



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312244-21

<b>Development</b>	House with septic tank & percolation area. associated site works.
<b>Location</b>	Gibstown, Ardee Road, Dundalk, Co Louth
<b>Planning Authority</b>	Louth County Council
<b>Planning Authority Reg. Ref.</b>	211225
<b>Applicant(s)</b>	Paul Clarke.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Paul Clarke.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	03 <sup>rd</sup> of March 2022.
<b>Inspector</b>	Karen Hamilton

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## **1.0 Site Location and Description**

- 1.1. The site consists of a field located between two rural dwellings at Gibstown, Ardee Road, Dundalk, Co. Louth. The site forms part of a larger field and fronts onto the L1765, Ardee Road. There is mature trees and hedging along the front boundary, fronting onto the Ardee Road.
- 1.2. The site is on the outskirts of Dundalk town and close to junction 16 along the M1. There is a number of one-off dwellings located to the north and south of the site, all fronting onto the Ardee Road. The larger area surrounding these dwellings consists of agricultural/ greenfield lands.

## **2.0 Proposed Development**

- 2.1. The proposed development includes the construction of a one-off dwelling, wastewater treatment system and connection to a well for the water supply.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Decision to refuse permission for 2 no. reasons as stated below:

1. The subject site lies on lands zoned Strategic Reserve L1 in the Louth County Development Plan 2021-2027. This zoning objective seeks “to provide a land reserve for the orderly expansion of the settlement into the future”. Accordingly, to permit a dwelling on this land reserve would be premature and contravene the zoning objective and be contrary to the proper planning and sustainable development of the area.
2. It is the policy NGB 6 of the Louth County Development Plan 2021-2027 to ensure that a screening for Appropriate Assessment (AA) on all plans and/or projects and/or Stage 2 Appropriate Assessment (Natura Impact Report/ Natura Impact Assessment) where appropriate, is undertaken to make a determination. Given the fact that the surface water design system has not been suitably designed and requires further clarification on the submitted details it is considered that the applicant has failed to adequately demonstrate

to the satisfaction of the Planning Authority that the proposed development will not have a negative impact on the Natura 2000 sites in the area and as such, the proposal contravenes the policy of the Louth County Development Plan 2021-2027 and thus would be contrary to the proper planning and sustainable development of the area.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The report of the area planner reflects the decision to refuse permission and is summarised as follows:

- The preplanning consultations (email dated 23<sup>rd</sup> of September 2021) indicated that the site was zoned for Strategic Infrastructure and will be reserved for the orderly expansion of the settlement into the future.
- The absence of any surface water proposals means that no AA screening can be undertaken.
- The overall principle of development is not acceptable, having regard to the zoning.
- The design and layout have not been assessed as the principle of development is not acceptable.
- The site can accommodate sufficient private open space.
- Additional information has been requested regarding the sightlines and the surface water.

#### **3.2.2. Other Technical Reports**

Infrastructure Section: Further information requested in relation to the sightlines and the surface water management.

### **3.3. Prescribed Bodies**

None received.

### **3.4. Third Party Observations**

None received

### **4.0 Planning History**

None on the site.

### **5.0 Policy Context**

#### **5.1. National Policy**

- Sustainable Residential Developments in Urban Areas-Guidelines for Planning Authorities (2009) and accompanying Urban Design Manual: A best practice guide
- Design Manual for Urban Streets (DMURS)

#### **5.2. Louth County Development Plan 2021-2027**

##### Zoning

The site is zoned as L1-Strategic Reserve, where it is an objective 'to provide a land reserve for the orderly expansion of the settlement into the future'.

##### Development Management Guidelines

Section 13.8.31: Infill and Backland Development in Urban Areas

Section 13.8.17: Private Open Space standards (80m2).

#### **5.3. Natural Heritage Designations**

The site is located c.3.9m to the west of both the Dundalk Bay SPA (site code 004026) and the Dundalk Bay SAC (site code 000455).

#### **5.4. EIA Screening**

Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity / the absence of

any direction connections to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The grounds of appeal are submitted by the applicant in relation to the refusal by the PA.

#### **6.1.1. Preplanning and decision**

- The decision by the PA was differed until the County Plan was adopted.
- The site was zoned for residential in the Dundalk and Environs development plan 2009-2015 and the proposal was classified as infill.
- The preplanning referenced the strategic land reserve as if the new plan had already been adopted.

#### **6.1.2. First Reason for refusal**

- The planner's report refers to the strategic land reserve zoning in the Louth County Development Plan 2021-2027. This is incorrect and correct the operational plan for the appeal site remains the Dundalk & Environs Development Plan 2009- 2015.
- Section 1.2.2 of the new county plan states that a statutory UAP/LAP will be prepared for Dundalk during the lifetime of the plan to facilitate future development. It is stated that a Local Area Plan will commence within 6 months.
- In the intervening period there is a discrepancy in the new zoning and the older development plan.
- The Dundalk and Environs Development Plan states that in the event of any conflict or ambiguity between what is considered in the written statement and supporting maps, the written statement will take precedence.

- The new County Plan states that should any conflict arise between the written statement and accompanying maps, the written statement shall take precedence.
- None of the policies of the county plan are geared towards addressing residential development in an urban settlement. Therefore, the council should have assessed and considered the proposal.
- The Strategic Land Reserve has no context or meaning in the Dundalk and Environs development plan.
- The appeal site meets the criteria for infill as described in the national guidance for sustainable residential development.
- As an infill plot the proposed development is exempt from the Development Plan Core Phasing Strategy and hierarchy under CS1 and CS2 (attached Appendix)
- The scale of development is in compliance with the site and surrounding development.
- There will be no impact on the surrounding residential amenity (as stated in the planner's assessment).
- Section 6.6.7 of Dundalk Development Plan provides guidance for infill and backland sites (detailed within the appeal statement) and the proposed development can comply with all of these requirements in terms of density, design and scale, access, materials and form and open space.
- A grant of permission will not have an undesirable precedent within the context of L1- Strategic Reserve zoning due to the site's unique circumstances.
- Objective MOV 57 of the county plan restricts uses within 100m of the motorway with the exception of infill development. The landscaped embankment along the M1 provides a buffer for noise.

#### 6.1.3. Reason No. 2

- The Council also referenced the wrong development plan in the second reason for refusal.

- Policy CH3 of the Dundalk and Environs Development plan requires assessments are carried out in relation to the impact of proposals on the Dundalk Bay SAC and SPA.
- The Council did not to request additional information (as per the infrastructure report) and instead refused the proposal.
- Appendix 3 of the grounds of appeal includes a soakaway design undertaken by Doran & Associates which addresses the issues relating to the request.
- Revised drawings have been submitted in relation to the issues relating to the sight entrance, visibility splays and proposed water treatment system.
- The roadside ditch will be piped and infilled in accordance with the submitted drawings.
- A 75m sightline will be provided which will not interfere with other sightlines nor require third part consents.
- The additional information indicates that Objectives IU6, IU16, IU17 and IU18 can be complied with.
- A Stage 1 Appropriate Assessment has been submitted which concludes no significant negative impact on any European Sites.

#### 6.1.4. Conclusion

- The proposal is acceptable and in keeping with the surrounding area.
- The proposed development would not materially diminish or adversely affect the integrity of the L1- Strategic Reserve zoning.
- The PA should have considered Objective MOV 57.
- The proposed information addresses the concerns raised by the Infrastructure Department in relation to the surface water and the sightlines.

#### 6.1.5. Supplementary Information.

- Appendix 1 & 2- Extracts from the Dundalk and Environs Development Plan 2009-2015 and the Louth County Development Plan 2021-2027
- Appendix 3- Infrastructure Section request for further information.



- Appropriate Assessment Screening Report
- Surface Water soakaway design- Doran & Associates

## **6.2. Applicant Response**

The applicant is the appellant.

## **6.3. Planning Authority (PA) Response**

A response received from the PA on the 06<sup>th</sup> of January 2022 noted no further comment.

## **6.4. Observations**

None received

## **7.0 Assessment**

7.1. The grounds of appeal are accompanied by additional information which was not submitted within the planning application. This additional information includes a new surface water design and report, an Appropriate Assessment Screening Assessment, and an amended sightline drawing.

7.2. I have considered the additional submitted information and had regard to this information in my assessment of the proposed development. No third-party submissions were received on the application and the PA were circulated the information. No additional comments were received from the PA.

7.3. The main issues of the appeal can be dealt with under the following headings:

- Principle of Development
- Access and Roads
- Surface Water
- Appropriate Assessment.

## **Principle of development**

### Strategic Land Reserve Zoning

- 7.4. The Louth County Development Plan 2021-2027 (LCDP 2021-2027) has been recently adopted by Louth County Council, this is the first County Development Plan to include the Dundalk and Environs area. Prior to this county plan the Dundalk and Environs Development Plan 2009-2015 was specifically for Dundalk and its Environs.
- 7.5. The site is located on lands zoned as L1, Strategic Reserve, where it is an objective *“to provide a land reserve for the orderly expansion of the settlement into the future”*. Section 13.21.27 states that these reserve lands are strategically located and will generally not be available for development until after the expiration of the Plan. The development plan does not include any uses permitted for use or open for consideration. Therefore, it is my opinion that any development is precluded on lands reserved for Strategic Land Reserve.

### Dundalk and Environs Development Plan 2009-2015 (DEDP 2009-2015)

- 7.6. The grounds of appeal notes that the previous zoning on the site which was residential in the Dundalk and Environs Development Plan 2009-2015. The applicant states that pre planning request was submitted on the 25<sup>th</sup> of September 2021 when this plan was the operative plan. It is considered there is discrepancy in relation to the zoning from the DEDP 2009-2019 and the new LCDP 2021-2027. Reference is also provided to Section 1.2.2 of the LCDP 2021-2027 which states that a Local Area Plan will be prepared for Dundalk and Environs. The grounds of appeal consider the timescales for preparing this LAP are unclear and in the intervening period applications should be considered under the development plan standards in the DEDP 2009-2021.
- 7.7. The area planner's report includes reference to the pre planning correspondence. It is noted that the zoning was proposed to change in the draft LCDP 2021-2027. This aside, the Board will note that the only zoning which is of relevance is the development plan which is operational at the time of the decision. In this regard, I note the LCDP 2021-2027 was adopted on the 30<sup>th</sup> of September 2021 and came into effect on the 11<sup>th</sup> of November 2021. The date of the decision was the 19<sup>th</sup> of November 2021. The LCDP 2021-2027 supersedes the DEDP 2009-2019.

- 7.8. In relation to the proposed delivery of the UAP/LAP proposed for the Dundalk settlement, I note no specific information is presented in the development plan. Having regard to the information contained in the zoning map and the written text of the LCDP 2021-2027 there are no objectives to prevent the assessment of any development proposals on this site.

Objective MOV 57 of the Louth County Development Plan 2021-2027

- 7.9. Objective MOV 57 restricts residential or other uses within 100m of the M1 motorway with the exception where the development is an infill development and location along the established building line. The grounds of appeal consider that having regard to this policy the proposed development is acceptable and the PA should have referred to this policy in the assessment. In this regard the grounds of appeal consider the proposal would have been granted as infill within 100m of the M1 motorway. As stated above, the strategic land reserve zoning precludes development and as such, it is my opinion that Objective MOV 57 would not be applicable to the Strategic Reserve zoned lands.

Infill and Backland Development

- 7.10. The grounds of appeal contend that there is insufficient policies and objectives in the new county plan to allow a proper assessment of the impact of the backland and infill development. Reference is provided to section 6.6.7 of the DEDP 2009-2015 and the characteristics of the proposed development which are acceptable.
- 7.11. Section 13.8.32 of the LCDP 2021-2027 includes development management guidance for infill and backland development in urban areas. I note the information contained in this section, whilst not as detailed as the information presented in the grounds of appeal (Section 6.6.7 of the expired Dundalk and Environs Development Plan) is similar in nature. The general principles in relation to impact on the site and surrounding area are included in this guidance. The LCDP 2021-2027 requires consistency with the national Guidelines on Sustainable Residential Development in Urban Areas'. I note these guidelines provide guidance for appropriate infill development.
- 7.12. I note the provisions of the LCDP 2021-2027 and I consider the criteria for the assessment of infill development reasonable. This aside, I consider the zoning on

the site precludes any residential development and therefore the principle of infill development is not acceptable.

### Conclusion

- 7.13. Therefore, having regard to the land use zoning of Strategic Reserve, in the current development plan LCDP 2021-2027, which is the operative plan for Dundalk, it is considered that the residential development would materially contravene the land use zoning objective. To permit residential use would be contrary to the zoning objective *“to provide a land reserve for the orderly expansion of the settlement into the future”*.

### **Access and Roads.**

- 7.14. The site is located on the original local road (L1765) Ardee Road. The 50kph urban speed limit applies at this location. The road radiates off the main urban road network and provides local access to the wider area. This local road serves a limited amount of development which is mostly rural housing. The report of the Infrastructure Department required further information on the proposed sightlines. Adequate visibility within the 75m sightlines was requested as per Table 7.4 of the LCDP 2015-2021. Third party consents for any works within the sightlines were requested. Having regard to the reason for refusal the PA did not request this additional information.
- 7.15. Table 13.13 of the LCDP 2021-2027 includes the minimum visibility standards for new entrance. A sight distance of 75m is required for a local road. Reference is provided to the DMURS x distance of 2.4m in some circumstances. Having regard to the proposed development of one dwelling I consider a 2.4m x distance is sufficient.
- 7.16. The grounds of appeal included additional information relating to the proposed sightlines. An existing roadside ditch is to be piped and infilled and Drwg No03.21.06 illustrates sightlines of 3.0m by 75m can be achieved and no third-party consents are required.
- 7.17. I consider adequate sightlines can be achieved. The revised site layout illustrates visibility splays at the higher standards, and I note these are along the public road and not constrained by any third-party lands. However, the Board will note the substantive reason for refusal stated above. To this end, it is not considered the

amended sightlines and revisions included with the grounds of appeal significantly alter the principle of development at this location.

### **Surface Water**

- 7.18. The second reason for refusal referenced the absence of a suitably designed surface water design system. The Infrastructure Department had requested additional information and revisions for the storm water management and disposal on the site. In this regard, the trial hole was not considered sufficient to provide soakaway design calculations, no Met Eireann Return Period rainfall depths for sliding durations were submitted, no allowance for climate change was included, information on the driveway soakaway, confirmation of soakaway disposal on the site and the treatment of the open gullies along the front of the site.
- 7.19. The grounds of appeal are accompanied by an amended Soakaway Design report. The information stated that the 1.5m infiltration test hole was undertaken to the satisfaction of the BRE 365 recommendations. The design report was updated to include the Met Eireann data. Figures have been updated to include for a 20% increase in rainfall intensity due to climate change. Confirmation that the driveway is to be permeable and the inclusion of an Aco channel drain along the open ditch to the front of the site to prevent any runoff onto the public road.
- 7.20. I note the amended information, which I consider reasonable to address the concerns of the Infrastructure Department. However, the Board will note the substantive reason for refusal stated above. To this end, it is not considered the amended soakaway design and the amended Soakaway Design Report included with the grounds of appeal significantly alter the principle of development at this location.

### **Appropriate Assessment**

- 7.21. The second reason for refusal noted the absence of any surface water treatment proposals and considered in the absence of sufficient information an assessment of the impact on the European Sites could not be undertaken. The reason for refusal referred to Policy NGB 6 of the Louth County Development Plan 2021-2027. An Appropriate Assessment Screening report was submitted with the grounds of appeal which concludes no significant impacts on any European Sites.

7.22. The closest European sites are located c.3.9m to the west of both the Dundalk Bay SPA (site code 004026) and the Dundalk Bay SAC (site code 000455), the qualifying interests and conservation objectives are detailed below.

European Site and code	Qualifying Interests/ Species	Conservation Objective
Dundalk Bay SAC (000455)	<p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p>	To maintain the favourable conservation condition of the wetland habitat and restore the favourable condition of the <i>Salicornia</i> and other annuals colonising mud and sand
Dundalk Bay SPA (004026)	<p>great Crested Grebe (Podiceps cristatus) [A005]</p> <p>Greylag Goose (Anser anser) [A043]</p> <p>Light-bellied Brent Goose (Branta bernicla hrota) [A046]</p> <p>Shelduck (Tadorna tadorna) [A048]</p> <p>Teal (Anas crecca) [A052]</p> <p>Mallard (Anas platyrhynchos) [A053]</p> <p>Pintail (Anas acuta) [A054]</p> <p>Common Scoter (Melanitta nigra) [A065]</p> <p>Red-breasted Merganser (Mergus serrator) [A069]</p> <p>Oystercatcher (Haematopus ostralegus) [A130]</p> <p>Ringed Plover (Charadrius hiaticula) [A137]</p> <p>Golden Plover (Pluvialis apricaria) [A140]</p> <p>Grey Plover (Pluvialis squatarola) [A141]</p> <p>Lapwing (Vanellus vanellus) [A142]</p> <p>Knot (Calidris canutus) [A143]</p> <p>Dunlin (Calidris alpina) [A149]</p>	To maintain the favourable conservation condition of the wintering species listed.

	Black-tailed Godwit ( <i>Limosa limosa</i> ) [A156] Bar-tailed Godwit ( <i>Limosa lapponica</i> ) [A157] Curlew ( <i>Numenius arquata</i> ) [A160] Redshank ( <i>Tringa totanus</i> ) [A162] Black-headed Gull ( <i>Chroicocephalus ridibundus</i> ) [A179] Common Gull ( <i>Larus canus</i> ) [A182] Herring Gull ( <i>Larus argentatus</i> ) [A184] Wetland and Waterbirds [A999]	
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- 7.23. The site comprises a greenfield site and the scale of development proposed is not significant. There are no other European sites within the zone of influence of the proposed development. The site character assessment indicates that the site is suitable for the on-site disposal of effluent and there are no connections between the appeal site and these European sites.
- 7.24. Having regard to the nature and scale of development, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on Dundalk Bay SPA/SAC or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## 8.0 Recommendation

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

## 9.0 Reasons and Considerations

The site is located on lands zoned as L1, Strategic Reserve, in the Louth County Development Plan 2021-2027 which is the operative plan for this area. It is an objective to “*to provide a land reserve for the orderly expansion of the settlement into the future*”. Having regard to the zoning of the site, the objective of which does not allow for the development of these lands until after the expiration of the Plan, it is considered that the proposed development, which is residential in nature, would contravene materially the zoning objective of the Development Plan and would be contrary to the proper planning and sustainable development of the area.

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Karen Hamilton  
Senior Planning Inspector

07<sup>th</sup> of March 2022