likely to impact on the amenity of adjacent residential properties.
- Concerns were expressed that the development did not incorporate public open space or play spaces.
- The proposed percolation area for site No. 9 was considered inappropriate.
- The extent of achievable sightlines was questioned.
- The access onto the R173 was considered unsafe and the access lane was considered inadequate to accommodate the development.
- Concerns were expressed that the development did not incorporate improvements to the footpath and public lighting along the access lane.
- Concerns were expressed regarding the impact of foul waste drainage proposal on Dundalk Bay, which is an SPA/SAC and pNHA. Observers noted that no Natura Impact Statement had been submitted with the application.
- One observer advised that the site is listed as a county geological site, under the development plan.
- Concerns were expressed regarding the landscape and visual impact of the development.
- Concerns were expressed that the development may remain unfinished.
- Observers suggested that a development of reduced scale would be more appropriate.

3.4.2. A number of additional submissions were received following the submission of revised public notices, the issues raised within which can be summarised as follows: -

- Ongoing concerns were expressed regarding sightlines from the access off the R173 and road and traffic safety.

- Ongoing concerns were expressed that the development's scale was excessive.
- Ongoing concerns were expressed that the development was considered likely to impact on the amenity of adjacent residential properties.
- Additional information provided was considered inadequate.
- It was restated that foundations poured were larger than those originally permitted.

4.0 Planning History

19162 - An application was submitted on 5th March 2019 for 9 houses with individual wastewater treatment systems, each of which was partially completed as part of Reg. Ref. 06/881. The application was deemed to have been withdrawn arising from a failure to respond for a request for additional information dated 18th April 2019.

06881 - Permission granted on 25th September 2006 for 9 houses with individual wastewater treatment systems, new access roadway and site development works.

Condition No. 2 required that occupants should demonstrate compliance with qualifying criteria outlined in the development plan and that each dwelling should be first occupied by the qualifying person for a minimum period of 7 years.

05644 - Outline permission granted on 23rd October 2005 for 6 houses with septic tank/wastewater treatment systems and full permission granted for site development works for the proposed houses.

5.0 Policy Context

5.1. Ministerial Guidelines

Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)

- 5.1.1. The Guidelines define a smaller town or village as having a population ranging from 400 to 5,000 persons. In these locations, Section 6.3(a) and (b) state that development

should be plan-led and that new development should contribute to a compact urban form.

- 5.1.2. Section 6.3(d) advises in reference to small town and village locations that *'in some limited circumstances, notably where pressure for development of single homes in rural areas is high, proposals for lower densities of development may be considered acceptable at locations on serviced land within the environs of the town or village in order to offer people, who would otherwise seek to develop a house in an unserviced rural area, the option to develop in a small town or village where services are available and within walking and cycling distance.'*
- 5.1.3. Section 6.3(e) advises that the scale of new residential schemes in small towns and villages *'should be in proportion to the pattern and grain of existing development'* and suggests that the development of these settlements may be controlled, for example that no single proposal should increase the housing stock by more than 10-15% or that, for villages under 400 in population, individual housing schemes should exceed 10-12 units.

5.2. National Planning Framework

- 5.2.1. National Policy Objective 6: *'Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.'*
- 5.2.2. National Policy Objective 11: *'In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.'*

5.3. Development Plan

- 5.3.1. Lordship is identified as a Level 4 settlement under the Louth County Development Plan 2015-2021. The development plan provides a Composite Map for the village,

identifying flood zone extents, development areas, civic/community sites and amenity sites. The subject site is identified as a development area.

5.3.2. Section 2.16.8 outlines that the Level 4 Settlements are small and are '*principally residential, with limited local facilities and a lack of public foul drainage.*' It is further stated that '*The purpose of these settlements is to assist in satisfying rural generated housing needs within a structured but low density environment as an alternative to the development of scattered one – off housing... Permitted development within these settlements will be on the basis of individual wastewater treatment systems, on minimum site areas of 0.2 hectares (0.5 acres).*'

5.3.3. Section 2.19.1 outlines local needs qualifying criteria. Lordship is located in Development Zone 4. The development plan's overarching objective in Zone 4 locations is to provide for a greenbelt around the urban centres of Dundalk, Drogheda and Ardee. Qualifying criteria for applicants within the zone are outlined.

5.3.4. Relevant policies include: -

'SS 10 To provide for the construction of one-off type houses within Level 4 Rural Settlements in order to assist in satisfying a housing and county based local area need within a structured but low density environment as an alternative to the development of scattered one – off housing.

SS 11 To restrict residential development within Level 4 Rural Settlements to that required to satisfy county based local needs and to apply an occupancy condition of 7 years in respect of all dwellings permitted therein.

SS 12 To permit land within Level 4 Rural Settlements, for small scale multi-unit residential developments (maximum 6 units per planning application).

SS 14 To require a minimum site area of 0.2 hectares (0.5 acres) for each residential unit within Level 4 Rural Settlements where serviced by an individual waste water treatment plant.

*SS 15 To ensure that the design and arrangement of dwellings are complementary and reflect the existing character of the settlement. In this regard applicants will be required to demonstrate that the proposal is consistent with the document *Building Sensitively and Sustainably in County Louth* and paragraph 4.7 - *Rural House Design and Siting Criteria**

- SS 16 *To require that access to the public road for all dwellings will not prejudice road safety or significantly inconvenience the flow of traffic.*
- SS 17 *To require that all necessary services can be provided without significant adverse impact on the environment or character of the locality.*
- SS 51 *To require that new dwellings and or extensions to existing dwellings within Development Zone 1-6 inclusive shall comply with the minimum site size area and maximum cumulative gross floor areas as outlined hereunder in Table 2.9.*
- SS 52 *To require that within Development Zones 3-5, in those cases where the proposed dwelling (excludes replacement dwellings) or extension to the dwelling is in excess of 220sqm cumulatively, the site area shall be correspondingly increased by a ratio of 20 square metres for each 1.0 square metre additional floor area of the dwelling. This stipulation will not apply to applications made under policies SS 49.*
- TC 10 *To prohibit the creation of new accesses or intensification of existing accesses onto National Routes and Protected Regional Routes as set out in Tables 7.2 and 7.3.*
- HER 7 *To resist any development that would result in a significant deterioration of habitats or a disturbance of species in the pNHA.'*

5.4. Natural Heritage Designations

- 5.4.1. The subject site is not located within or adjacent to any designated European Site. Dundalk Special Protection Area and Special Area of Conservation are located approx. 300m from the south site boundary.

5.5. EIA Screening

- 5.5.1. An Environmental Impact Assessment Screening report was not submitted with the application.
- 5.5.2. The proposed development falls within the categories of '*Infrastructural Projects*', under Schedule 5, Part 2 of the Planning and Development Regulations 2001-2020, where mandatory EIA is required in the following circumstances:

10(b) (i) *Construction of more than 500 dwelling units.*

(iv) *Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.*

5.5.3. The proposal is for 8 residential units on a site of 1.83ha. The proposed development falls below the development threshold and mandatory EIA is therefore not required.

5.5.4. I have given consideration to whether sub-threshold EIA is required. The introduction of a smallscale, low density residential development on lands which currently comprise an unfinished housing estate will not have an adverse impact in environmental terms on surrounding land uses. The site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not likely to have a significant effect on Dundalk Bay SAC and/or SPA (as discussed in Section 7.9 of my Report). The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water supply and on-site foul and surface water drainage, which have been justified by site-specific investigations.

5.5.5. Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site on lands that are within the development boundary of Lordship, as identified by the county development plan,
- The location of the site outside of any sensitive location specified in Article 109 of the Planning and Development Regulations 2001 (as amended) and the mitigation measures proposed to mitigate the impact of the development on any such site,
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination a sub-threshold environmental impact assessment report for the proposed development was not necessary (See Preliminary Examination EIAR Screening Form).

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. Separate third party appeals have been lodged by Philomena O'Connor and William and Deirdre Elvin. The issues raised within each appeal can be summarised as follows: -

Appeal by Philomena O'Connor

- Existing foundations on the site are larger than was permitted under the previous permission. It is questioned whether these foundations are to be excavated.
- The proposed houses will reduce light levels within the appellant's home.
- The proposed development is too close to the appellant's home, contrary to sanitary laws.
- The private laneway accessing the site is not adequate to accommodate the development. It is stated that the road is ruptured and contains potholes and is not maintained by the County Council.
- Access onto the R173 is dangerous, with poor visibility. Drivers ignore speed limits and overtake along the section of road and the additional traffic generated by the development will lead to accidents. The development does not comply with Policy SS16 of the development plan, which relates to road and traffic safety.
- The scale of the proposed development is too large and the houses will not be affordable. The development will result in an unfinished development which will impact on skyline views and natural habitat.

Appeal by William and Deirdre Elvin

- The Planning Authority did not take issues raised by the appellants into consideration in its assessment of the application and submissions have been resubmitted, for the Board's consideration.
- Access onto the R173 is dangerous, with poor visibility. Speed limits on the road are exceeded and overtaking manoeuvres take place along the section of road. Sightlines in accordance with development plan requirements cannot be provided.
- The development is contrary to Policy TC10 of the development plan, which seeks to prohibit the intensification of existing accesses onto identified routes. The development also does not comply with Policy SS16 of the development plan, which relates to road and traffic safety.
- Foundations on the site are larger than was permitted under the previous permission. It is estimated that the foundations are approximately 40sqm larger than was permitted.
- The individual sites do not achieve the 0.2ha minimum required and do not comply with Policy SS 51 of the development plan, in accordance with which it is considered that the minimum required site area for each plot is 0.7acres (0.28ha). The stated area of each plot is also questioned, where land has been given over to the enlarged turning circle.
- Percolation for plot No. 9 is too close to the site boundary, where it is adjoined on 3 sides by adjoining landowners.
- The private access road is inadequate to serve the development, with reference to traffic movements and necessary infrastructure, and the applicant has not proposed adequate upgrades to it. The adequacy of the applicant's response to the further information request is also questioned.
- The development will impact on biodiversity within Dundalk Bay SAC & SPA, which is 300m away, contrary to Policy HER 7 of the development plan. Specific concerns are expressed regarding the impact of wastewater and surface water runoff from the development.
- The development will impact on geology, where the site is listed as a county geological site in the development plan.

- The development does not respect the character of the area and is an incongruent visual element in the Lordship setting, contrary to the provisions of the development plan which seeks to protect important views and to prevent inappropriate development.
- It is considered that a development of 6 houses would be more appropriate.

6.2. Applicant Response

6.2.1. A first party appeal response was received on 6th April 2021, prepared by EHP Services on behalf of the applicant, the contents of which can be summarised as follows: -

- Principle and Density of Development
 - The development is located within the settlement boundary of lordship and will complete an unfinished and incongruent estate within the village. It is Government policy to resolve and complete unfinished housing schemes.
 - Permission was previously granted for 9 houses, including wastewater treatment systems. The application proposes the same 4 house types within the same plot arrangement and house design. 1 of the approved houses, to the south-east, was the only approved house constructed.
 - Construction of the development began in 2007, with the construction of foundations and concrete bases for all houses, the entrance and access road. The economic crash of 2008 caused construction to cease.
 - The site is a brownfield site and its development is supported by national, regional and local planning policies.
 - The development will make a contribution to the local housing market.
- Access, Traffic & Safety
 - The appeal claims but does not demonstrate that the junction of the R173 does not provide adequate sightlines.
 - The issue of visibility was raised in items 3 and 4 of the additional information request. A carriageway impact assessment was provided, which identified current traffic loading on the laneway and assessed its suitability for the

development. The report noted that the lane was generally capable of accommodating the development, which would have low traffic levels of a predominantly domestic nature. The appellant claims in respect of traffic numbers are inaccurate and unsubstantiated.

- Sightlines are in compliance with DMURS advice and a junction layout was proposed which satisfied the Planning Authority's Roads Department.
- Concerns regarding non-compliance with Policy TC10 are noted, but the policy is not applied to sections of affected roads within settlement boundaries. It is also noted that the site is not accessed directly from the R173, so the policy is not applicable in this instance.
- The extent of the planning conditions attached to the Planning Authority's decision to grant permission provides a robust and enforceable platform to ensure the development will have no impact on the laneway or junction of the R173.
- Use of Existing Foundations and Works
 - The appellants claims are incorrect and misleading.
 - Permission is sought for what is detailed on the submitted elevations and floor plan drawings.
 - Any extension or alteration of the approved dwellings may be considered exempted development or be subject to a separate planning application.
- House sizes and plot sizes
 - The proposed development is compliant with Policy SS 15, which seeks to ensure the design and arrangement of new dwellings are complementary and reflective of the character of the settlement.
 - An analysis of the gross floor area for each house, with reference to Policy SS 52, indicates that plot sizes are in the range of 0.077 to 0.080ha. The shortfall is of little material impact when balanced against the benefit of providing additional housing and of completing an unfinished housing estate.
 - The development is based on the site layout and plot sizes approved under Reg. Ref. 06881 and is dictated by the position of the site access and estate

road, the location of existing foundations, site size/configuration and the proximity of neighbouring houses.

- Percolation area for plot No. 9
 - The percolation area in question is located 3m from the site boundaries, in accordance with the EPA code of practice, which stipulates a minimum separation distance of 3m. The Planning Authority's infrastructure team did not object to this aspect of the development.
 - The wastewater treatment system for plot No. 9 was informed by the site characterisation report prepared for the site. The location of the percolation area will have no impact on the adjoining neighbour.
- Effect on Natural Heritage and Biodiversity
 - A Natura Impact Statement was submitted as part of the additional information response, which concluded that, with mitigation measures in conjunction with the absence of a direct pathway, would be sufficient to ensure the development would not directly or indirectly impact on qualifying interests within the adjacent SPA/SAC.
- Effect on Geology and Landscape Character
 - The site is not a geological site, as has been claimed within the appeal.
 - In any case, the development will not require extensive foundation works as the foundations for each house is in place. Ground works as part of other aspects of the development will not require substantial excavation to bedrock level.
 - There is no substance to this aspect of the appeal.
 - The appeal site is in a landscape of local importance, the lowest designation within the development plan. The development plan does not prohibit development within the landscape character areas, only providing protection from development that would unduly damage or take from the character of the landscape. The development site is within the settlement boundary and is of a type and scale commensurate with the locality. It will not have any undue impact on the landscape character area.

- It is not accepted that the development will impact on walkers and cyclists using the laneway. The carriageway impact assessment outlined that the development will not pose a threat to the safety of other road users. It is also inaccurate of the appeal to claim that development plan protections for important views should apply to the laneway.

6.3. Planning Authority Response

6.3.1. The Planning Authority made a submission on 1st April 2021, the contents of which can be summarised as follows: -

- The development forms part of an unfinished housing estate within Lordship. It has been Government policy to resolve and complete housing schemes and the Planning Authority welcomes the completion of the development.
- The application was assessed with reference to the development plan, the site's location, the availability of services within the settlement and the uncompleted nature of the site.
- Visibility provided at the junction with the R173 accords with DMURS advice.
- The issue of affordability is a market issue.
- Qualitative and quantitative amenity standards for adjoining properties are significant. The development will not be detrimental with reference to overlooking.
- House sizes were considered on the basis of the drawings provided and foundations shall be in accordance with the permission granted.
- The application documents were assessed by the Environment section and it was considered the proposals comply with the requirements of the EPA code of practice. Condition No. 17 required compliance in this respect.
- The Board is requested to uphold the Planning Authority's decision to grant permission.

6.4. Observations

6.4.1. None received.

6.5. Prescribed Bodies

6.5.1. The appeal was circulated to The Heritage Council, The Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media and An Taisce. No responding submissions were received.

7.0 Assessment

7.1. Having inspected the site and considered the contents of the appeal in detail, the main planning issues in the assessment of the appeal are as follows:

- Procedural issue;
- Principle of development;
- Access & layout;
- Residential amenity;
- Impact on the character of the area;
- Drainage;
- Other issues;
- Appropriate Assessment.

7.2. Procedural Issue

7.2.1. The appellants state that foundations on the site do not comply with the previous permission on the site, in that they are larger than what was consented.

7.2.2. I have compared the floor plan and elevation drawings for the permitted development to the site layout which I encountered on the site and I am satisfied that they are substantially compliant with the permitted layout. A number of the permitted houses incorporated projecting first floor elements, which would likely have required structural support and it appears to me that each foundation layout has taken account of the requirement for such support.

7.2.3. I noted on my visit that a single storey projecting element is demarcated to the rear of each of the houses, which was not identified on the floor plan drawings but which was identified on the proposed site layout drawing. In the circumstances where this

element was identified on the approved drawings, it appears to me that it formed part of the approved development.

7.2.4. I am aware that the current proposed floor plans and elevations indicate that the houses would be slightly larger than previously permitted, but according to the application drawings this does not involve enlargement of the foundations footprint and I am satisfied that this is reflected in the public notices, which outline that planning permission is sought for the construction of 8 houses. I therefore do not consider the issue of retention arises.

7.2.5. I would also highlight to the Board that the applicant states that further on-site examination of the foundations will need to be undertaken before it can be confirmed whether they can be retained or whether they require removal and replacement.

7.3. Principle of Development

7.3.1. The subject site is located within the development boundary for Lordship, a level 4 settlement within the county. Although lands within the Level 4 settlements are not zoned, the development plan supports the provision of new housing within these settlements. The development plan Core Strategy allocates a small collective housing allocation to the Level 4 settlements and states that: -

'...each settlement has a development envelope as set out in Appendix 2, Volume 2 (a), within which one-off type housing is provided for subject to local qualifying criteria, in order to assist in satisfying rural generated housing need.'

7.3.2. The development plan's approach is consistent with supports provided by the *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas* (2009) which supports, in limited circumstances, proposals for lower densities of development on lands within the environs of the town or village, as an alternative to one-off rural housing.

7.3.3. I am satisfied that the proposed houses will provide an alternative to one-off rural housing in the area and having regard to the above-outlined supports, I consider the principle of the proposed development is acceptable. Compliance of future occupiers with rural housing policy controls can be controlled by condition, should the Board be minded to grant permission.

7.3.4. One of the appellants has questioned the number of units proposed and argues that a development of 6 houses would be more appropriate. I am aware that development plan Policy SS 12 states that a maximum of 6 units will be permitted per application within the Level 4 settlements but, I consider there are circumstances unique to this case that mitigate against such a limiting factor. Permission was granted for 9 houses on this site in 2006 and whilst ground works were commenced, including the provision of foundations and concrete bases for the majority of the approved houses, construction activity stopped and the site has been effectively abandoned for a number of years. The site was recorded by the Department of Housing, Local Government and Heritage as being unfinished, in its 2017 survey of unfinished estates (Ref. 3,180) and there is Government support for the completion of unfinished housing estates. The broad layout of the development, including individual plots, has been defined on the ground and, in these circumstances, where the principle of development is acceptable, I am satisfied that subject to consideration of compliance with other development plan policies, the proposed scale of development is acceptable.

7.4. Access & Layout

7.4.1. Regarding access, the appellants have questioned both the suitability and ability of the access lane to accommodate the development and the adequacy of visibility sightlines at the junction of the access lane and the R173. One of the appellants has also expressed concern that the development is contrary to Policy TC 10, which restricts new accesses and intensification of accesses onto protected regional routes.

7.4.2. The junction of the laneway with the R173 is within a 50km/h speed zone. The 60km/h zone is in close proximity to the junction, to the east, and I note that at the additional information stage the Planning Authority expressed concerns regarding achievable sightlines, in the context of vehicles slowing down in the transition zone between the 60km/h and 50km/h zones. DMURS advice is that visibility sightlines of 2.4m x 49m should be provided on bus routes where the design speed of the road is 50km/h and that 2.4m x 65m should be provided where the design speed of the road is 60km/h. The applicant states that sightlines of 2.4m x 65m can be provided in both directions along the R173 and also proposes a STOP sign adjacent to the junction. The proposed sightlines accord with DMURS for the higher 60km/h road design speed and are, in my view, acceptable.

- 7.4.3. The laneway from the R173 to the site access is privately owned and the applicant has provided a solicitor's letter, prepared by Rennick Solicitors, which states that the lane is a public right of way. I note that the Planning Authority's Infrastructure Department stated in its additional information report that adoption of the laneway is not envisaged and that the solicitor's letter did not give or infer a public right of way.
- 7.4.4. The development is smallscale in nature and is likely to generate a low number of domestic daily vehicular movements. The applicant provided a carriageway impact assessment report as part of the additional information response, which states that the road construction type used along the lane is appropriate for the volume and type of vehicles that would use it, subject to maintenance works being carried out regularly, and whilst potholes were in evidence in some locations, repairs would allow the carriageway to be returned to an acceptable condition. The assessment states that construction vehicles may cause damage to the laneway and suggests that a condition could be attached to any grant of permission, requiring monitoring of the lane for defects during construction and that any identified defects caused during construction shall be rectified.
- 7.4.5. The Planning Authority attached condition No. 6(b) to its decision, which required that the lane shall be reconstructed between chainages 200m and 370m, but the applicant argues that it would be unfair and inequitable that they should be required to undertake the cost of any long-term strengthening works to the laneway surface when no structural upgrade is required to cater for operational phase use of it.
- 7.4.6. The condition of the laneway at the time of my site visit was broadly similar to that described by the carriageway impact assessment, i.e. that it was generally in good condition, with pockets of potholes. The proposed development will not give rise to significant volumes of traffic and, as such, I am satisfied that monitoring and repair of the lane during the construction phase would provide adequate control, to ensure no further degradation would not occur as part of the development. Should the Board be minded to grant permission I would recommend that a condition be attached in this respect. I would also recommend that a bond condition should be attached in relation to this aspect of the development.
- 7.4.7. Sightlines of 2.4m x 45m can be provided in both directions from the site access, along the laneway. The speed limit along the laneway is unclear, however; the lane is lightly

trafficked and the site access is toward its southern end, where traffic volumes are lowest. I am satisfied that the proposed sightlines are acceptable.

- 7.4.8. Regarding concerns over non-compliance with Policy TC 10, I note that the R173 Dundalk-Greenore road is identified as a protected route, however; there are exemptions available for major developments of local importance, where additional traffic generated would not result in the creation of a traffic hazard. Whilst the development is not major, in terms of its scale, it is important locally, in providing housing as part of the development plan's housing strategy and also in completing a housing estate which has been left unfinished for a considerable period of time. I am also cognisant that the site and access are located within the settlement boundary for Lordship, where traffic speeds are controlled. The development will not result in the creation of a traffic hazard and, as such, I do not consider the development is in conflict with Policy TC 10.
- 7.4.9. The access to the site from the private laneway is wide and is, in my opinion, more akin to a road junction than a crossover onto private lands. DMURS outlines that the design of vehicle crossovers from streets should '*clearly indicate that pedestrians and cyclists have priority over vehicles. There should be no change in level to the pedestrian footway and no use of asphalt (which would incorrectly indicate vehicular priority across a footpath)*'.¹ With an internal carriageway width of 6m and wide turning radii, the proposed carriageway layout is excessive in its scale and serves to prioritise vehicles over pedestrians. Should the Board be minded to grant permission, I would recommend a condition be attached requiring that the site access and internal carriageway should be revised, to incorporate DMURS principles with reference to prioritisation of pedestrians at the vehicular crossover and placemaking within the site. A carriageway width of 5m within the site is adequate to serve a development of this scale.
- 7.4.10. The proposed layout within the site is of a linear form, following the route of the internal carriageway and with detached housing on both sides. Pedestrian footpaths and grass verges are also incorporated, on both sides of the carriageway. There are 4 house-types incorporated and each has a gross floor area of approx. 260sqm, split over ground and first floor levels.

¹ Design Manual for Urban Roads and Streets, Section 4.3.1, Page 87.

- 7.4.11. One of the appellants has expressed concern that that individual plots do not achieve the development plan minimum requirement, with reference to Policies SS 14, SS 51 and SS 52. In terms of Policies SS 51 and SS 52, both are applicable to one-off housing rather than housing developments within settlement boundaries.
- 7.4.12. The applicant's response to the appeal acknowledges that individual plot sizes fall below the minimum requirement of Policy SS14, which requires minimum plot sizes of 0.2ha, but argues that the shortfalls are of little material impact when balanced against the communal benefits of the additional housing provided and completing an unfinished estate.
- 7.4.13. I note the shortfall in relation to SS 14 but taking a balanced view, I consider that in the circumstances of the development, where the development approved under Reg. Ref. 06881 was implemented on the site, where the broad layout of the development, including individual plots, has been defined on the ground, the plot sizes are acceptable.

7.5. Residential Amenity

Proposed houses

- 7.5.1. The internal layout of each of the proposed houses, in particular the combined living space and bedrooms, exceeds the recommendations of the *Quality Housing for Sustainable Communities (2007)* guidelines, as referenced by the development plan.
- 7.5.2. Regarding daylight/sunlight levels within the houses, no assessment was provided as part of the application; however, given the very low density nature of the development and the level of separation between houses, both within the site and to adjacent housing, I am satisfied that the houses would receive adequate daylight/sunlight, in accordance with the recommendations of *Site Layout Planning for Daylight and Sunlight - A Guide to Good Practice (BRE, 2011)*, the recommendations of which the development plan requires to be followed.

Neighbouring houses

- 7.5.3. There are neighbouring residential properties on lands to the north, south and east and there is also a residential property adjacent to site No. 3, which, although separate from the site, is visually and functionally connected to the development. The north and south-adjointing properties are in excess of 30m from housing within the proposed

development and whilst there are windows facing toward these neighbouring properties, they are set away from the adjoining houses by a considerable distance. The rear of house No. 10 faces towards the east-adjoining property and whilst it contains first floor bedroom windows which would look toward the neighbouring garden, I am satisfied that they are adequately set away from the shared boundary. Regarding the residential property adjacent to site No. 3, as I stated previously, this house is visually and functionally part of the proposed development. Some angled overlooking of the rear garden will arise, similar to other gardens within the proposed development, but I do not consider such overlooking would be unacceptable or undue.

7.5.4. The development will not give rise to significant or unacceptable overshadowing of these neighbouring houses, given the level of separation between proposed and existing houses and the limited height of the proposed houses. Section 2.2 of (BRE, 2011) advises that if the distance of the new development is three or more times its height above the centre of the existing window, loss of light to existing windows need not be analysed. House Nos. 3 and 10 are the only houses within 30m of an adjacent house outside of the site which could potentially be overshadowed. In the case of house No. 3, the layout of both houses is such that any limited shadow which may arise, would be cast onto the gable end and/or front garden of the house and it would be confined to the evening. I am satisfied that the adjacent property would continue to receive adequate light. In the case of house No. 10, it is approx. 19m from the east-adjoining dwelling and is approx. 12m from its rear property boundary. Given that it is located west of the adjacent property, any potential overshadowing would also be limited to late evening. I am satisfied that the adjacent property would continue to receive adequate light.

7.5.5. Regarding neighbouring gardens, The BRE guidelines recommend that for a garden or amenity area to appear adequately sunlit throughout the year, at least half of it should receive at least two hours of sunlight on March 21st. The applicant has not provided any shadow analysis or commentary in respect of the issue, however; given the level of separation between proposed and existing houses, in particular the level of separation to houses which are located north of the proposed housing, I am satisfied that neighbouring gardens will continue to receive adequate sunlight throughout the year and it is likely that they will exceed the standard above.

7.5.6. Regarding overbearance, the development will be visible from the adjacent houses and will change the outlook from these properties, however; I consider that a level of visual change is reasonable and that it is to be expected at this location. The key consideration, in my opinion, is whether the height, scale and mass of development and the proximity to neighbouring properties is such that it would be visually overbearing when viewed from the adjacent properties and, I am satisfied that such a situation would not arise in this instance.

7.6. Impact on the Character of the Area

- 7.6.1. Concerns have been expressed by one of the appellants in relation to the impact of the development on important views and also on geology, where the site is identified as a county geological site.
- 7.6.2. The private laneway or the section of the R173 in proximity to the site do not contain any identified or protected views. I note from development plan map 11.1 (Appendix 11) that there are elevated views to the north, looking towards Dundalk Bay. Any available views of the site from these identified views already contain existing development within Lordship and, as such, I do not consider that the development would have a significant or unacceptable impact on these views. There may be some close-range views of the development, in particular along the laneway, but I do not consider the impact would be significant or undue.
- 7.6.3. The site is not in an identified area of geological interest. Available mapping from both the development plan and the Geological Survey of Ireland identifies that the areas to the north and south, i.e. the coastal area and the area north of the R173 are areas of geological interest, but the area in between, which includes the subject site, is not. In any case, I am cognisant that the subject site has already been the subject of development works including excavation of foundations for the majority of houses. I do not consider the proposed development, which involves completing an unfinished housing estate, will have a significant impact on geology.

7.7. Drainage

Foul Drainage

- 7.7.1. The development includes individual packaged wastewater treatment plants and polishing filters within the garden of each plot.

- 7.7.2. A Site Suitability Assessment report was provided as part of the application, prepared by Colm Holmes & Associates in January 2019. Site characterisation reports have been provided for all 8 sites. The category of aquifer across all 8 sites is identified as 'locally important', and each has a vulnerability classification of 'High'. A new EPA Code of Practice for wastewater treatment systems was recently published, however; for applications submitted prior to 7th June 2021, the 2009 Code of Practice continues to be applicable. Table B.2 (Response Matrix for On-Site Treatment Systems) of the EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses identifies an 'R1' response category i.e. acceptable subject to normal good practice.
- 7.7.3. Trial holes with depths of between 2.1m-2.5m identified an initial 300mm-400mm of topsoil but the remaining composition has not been classified. The water table was not encountered in any of the trial holes. In relation to the percolation characteristics of the soil, the following T-test values were returned.

| Site | T-test (min/25mm) |
|-------------|--------------------------|
| 3 | 14.53 |
| 4 | 22.06 |
| 5 | 35.89 |
| 6 | 19.72 |
| 7 | 16.06 |
| 8 | 8.67 |
| 9 | 5.08 |
| 10 | 5.50 |

- 7.7.4. Each of the Reports concludes that the individual site is suitable for the installation of a septic tank system and purpose-built percolation area. Having regard to the site percolation test results, I consider it has been demonstrated that the sites can accommodate individual wastewater treatment systems and percolation areas.
- 7.7.5. The appellants have expressed concern over the proximity of the polishing filter serving house No. 9 to the shared site boundary. The EPA Code of Practice (Table 6.1) states that wastewater treatment systems and percolation areas/polishing filter should be 3m from a site boundary and, in respect of proximity to a house, a septic tank should be 7m away and a percolation area should be 10m away. The polishing filters identified for plots 9 and 6 are close to site boundaries but I am satisfied that they can be accommodated within their respective site, in accordance with the

recommendations of the Code of Practice. Should the Board be minded to grant permission, I recommend a condition be attached requiring that the design and layout of the foul drainage system should be agreed with the Planning Authority.

Surface Water Drainage

- 7.7.6. Surface water is proposed to be drained via soakaways within each of the respective gardens. Each of the plots is to be provided with 2 soakaways, which will accommodate run-off from the respective house and a portion of the internal carriageway. A surface water drainage report was submitted with the application, which stated that trial testing on the site indicated that the site is suitable for this approach.
- 7.7.7. It appears to me that the soakaways may be undersized, where they are each stated to be sized to accommodate run-off from a 75sqm area and a number of the identified soakaway locations do not accord with BRE365, as they are within 5m of the house which they serve. Nevertheless, where the assessment report concluded that the site is suitable for drainage via infiltration, I am satisfied that the exact size and location of each soakaway can be agreed with the Planning Authority. Should the Board be minded to grant permission, I would recommend a condition be attached in this respect.

7.8. Other Issues

- 7.8.1. Regarding concerns over the affordability of the proposed houses, this is not a matter which can be taken into consideration in the assessment of this appeal.
- 7.8.2. The site does not fall within Flood Zones A or B, as identified by the Strategic Flood Risk Assessment prepared as part of the development plan.
- 7.8.3. I am aware that the Department of Housing, Local Government and Heritage published new S28 Ministerial Guidelines in May 2021, entitled '*Regulation of Commercial Institutional Investment in Housing Guidelines for Planning Authorities*'. The purpose of these guidelines is to set out planning conditions to which planning authorities and An Bord Pleanála must have regard, in granting planning permission for new residential development including houses and/or duplex units. This is intended to ensure that own-door housing units and duplex units in lower density housing developments are not bulk-purchased for market rental purposes by commercial

institutional investors in a manner that causes the displacement of individual purchasers and/or social and affordable housing including cost rental housing. I have had regard to the requirements of these Guidelines in my assessment of this appeal. In accordance with the requirements of the development plan, I have recommended that a condition be attached requiring that the housing shall be first occupied as a place of permanent residence, for a period of at least seven years by persons who are eligible under the appropriate qualifying criteria for the area set out in the Louth County Development Plan 2015-2021.

7.9. **Appropriate Assessment**

Stage 1 Screening for Appropriate Assessment

Compliance with Article 6(3) of the Habitats Directive

- 7.9.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Background on the Application

- 7.9.2. The applicant submitted a Natura Impact Statement (including an AA Screening assessment) at the additional information stage, prepared by EHP Services, following a request for an Appropriate Assessment Screening Report by the Planning Authority in its Additional Information request. It provides a description of the proposed development, identifies European sites within a possible zone of influence and identifies potential impacts in relation to the Dundalk Bay SPA and SAC.
- 7.9.3. Having reviewed the documents provided, I note that whilst mitigation measures are proposed by the NIS, they are not a direct response to identified potential significant effects on any European site. Moreover, I am satisfied that the measures, which are not site-specific, are not intended to avoid or reduce a potential significant effect on a European site. Therefore, this screening assessment has therefore been carried *de-novo*.

Need for Stage 1 Appropriate Assessment Screening

- 7.9.4. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken on any plan or project not directly connected with or necessary to the

management of a European site but likely to have a significant effect on the site in view of its conservation objectives.

- 7.9.5. The proposed development is not directly connected with or necessary to the management of a European site and accordingly is subject to the provisions of Article 6(3).

Brief Description of the Development

- 7.9.6. The applicant provides a description of the proposed development at Section 2.1 of the NIS. The development is also summarised at Section 2 of this Report. In summary, permission is sought for the construction of 8 houses and associated wastewater treatment systems, all of which were partially constructed under permission Reg. Ref. 06/881, and including associated site development works. The site, which has a stated area of 1.83ha is currently of an unfinished nature, where construction activity commenced on the site but ceased a number of years ago. The site is situated south of the R173 Dundalk-Greenore road, is accessed from a private laneway which also provides access to a number of other residential properties and a commercial property. The site is served by the public water supply, but is not served by the public foul network. Foul and surface water are proposed to be drained within the site, with foul water treated by individual WWTP and polishing filters which serve each site, and surface water is proposed primarily to drain to a series of soakaways which are located within the individual garden areas. The site is located adjacent to the boundary of Dundalk Bay Special Area (SAC) of Conservation and Special Protection Area (SPA).

- 7.9.7. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, I consider the following potential impact mechanisms require examination:

Construction phase

- Disturbance of bird species of special conservation interest (SCI) of the SPA site due to disturbance associated with construction activities (noise, vibration, lighting, etc) and increased human activity during construction.
- Loss of ex-situ habitat utilised by bird species associated with the SPA site.
- Surface water discharges from the site entering into the SAC and SPA sites

Operational Phase

- Foul effluent and surface water discharges impacting water quality within an affected European site.
- Disturbance of qualifying interest species due to disturbance associated with the transition of the site to an active and urban land use and increased human activity on the site.

Submissions and Observations

7.9.8. The submissions from the applicant and the Planning Authority are summarised as Sections 6.2 and 6.3 of this Report. No submissions were received from prescribed bodies or third parties.

7.9.9. One of the appellants has expressed concerns that the development will impact on biodiversity within Dundalk Bay SAC & SPA.

European Sites

7.9.10. The development site is not located in or immediately adjacent to a European site. The closest European sites are Dundalk Bay SAC and SPA, which are approx. 300m south of the proposed development.

7.9.11. As part of the AA Screening, the applicant considered European sites in an area within 15km of the proposed development. The NIS also identifies Stabannan-Braganstown SPA (Site Code 004091), Slieve Guillion SAC (Site Code UK0030277) and Derryleckagh SAC (Site Code UK0016620), but they are more than 15km from the site and I consider they are remote, in the context of the proposed development.

7.9.12. A summary of European Sites that occur within 15 km of the proposed development is presented in the table below. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail.

| European Site (code) | List of Qualifying interest /Special conservation Interest | Distance from proposed development (Km) | Connections (source, pathway receptor) | Considered further in screening Y/N |
|-----------------------------|---|--|---|--|
| <u>SPA</u> | | | | |

| | | | | |
|---|---|------|-------------|---|
| Dundalk Bay SPA (Site Code 004026) | Great Crested Grebe, Greylag Goose, Light-bellied Brent Goose, Shelduck, Teal, Mallard, Pintail, Common Scoter, Red-breasted Merganser, Oystercatcher, Ringed Plover, Golden Plover, Grey Plover, Lapwing, Knot, Dunlin, Black-tailed Godwit, Bar-tailed Godwit, Curlew, Redshank, Black-headed Gull, Common Gull, Herring Gull, Wetland and Waterbirds | 0.3 | Groundwater | Y |
| Carlingford Lough SPA (Site Code 004078) | Light-bellied Brent Goose, Wetland and Waterbirds | 7.6 | None | N |
| Carlingford Lough SPA (Site Code UK9020161) | Sandwich Tern, Common Tern, Light-bellied Brent Goose | 10.5 | None | N |
| <u>SAC</u> | | | | |
| Dundalk Bay SAC (Site Code 000455) | Estuaries, Mudflats and sandflats not covered by seawater at low tide, perennial vegetation of stony banks, salicornia and other annuals colonising mud and sand, Atlantic salt meadows, Mediterranean salt meadows | 0.3 | Groundwater | Y |
| Carlingford Mountain SAC (Site Code 000453) | Northern Atlantic wet heaths with Erica tetralix, European dry heaths, Alpine and Boreal heaths, Species-rich Nardus | 3.5 | None | N |

| | | | | |
|--|---|------|------|---|
| | grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe, Blanket bogs, Transition mires and quaking bogs, Alkaline fens, Siliceous scree of the montane to snow levels, Calcareous rocky slopes with chasmophytic vegetation, Siliceous rocky slopes with chasmophytic vegetation | | | |
| Carlingford Shore SAC(Site Code 002306) | Annual vegetation of drift lines, Perennial vegetation of stony banks | 6.75 | None | N |
| Rostrevor Wood SAC (Site Code UK0030268) | Old sessile oak woods with Ilex and Blechnum in the British Isles | 11.5 | None | N |

7.9.13. In respect of Screening, the NIS outlines that: -

'through a combination of natural and anthropogenic factors including distance and relative position, topographical considerations, land uses and physical structures (roads, urban and rural settlements, etc) it is not likely that the above referenced designated conservation areas would be prone to potential or probable direct or indirect impacts arising from the proposed development. These sites can be subsequently screened out from further consideration. However as the site is located in relative proximity to Dundalk Bay SPA and SAC to the south this assessment will focus on determining any potential impacts upon these designated conservation areas.'

7.9.14. I am satisfied that, having regard to the characteristics of the proposed development and the site location, the absence of a hydrological connection to and the separation

distance, I am satisfied that the following sites can be screened out and do not require any further assessment.

- Carlingford Lough SPA (Site Code 004078)
- Carlingford Lough SPA (Site Code UK9020161)
- Carlingford Shore SAC (Site Code 002306)
- Carlingford Mountain SAC (Site Code 000453)
- Rostrevor Wood SAC (Site Code UK0030268)

7.9.15. Further consideration will be given to Dundalk Bay SAC and SPA, given their close proximity to the subject site.

7.9.16. There are potential (weak) connections to the SAC and SPA sites via groundwater and surface water, given the proximity of the European sites and the fact that land in the area falls away towards the Bay.

Construction phase

7.9.17. As has been outlined already, given the proximity to the SPA boundary, I consider that potential disturbance and loss of suitable ex-situ habitat for SCI species within Dundalk Bay need to be considered, whilst for both the SAC and SPA potential surface water discharges from the site need to be considered.

7.9.18. Regarding disturbance to qualifying interests within the SPA, the NIS states that the response of waterbirds to visual stimuli and resulting disturbance varies between species and the nature of the source stimuli and a number of examples are given, which demonstrate the varied responses of different species. The NIS goes on to state that external works at the site will create little if any visual disturbance, given the separation distance between sites and the substantial ground level differences between sites which obstructs any direct line of sight. Where there has already been some encroachment of human habitation towards the SPA, in closer proximity to the SPA than the subject site, SCI species are already likely to experience and be habituated to some disturbance associated with domestic activities and other human activities that place within the wider area. Taken together with the separation distance and topographical changes between sites and the smallscale nature of the development which does not require any specialist construction methods, I am

satisfied that the potential for likely significant effects on SCI bird species of the SPA can be excluded.

7.9.19. Regarding the potential for loss of suitable ex-situ habitat, the SPA is designated for waterbird populations and their wetland habitat. The subject site does not contain any wetland habitat, instead containing disturbed grassland and partially constructed buildings. The NIS does not discuss the potential for usage of the site by qualifying interests within the SPA but, in any case, I do not consider the habitat or partially constructed buildings would be of such value, that the proposed development would have significant effect on the qualifying interests. I am therefore satisfied that the potential for likely significant effects on qualifying interests within the SPA can be excluded.

7.9.20. Regarding potential surface water discharges from the site, I am satisfied that the risk of significant effects is low, in light of (a) the separation distance between the site and the extent of intervening land which acts as a buffer between the site and (b) the smallscale nature of the development. Indeed, in the event that a discharge from the site was transferred to the European sites, the quantity is unlikely to be of such a scale that significant effects would arise. I am therefore satisfied that the potential for likely significant effects on qualifying interests within the SAC and SPA can be excluded.

Operational Phase

7.9.21. As has been outlined previously given the proximity to the SAC and SPA boundaries, I consider that impacts arising from foul and surface water drainage on water quality and potential disturbance need to be considered.

7.9.22. Foul water is proposed to be treated within individual WWTP and polishing filters provided to each site, before discharging to groundwater. Site characterisation reports have been provided for each of the sites, which confirm that each is suitable for installation of a septic tank system. The proposed secondary treatment systems will provide a higher level of treatment, leading to improved groundwater discharge quality from the site, over and above what is required. Where site-specific testing has shown the site to be suitable for the treatment of foul waste via a septic tank system, and given the separation distance between the site and the European sites, I am satisfied that the potential for likely significant effects on qualifying interests within the SAC and SPA can be excluded.

7.9.23. Surface water is proposed to be primarily drained to soakaways within each of the site garden areas, thereafter discharging to groundwater. Site investigations indicate that the site is suitable for the application of infiltration based techniques in order to cater for surface water run-off. The risk of pollutants being transferred via groundwater is low, in light of the separation distance between the sites and the extent of intervening land which acts as a buffer between the sites. Indeed, in the event that a discharge from the site was transferred to the European sites, the quantity is unlikely to be of such a scale that significant effects would arise. I am therefore satisfied that the potential for likely significant effects on qualifying interests within the SAC and SPA can be excluded.

Screening Determination

7.9.24. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project would not be likely to give rise to significant effects on European Site No. 004026 and 000455, or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

8.1. I recommend that permission for the proposed development be granted, subject to conditions as set out below.

9.0 Reasons and Considerations

9.1. Having regard to the site's location within the development boundary for Lordship as identified by the Louth County Development Plan 2015-2021, in an area where residential development is permissible, together with the site's current condition as an unfinished housing estate, the nature and scale of the proposed development and the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions below, the proposed development would represent an appropriate form of development, which would not result in the creation of a traffic hazard along the R173, which would not significantly impact on qualifying interests within the designated

Dundalk Bay Special Area of Conservation and Special Protection Area sites and which would not seriously injure the amenities of the area or the amenities of property in the vicinity. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

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|----|---|
| 1. | <p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the submission of further information on 7th December 2020, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p> |
| 2. | <p>(a) The proposed dwellings shall be first occupied as a place of permanent residence, for a period of at least seven (7) years by persons who are eligible under the appropriate qualifying criteria for the area set out in the Louth County Development Plan 2015-2021. Occupants shall enter into a written agreement with the Planning Authority under Section 47 of the Planning and Development Act, 2000, as amended, to this effect.</p> <p>(b) Within two (2) months of occupation of a proposed house, the occupant shall submit to the Planning Authority a written statement of confirmation of first occupation of the dwelling.</p> <p>Reason: To ensure that proposed housing is restricted to meeting essential local needs, as required by the development plan.</p> |
| 3. | <p>The proposed site access and internal carriageway shall be redesigned as follows:</p> <ul style="list-style-type: none"> • The vehicular crossover from the private laneway shall incorporate reduced turning radii and a maximum carriageway width of 5m, in line with the recommendations of Section 4.3.1 of the Design Manual for |

| | |
|----|--|
| | <p>Urban Roads and Streets, in order to give priority to pedestrians and cyclists.</p> <ul style="list-style-type: none"> • Visibility splays of 2.4m x 45m shall be provided in both directions. <p>Prior to the commencement of development, the developer shall submit, for the written agreement of the Planning Authority, revised plans which incorporate such amendments.</p> <p>Reason: In the interests of proper planning and sustainable development and to ensure pedestrian and cyclist safety.</p> |
| 4. | <p>(a) Prior to the commencement of development, a pre-construction road condition survey of the private laneway shall be carried out, the methodology for which shall be agreed with the Planning Authority, and a copy of which shall be provided to Planning Authority following completion.</p> <p>(b) Follow-up surveys shall be undertaken every 3 months during the construction phase, to assess the impact of construction traffic on the laneway and to identify defects. Any identified defects shall be made good, in accordance with the Planning Authority's requirements.</p> <p>(c) A final road condition survey shall be carried out within 3 months of the completion of construction. All defects identified which were not identified by the pre-construction road condition survey shall be made good, , in accordance with the Planning Authority's requirements. A copy of the final road condition survey shall be provided to the Planning Authority.</p> <p>Reason: In order to ensure construction vehicles do not undermine or damage the structural integrity of the private access lane, in accordance with the proper planning and development of the area.</p> |
| 5. | <p>Prior to the commencement of development, an impermeable bunded area for the safe storage of all hazardous materials and portable toilets shall be provided. Details of this bunded area, which shall be designed to contain spillages, shall be agreed in writing with the Planning Authority.</p> <p>Reason: In order to mitigate the risk of pollutants being discharged to groundwater.</p> |

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| 6. | <p>(a) Water supply and drainage arrangements shall comply with the requirements of the planning authority for such works and services, details of which shall be agreed in writing prior to the commencement of development.</p> <p>(b) The proposed wastewater treatment drainage system shall be in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009.</p> <p>(b) Polishing filters to serve the individual wastewater treatment plants shall be a minimum of 3m from all site boundaries and shall be 10m for any house. Prior to the commencement of development further drawings shall be provided for the written agreement of the Planning Authority, to confirm this arrangement.</p> <p>(c) Soakaways shall be adequately sized to accommodate surface water run-off from the development and shall be provided in accordance with the recommendations of BRE Digest 365. Prior to the commencement of development further drawings shall be provided for the written agreement of the Planning Authority, to confirm this arrangement.</p> <p>Reason: In the interests of proper site drainage and public health.</p> |
| 7. | <p>Details of the materials, colours and textures of all external finishes to the proposed houses shall be submitted to and agreed in writing with the planning authority prior to commencement of development.</p> <p>Reason: In the interests of the visual amenities of the area.</p> |
| 8. | <p>The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan (CEMP), which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the development. This plan shall cover all aspects of the construction phase and incorporate measures to avoid, minimise and mitigate potential effects on the environment. The plan shall provide details of the intended construction practice for the development, including hours of</p> |

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| | <p>working, noise management measures and construction traffic management plan. The plan shall be updated at regular intervals.</p> <p>Reason: In the interest of public safety and residential amenity</p> |
| 9. | <p>Prior to commencement of development, the developer shall submit a construction and demolition waste management plan to the planning authority for agreement, prepared in accordance with the Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects published by the Department of the Environment, Heritage and Local Government in July 2006. This shall include details of waste to be generated during site clearance and construction phases and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material.</p> <p>Reason: In the interest of orderly development and sustainable waste management.</p> |
| 10. | <p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p> |
| 11. | <p>During the construction and demolition phases the proposed development shall comply with British Standard 5228 Noise Control on Construction and open sites Part 1, Code of practice for basic information and procedures for noise control.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p> |
| 12. | <p>Public lighting shall be provided in accordance with a public lighting scheme which shall be submitted to and agreed in writing with the planning authority prior to commencement of the development.</p> |

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| | Reason: In the interests of amenity and public safety. |
| 13. | <p>A hard and soft landscaping strategy and boundary treatment plan shall be submitted to and agreed in writing with the planning authority, prior to commencement of the development. The development shall thereafter be carried out in accordance with the agreed scheme.</p> <p>Reason: In the interests of visual amenity.</p> |
| 14. | <p>The developer shall enter into water connection agreements with Irish Water, prior to commencement of this development.</p> <p>Reason: In the interest of public health and orderly development.</p> |
| 15. | <p>All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting in accordance with the requirements of the planning authority shall be provided to facilitate the provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interests of orderly development and the visual amenities of the area.</p> |
| 16. | <p>Proposals for a naming and numbering scheme for the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority.</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.</p> |
| 17. | <p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and</p> |

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| | <p>Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p> |
| 18. | <p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory completion of the development and reinstatement of the private laneway, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of the reinstatement, including all necessary demolition and removal.</p> <p>The form and amount of the security shall be agreed between the planning authority and the developer, or in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory reinstatement of the site.</p> |

Barry O'Donnell
Planning Inspector

28th June 2021.