



An  
Bord  
Pleanála

## Inspector's Report

### ABP-314575-22

<b>Development</b>	Retention of a steel cross and grotto, and the general clean-up of the curtilage to an existing Mass Rock site.
<b>Location</b>	Rockmarshall, Jenkinstown, Dundalk, Co Louth.
<b>Planning Authority</b>	Louth County Council
<b>Planning Authority Reg. Ref.</b>	22/498
<b>Applicant</b>	Maria Markey.
<b>Type of Application</b>	Retention Permission.
<b>Planning Authority Decision</b>	Refusal of Retention Permission.
<b>Type of Appeal</b>	First Party v Refusal of Permission of Retention
<b>Appellant</b>	Maria Markey.
<b>Observer(s)</b>	<ol style="list-style-type: none"><li>1. Anthony McMullen,</li><li>2. Aidan Cotter &amp; Fiona Reburn,</li><li>3. John &amp; Mary Reburn, and,</li><li>4. Tomas Flynn on behalf of the Flynn Family</li></ol>

**Date of Site Inspection**

30<sup>th</sup> January 2024.

**Inspector**

Enda Duignan

## **1.0 Site Location and Description**

- 1.1.** The address of the appeal site is Rockmarshall, Jenkinstown, Dundalk, Co Louth. The site comprises a grotto which is located within the curtilage of a detached single storey dwelling. The dwelling is accessed from a narrow laneway (referred to locally as Beck's Lane) which connects to the R174, c. 550m to the south-west of the appeal site. It would appear that the laneway is in private ownership, and it also serves a number of detached properties to the south and south-west. There is also pedestrian access to the Annaloughan Forest walking trail at the northern end of the laneway.
- 1.2.** A gravel driveway leads from the site's vehicular entrance to the grotto which is located to the north-west of the existing dwelling. A separate drive leads to the dwelling and the grotto can be accessed through the garden area to the rear of the dwelling. Within the grotto is a c. 7m high Celtic cross which is accessed from a series of steps. At the base of the steps is a levelled gravel area which is surrounded by a number of benches. A number of smaller statues have also been erected within this area of the site.
- 1.3.** The grotto is located adjacent to the northern site boundary which it shares with Annaloughan Forest. In terms of its topography, the site slopes down in a southerly direction from the northern site boundary and the site commands extensive views to the south and south-west across Dundalk Bay.

## **2.0 Proposed Development**

- 2.1.** The proposed development seeks permission to retain a steel cross and grotto and for the general clean of an existing Mass Rock site. As noted in the foregoing, the grotto is located to the north-west of an existing dwelling. The Applicant confirms that this was formerly an overgrown area of their garden.
- 2.2.** The existing Celtic cross has a height of c. 7m and was painted in a blue colour. However, following the decision of the Planning Authority to refuse permission, the cross was painted a dark green colour. The cross is positioned above the existing mass rock and is accessed via a number of steps. Large stones have been arranged around the cross and form a backdrop to the existing Mass Rock.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

3.1.1. The Planning Authority refused retention permission for the development for the following 2 no. reasons:

1. This application for which retention permission is sought is located within an Area of High Scenic Quality, immediately adjacent to an Area of Outstanding Natural Beauty and is visible from a Scenic Route (R174). It is considered that due to the sites elevated and exposed position, use of inappropriate illumination and the bright colour of the cross which contrasts with the natural backdrop afforded to this site, the proposal will detract from the high scenic quality of this area and is therefore contrary to Policies NBG 36, NBG 37 & NBG 40 of the Louth County Development Plan 2021-2027 and, therefore, contrary to the proper planning and sustainable development of the area.
2. The development for which retention permission is sought would endanger public safety by reason of traffic hazard by reason of attracting additional traffic to an unsurfaced access laneway which is an adequate in terms of its width, alignment, gradient and structural condition. Furthermore, the proposal has created an additional area of laneway which is considered to be an unnecessary protrusion of development into the open countryside and would facilitate further development within the open countryside and would set an undesirable precedent for other similar inappropriate development in the vicinity.

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

3.2.1. Planning Reports

The Louth County Council Planning Report form the basis for the decision. The report provides a description of the site and the subject proposal, it sets out the planning policy that is relevant to the development proposal and provides an overview of the site's planning enforcement history. The report also summarises the observations on the planning file.

In terms of their assessment, the Planning Authority refer to the site's location within an Area of High Scenic Quality (AHSQ) and the Area of Outstanding Natural Beauty

(AONB) which forms a backdrop for this site. It is noted that the most prominent view of this site is from Beck's Lane due its close proximity. It was stated that views from nearby public roads are less prominent and tend to be from limited stretches of the public road where there is a low hedgerow. Although the Planning Authority note that a substantial backdrop is afforded to the site by the adjacent woodland and the Annaloughan Mountain, the blue colour of the cross is a striking feature and is not found in the natural backdrop to the site. In this regard, the proposal was considered to undermine the AHSQ, AONB and Scenic Route designations due to its bright colour and elevated position. The Planning Authority also referred to the observations on file which highlighted that the cross was illuminated. For reasons concern visual impact and for the potential impact upon protected species, it was considered that no illumination should be permitted on this site unless it was clearly demonstrated by documentary evidence that this will not result in negative impacts.

In terms of site access, the Planning Authority raised concerns that the existing laneway serving the site does not have the capacity to handle additional traffic that may be attracted to this site when considering its narrow nature and its current purpose serving a number of residential properties, agricultural land and the Annaloughan loop walk. The Planning Authority also noted that the additional physical works on site (i.e. laneway to the west of the dwelling leading to the Mass Rock site) that have occurred are considered likely to intensify the potential use of the site to a greater extent than what may have otherwise occurred and it was considered that a more modest means of marking this location should be explored. The Planning Authority noted that the presence of an independent access to the Mass Rock area is considered to facilitate ease of access to the site which would likely result in increased visitor numbers and exacerbate access issues along Beck's Lane. A refusal of permission was therefore recommended for 2 no. reasons.

### 3.2.2. Other Technical Reports

Infrastructure: Report received stating no objection subject to compliance with a condition.

### **3.3. Prescribed Bodies**

None.

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

A total of 5 no. observations were received by Third Parties during the consultation period. The main issues raised in the observations on file can be summarised as follows:

- Concerns are highlighted with respect to the visual impact of the proposal on the AONB within which it is located. The proposal fails to comply with the policy provisions of the County Development Plan.
- Concerns regarding the illumination of the existing cross and its impact on protected species, including Bats.
- Loss of privacy as a consequence of the proposed development.
- Traffic related concerns associated with the proposed development given it attracts visitors to this location.
- It is indicated that the Applicant has no rights to the lane apart from a right-of-way to and from her property, and as such has no right to permit or entice passers by to use it.
- Lack of parking facilities which results in a traffic hazard.
- Security related concerns regarding the greater usage of this private lane as a result of the development.
- An observation outlines various planning precedent cases where planning permission has been refused and the similar principles should apply to the subject development.
- The proposal is considered to constitute a material change in use of the land.
- The proposal will set an undesirable precedent for future development and observer is of the view that the 'private place of prayer' will turn into Dundalk's version of Lourdes, France if action is not taken.

I note an observation is also on the file from An Taisce which refers to the site's location in an area of high scenic quality and considers that a landscape impact assessment should be undertaken to determine the suitability of the proposal. The submission also refers to the illumination of the Celtic cross at night and it is highlighted

that the impacts of the proposal on bats in the adjacent woodland should be assessed.

## **4.0 Planning History**

### **4.1. Appeal site.**

No recent history of planning applications on the appeal site.

### **4.2. Enforcement History.**

**21 U135:** The Planning Report indicates that an enforcement file is opened in relation to the erection of an unauthorised blue metal cross on site and a Warning Letter has been issued.

## **5.0 Policy Context**

### **5.1. Louth County Development Plan (CDP), 2021-2027.**

Under the Louth County Development Plan (CDP), 2021-2027, the site is located within a rural area of the County and under Map 3.2, the site is located within Rural Policy Zone 1 land, i.e. an 'Area under strong urban influence and of significant landscape value'. Rural Policy Zone 1 relates to Areas of Outstanding Natural Beauty (AONB), Areas of High Scenic Quality (AHSQ) and Areas of Cultural Value. As per Map 8.15 (Areas of Outstanding Natural Beauty and Areas of High Scenic Quality) of the Plan, the appeal site is identified as being located within the Feede Mountains and Cooley AHSQ.

Policies and objective of the Plan that are relevant to the development to be retained include:

- **NBG 36** To protect the unspoiled natural environment of the Areas of Outstanding Natural Beauty (AONB) from inappropriate development and reinforce their character, distinctiveness and sense of place, for the benefit and enjoyment of current and future generations.
- **NBG 37** To protect the unspoiled rural landscapes of the Areas of High Scenic Quality (AHSQ) from inappropriate development for the benefit and enjoyment of current and future generations.
- **NBG 38** Protect and sustain the established appearance and character of views and prospects listed in Tables 8.14 – 8.18 of this Plan that contribute to the

distinctive quality of the landscape, from inappropriate development.

- **NBG 39** To improve, where necessary, public access to viewing points, subject to availability of resources.

I note that there is an existing scenic route along the R176 to the west and south-west of the appeal site and therefore Policy Objective NBG 40 is relevant to the consideration of this appeal. The policy seeks 'To prohibit inappropriate development which would interfere with or adversely affect the Scenic Routes as identified in Table 8.19 and illustrated on Map 8.20.'

Other policy objectives relevant to the development proposal includes:

- **NBG 4** To ensure that all proposed developments comply with the requirements set out in the DECLG 'Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities 2010'
- **NBG 6** To ensure 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. European Sites located outside of the County but within 15km of the proposed development site shall be included in such screenings as should those to which there are pathways, for example, hydrological links for potential effects.
- **SC 45** To support the development of places of worship/places of assembly and multi-faith facilities at appropriate locations such as town or village centres or other suitable locations in close proximity to residential communities where they do not adversely impact on existing amenities.

## **5.2. Natural Heritage Designations**

- 5.2.1. The nearest designated sites are the Dundalk Bay Special Protection Area (Site Code: 004026) and the Dundalk Bay Special Area of Conservation (Site Code: 000455), located c. 750m to the south of the appeal site.

## **5.3. EIA Screening**

- 5.3.1. The proposed development does not fall within a Class of Development set out in Part



1 or Part 2, Schedule 5 of the Planning and Development Regulations, 2001 (as amended), therefore no EIAR or Preliminary Examination is required.

## **6.0 The Appeal**

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

A First Party planning appeal has been prepared and submitted by the Applicant. The main grounds of appeal can be summarised as follows:

- Although the Applicant acknowledges the scenic nature of the site, it is stated that the forest fires in June 2020 have taken away from the beauty of the forest directly behind where the applicant discovered a Mass Rock in the corner of their garden.
- It is stated that the Celtic Cross that they have erected draws your attention away from the burnt, fallen and charred trees to a beautiful oasis of peace, colourful flowers and abundant wildlife. It is stated that this corner of the Applicant's garden has been rescued and transformed from an unsightly garden waste area to a paradise garden and it is now adding to the beauty of the area, not detracting from it.
- In terms of inappropriate illumination, it is stated that the offending light was removed immediately when it was brought to the Applicant's attention by the Planning Authority's enforcement officer.
- Policy NBG 36 refers to protecting and reinforcing the character, distinctness and the sense of place of the area. How better could you enhance and keep the character of the area than with a Celtic Cross which is a self-contained monument.
- In terms of Policy NBG 37, it is stated that a beautiful locally crafted Celtic Cross is not inappropriate in an Irish Heritage/historical setting. The Applicant notes that the Cross is unique and there are no policy provisions that would prohibit development of this nature. Examples of similar crosses have been included in the appeal submission and it is stated that none have ever had the requirement for permission or retention permission.
- The Applicant refers to Policy NBG 40 which relates the protection of scenic routes. It is contended that the cross is so far from the scenic route and so small in comparison to the forest behind it that it does not have a negative impact on

the scenic route along the R174.

- The Applicant notes that access to their house and private grotto is via a private lane. It is also confirmed that their gate is padlocked and there is a notice on the gate saying 'Private No Entry' and is therefore not accessible to the public.
- The Applicant notes that the public currently access this private laneway (Beck's Lane) in large numbers to visit the publicised plane crash site in the forest, the court tomb and the loop walk. It is stated that none of these have been objected to and cited as being dangerous nor have any groups been approached by the Council to limit access. The Applicant notes that the erection of the Celtic Cross was filmed on their phones and put up on YouTube for neighbours to share with family and friends abroad and not as suggested in the observations to advertise the site for monetary gain.
- In terms of the Planning Authority's commentary about the additional area of laneway within their site and its description as an unnecessary protrusion of development, it is in fact a path which leads to the steps of their property and has been in existence since the house was built by the Applicant's father in 1979. This pathway led to a compost area that had accumulated over 40 years and needed to be cleaned up with new gravel laid.
- The Applicant does not accept the commentary by the Planning Officer that this path/lane to the west of the Applicant's home is not considered necessary. This path/lane leads to the steps of their front door and then enables the Applicant to access their front lawns with the lawnmower as well as providing access to their back garden.
- The Applicant notes that there is no question of the site being verified as a Mass Rock. The Applicant reiterates that the site is private, and the Applicant intends keeping it private.
- During the cleanup of the grotto, cars and vans accessed the site where they delivered flowers etc. However, it is noted by the Applicant that some uninvited people drove up to the grotto not realising it was private. This has now been remedied and the gate is closed and padlocked so that no uninvited friends or family can access either through their garden or the forest.
- Included within the appeal submission are copies of correspondence between the Applicant and the Planning Authority's Enforcement Officer.

## 6.2. Planning Authority Response

In response to the first party appeal dated 7<sup>th</sup> October 2022, the Planning Authority requests the Board to uphold their decision to refuse retention permission.

## 6.3. Observations

6.3.1. A total of four (4) no. observations have been received from the following Third Parties:

- Fr. Anthony McMullen,
- Aidan Cotter & Fiona Reburn,
- John & Mary Reburn, and,
- Tomas Flynn on behalf of the Flynn Family.

6.3.2. *Fr. Anthony McMullen.*

The following points are raised in the observation on file:

- It is stated that the Celtic Cross is more pleasing to look at than the small decayed wooden cross that it has replaced. The submission notes that the cross is uniquely Irish and compliments the history of the area and is keeping with the aims of the development plan which seeks to maintain the character of this area.
- The submission notes that the observer has spoken to residents within the surrounding area who have had nothing negative to say about it and they feel that it is certainly more pleasing to look at than the burnt trees and foliage of the forest behind it. It is stated that the cross complements and adds to this area of outstanding natural beauty and maintains its culture and beauty. It is also stated that it protects and maintains the ecological interests of this NHA.
- Following discussions with neighbors, the observation notes that they generally feel that it is unfair to single out the Applicant for excess usage of the laneway. It is stated that groups take tourists to visit the plane crash site up in the forest and the historical tomb. In addition, there are other groups which utilise the loop walk. To use the lane as a reason to object to this proposal is frivolous. This is a vexatious complaint without foundation and is causing unnecessary anguish.
- The observation notes that sadly, very soon one won't be able to see the cross as screening trees have been planted. The area has been restored, cleaned up

and safely secured and the only way to gain entrance to this site is to text or phone the Applicant.

### 6.3.3. *Aidan Cotter & Fiona Reburn.*

The following points are raised in the observation on file:

- It is highlighted that all the matters raised in the original submission to the application should be taken into consideration by the Board.
- The observation notes that they completely disagree with the Applicant that this AONB should be disregarded due to the fire forest fires of 2020. At a time when the loss of biodiversity in Ireland is accelerating at an alarming rate, citizens should do everything possible to protect the natural landscape, not bulldozing the habitats of native wildlife to make way for a large metal structure. Despite the Applicant's apparent disregard for ecological protection, it is heartening to see that An Taisce was concerned enough to make a submission on the planning application.
- Since the decision to refuse planning permission, the Applicant has padlocked the entrance gate and put a 'private no-entry' sign on it and they have also painted the cross a green color. Neither of these actions have allayed the observer's concerns regarding the development and in their opinion, it is too little too late. It is stated that the site is already well visited thanks to the publicity it received on YouTube, various Facebook pages and the local newspaper. The observer also witnessed a large crowd of people attempting to enter the site from the rear perimeter of the site and we're obviously undeterred by the padlocked gate and private property sign. This is just one example of what can be expected and will continue to happen in the coming months.
- In terms of the green color, it is contended that this is a temporary attempt to blend the cross in with the background forestry and to get this appeal across the line. The green paint was recently applied with a roller and given that steel is generally powder coated for longevity, and given its exposure to the Irish climate, it is expected that the new paint will degrade in a matter of months, at which point the cross will be a mixture of green, blue and rust.
- While it is accepted that the new colour makes the cross slightly less visible, it is noted that if simply changing the colour of a large structure is enough to gain

planning approval, it sets a dangerous precedent for planning in the area. If this appeal is successful, and the cross is permitted to remain in place, then surely those who have been recently turned down for planning permission to build new dwellings in this area, can build their houses, paint them green or brown, and then apply for retention permission, whilst claiming that they do not have a visual impact on the natural landscape.

- It is noted that inappropriate illumination was installed on the site and lit from May to November 2021. It was only switched off when the Applicant realized that planning permission would be required. The observer is not confident that it would not be immediately reinstated should planning permission be secured.
- The submission notes that the site has not been designed as, nor will operate as, a private place of worship as the Applicant has purported. It is their view that in addition to denial of the appeal, the Board should take steps to ensure that the site is limited to residential use only.

#### 6.3.4. *John & Mary Reburn.*

The following points are raised in the observation on file:

- The observation wishes to reiterate their initial objection to this site and the erection of the cross. It is noted within the submission that they were glad to see that the Planner took their original observation into account and denied retention permission. It is noted that they do not have anything substantial to add to their original submission and will not be commenting on the numerous civil issues the Applicant mentioned in her appeal, none of which, according to the Planner's report, are relevant to the Planning Regulations.
- It is noted in the observation that the measures taken by the Applicant do not sufficiently mitigate the concerns outlined in their original observation on the application.
- It is concluded that the site and structure is not an appropriate form of development in an AONB, and the additional traffic the Applicant has attracted in the establishment and promotion of this site is undeniably a hazard to public safety.

6.3.5. *Tomas Flynn on behalf of the Flynn Family.*

The following points are raised in the observation on file:

- It is stated that the cross is an inappropriate form of development in the rural landscape.
- The observation notes that they have continually been harassed by visitors looking for the site which is a direct result of the site being advertised as a visitor attraction and news of it being spread by word of mouth.
- Safety and security related concerns are raised within the submission.

**6.4. Further Responses**

None.

**7.0 Assessment**

The main issues to be considered are those raised in the First Party's grounds of appeal, the Third Party observations to the appeal, the Planning Report and the consequent reasons for refusal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Visual Impact
- Access
- Residential Amenity
- Appropriate Assessment

**7.1. Visual Impact**

- 7.1.1. The Applicant in this case is seeking permission to retain works carried out on site. These works comprise the construction of what is described in the public notices as a grotto, the erection of a steel Celtic Cross and for the general clean-up of an existing Mass Rock site. The Mass Rock site is located within the curtilage of an existing dwelling which is owned by the Applicant. There are 2 no. vehicular entrances to the site and the Mass Rock can be accessed either through the dwelling's back garden or via a gravel driveway runs from the entrance along the western site boundary. It is evident from examining aerial imagery that the gravel driveway leading from the entrance to the Mass Rock appears to have been a relatively recent addition. The

appeal is accessed via a private laneway known locally as Beck's Lane which connects to the R174, c. 550m to the south-west of the appeal site. Beck's Lane serves a number of residential properties and the Applicant's dwelling appears to be the last property served by this lane. The lane has a narrow width and is generally in a poor state of repair. I note that the existing dwelling on site is visible from various vantage points from within the surrounds given its elevated position and the site commands extensive views to the south and south-west across Dundalk Bay.

7.1.2. The Planning Authority have formed the view that the development to be retained would detract from the high scenic quality of this area due to the site's elevated and exposed position, the use of inappropriate illumination and the bright colour of the cross which contrasts with the natural backdrop afforded to this site. The proposal was therefore considered to be contrary to Policies NBG 36, NBG 37 & NBG 40 of the Louth County Development Plan 2021-2027. The policies referred to by the Planning Authority are directly relevant to the subject proposal given the site's location within an AHSQ and immediately adjacent to an AONB. The R174 to the south-west of the appeal site is also designated as a Scenic Route under Map 8.20 of the current Plan. When considering the application, the Planning Authority visited the appeal site and surrounding area and identified that the most critical views of the site are from the south along the R174 (Scenic Route) and the R173. They note in their assessment that the blue colour of the cross was a striking feature that drew attention to the site and was a colour that was not found in the natural backdrop to the site.

7.1.3. A number of third party observations to the application had raised concerns with respect to the visual impact of the development to be retained and these concerns have been reiterated in their observations to the appeal. It is contended that the proposed development is an inappropriate form of development in this scenic area. The observations also wish to point out that the Applicant's attempt to paint the cross fails to alleviate their concerns and the proposal would set an undesirable precedent for similar inappropriate development in the locality. The observations have also referred to planning precedent cases where permission for residential dwellings had been refused in the locality given their potential impact on the character of the area. As noted, the appeal site is located within a AHSQ (Feede Mountains and Cooley

Area) and adjacent to an AONB (Carlingford and Feede Mountains). Section 8.12.2 of the current Plan notes that it is important that Areas of High Scenic Quality are protected from excessive development, particularly from inappropriate, one-off, urban-generated housing, in order to preserve their unspoiled rural landscapes. It is evident from my observations on site that there was a proliferation of one-housing in this rural area. As part of my assessment, I have visited the appeal site and viewed the site from various vantage points along Beck's Lane, the R174 and from more distance viewpoints along the R173 to the south and south-west. Since the Planning Authority's decision to refuse permission, the Applicant has now painted the cross a dark green colour. Although the appeal site occupies an elevated position, the cross now blends in successfully with the existing woodland and mountain which both form a substantial backdrop to the site. Having inspected the site and surrounds, it is my view that the existing cross, with its natural tone has a negligible impact on its receiving landscape and I am satisfied that the proposal does not constitute an excessive form of development which the policy of the current Plan seeks to preclude at locations such as this. I am also conscious of the Planning Authority's commentary where they noted that their concerns would be allayed if the cross had a darker or rustic colour. The retention of the development is therefore considered to be acceptable in this instance and I am satisfied that the unspoiled natural environment and rural landscape of both the AONB and the AHSQ is protected and preserved in accordance with NBG 36 & 37 of the current Plan. However, I recommend the inclusion of a condition which requires the green colour of the cross to be maintained in perpetuity.

- 7.1.4. Although lighting has not been identified on the submitted plans and particulars, observations to the application had highlighted concerns with respect to the erection of floodlighting and photographs of the illuminated cross accompanied the observation on file. The Applicant has indicated in their appeal that all floodlighting had been removed from site once they were notified by the Planning Authority's enforcement officer and this was confirmed following my inspection of the appeal site. However, I did observe a number of solar lights positioned at the base of the Mass Rock. I would fully agree with the Planning Authority that the illumination of the cross would be inappropriate given the site's rural location. I am also conscious that the site is located adjacent to an area of woodland and floodlighting of this nature could have an adverse



impact on the foraging behaviour of Bats which are a protected species under the Habitats Directive. Whilst an observer has raised concerns that lighting could be reinstalled on site, I consider it reasonable in this instance to recommend the attachment of a condition which precludes all forms of lighting (flooding lighting, solar lights) on the Mass Rock site.

- 7.1.5. In terms of the grotto area within which the Mass Rock and cross is located, the Planning Authority noted that the grotto consisted of a formation of rocks and stones that appeared to be taken from within the site area and was generally natural in its appearance. A levelled gravel area is also located within this portion of the site and contains a number of benches at the base of the Mass Rock. I would concur with the Planning Authority's view that the grotto area would not impact upon the site's rural character or cause environmental damage. The grotto is not readily visible from the surrounds of the site and has a negligible impact on its receiving environment. The retention of this grotto area is therefore acceptable in my view.

## **7.2. Site Access**

- 7.2.1. The Planning Authority have indicated that the existing laneway serving the site (Beck's Lane) does not have the capacity to handle additional traffic that may be attracted to the site as a result of the proposed development. It is stated that the development to be retained would constitute a traffic hazard by attracting additional traffic to an un-surfaced laneway which is of inadequate width, alignment, gradient and structural condition. Notably, it is stated that the additional physical works within the site (i.e. the provision of independent gravel driveway leading to the Mass Rock) are considered likely to intensify the potential use of the site to a greater extent than what may have otherwise occurred. This is a point that has also been raised within the observations to the planning application and appeal. Third Parties have highlighted concerns that groups of people have been visiting the appeal site since the Mass Rock has been publicised and the cross has been erected. Although the Applicant has acknowledged that people had visited the site, this had been done without their consent and they confirm in their appeal submission they have now erected signs which indicate that the lands in question are in private property and access is forbidden. The entrance gates are also now padlocked and therefore inaccessible to the public. The Applicant notes in their appeal that it is not the intention for the site to

be accessible to the general public.

- 7.2.2. From the documentation on file, it would appear that the existing laneway serving the site is in private ownership and the Applicant has a right-of-way over this lane to access their property. Notwithstanding this, it is documented in correspondence on the file that members of the public frequently use this lane to access the Annaloughan loop walk and other sites of interest in the locality. I note from my observations on site that signage has been erected adjacent to the Applicant's property as a measure to prohibit parking along this lane. It would appear from the Planning Authority's assessment that the key concerns in this case are that the Celtic Cross, by reason of its location, colour and illumination, may attract visitors to the site and it was suggested that a more modest means of marking the location should be explored. In addition, the independent access (i.e. gravel driveway) through the site to the Mass Rock was considered to likely intensify the potential use of the site to a greater extent. As detailed earlier in this report, it is my view that the existing cross now blends in seamlessly with its woodland backdrop, and by itself would not function to attract visitors to the site. In addition, I have recommended that the cross's green colour be maintained, and that any illumination be prohibited. I am satisfied these matters can readily be addressed by way of condition should the Board be minded to grant permission for retention.
- 7.2.3. In terms of the gravel driveway, I would not share the Planning Authority's concerns that these works would constitute an unnecessary protrusion of development into the open countryside. The site could be described as split level, within an additional lower level garden area located adjacent to the western boundary. It is evident that the driveway allows the Applicant to gain vehicular access to the northern portion of the site. In my view, I consider this to be reasonable. It is clear from the First Party appeal and my observations on site that access to the site is restricted from the general public and I do consider that the presence of this gravel driveway would attract greater visitor numbers to this location. Irrespective of this, the Applicant has erected signage which would act as a deterrent to persons entering the site. Although I would agree that the existing laneway is in a poor state of repair and has a generally poor alignment, it is my view that the control and use of this laneway is a civil matter which is beyond the scope of this appeal. Although a cross has been erected on site, it is evident that the

Mass Rock is in situ and the Applicant is not proposing a material change of use. It is also my view that the regularisation of the existing works on a private lands would not generate a significant volume of visitors to the site. For these reasons, I am satisfied that the proposed development would not endanger public safety by reason of a traffic hazard. Should the Board deem it necessary, a condition could be attached which requires the vehicular entrance gates to the site to be locked in order preclude public access to the site.

### 7.3. Residential Amenity

7.3.1. Observers to the planning application and appeal have raised concerns that the retention of the development would negatively impact upon the residential amenity of properties within the site’s vicinity. Noting the modest scale of the development and the separation distances from residences within the surrounds, I am satisfied that the proposed development will not unduly compromise the residential amenity of properties within the site’s vicinity and the proposal is therefore acceptable in this regard.

### 7.4. Appropriate Assessment

7.4.1. The nearest designated sites are the Dundalk Bay Special Protection Area (Site Code: 004026) and the Dundalk Bay Special Area of Conservation (Site Code: 000455), located c. 750m to the south of the appeal site. The relevant Qualifying Interests and Conservation Objectives for each of the European sites are outlined in Table 7.1 below:

**Table 7.1**

European Site	Qualifying Interest/ Conservation Objectives	Distance to Development
Dundalk Bay SAC (000455)	To maintain the favourable conservation condition of the qualifying interests.  Qualifying Interests  Estuaries [1130]	0.75km

	<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 (<i>Glauco-Puccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p>	
Dundalk Bay SPA (004026)	<p>To maintain the favourable conservation condition of the qualifying interests.</p> <p>Qualifying Interests</p> <p>Great Crested Grebe (<i>Podiceps cristatus</i>) [A005]</p> <p>Greylag Goose (<i>Anser anser</i>) [A043]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Mallard (<i>Anas platyrhynchos</i>) [A053]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Common Scoter (<i>Melanitta nigra</i>) [A065]</p> <p>Red-breasted Merganser (<i>Mergus serrator</i>) [A069]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Lapwing (<i>Vanellus vanellus</i>) [A142]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Common Gull (<i>Larus canus</i>) [A182]</p>	0.75km

	Herring Gull ( <i>Larus argentatus</i> ) [A184] Wetland and Waterbirds [A999]	
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7.4.2. Permission is sought to retain a steel cross and grotto along with the general clean-up of the curtilage to an existing Mass Rock site. Taking into consideration the modest nature, extent and scope of the development to be retained and to the nature of the receiving environment, with no direct hydrological or ecological pathway to any European site, that no appropriate assessment issues arise and that the development to be retained would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

7.4.3. I note that concerns had been raised in the observations to the application and appeal with respect to flood lighting that had been erected on site and its potential impact on Bats which may roost in the adjacent woodland area. Notwithstanding this, I note that the flood lighting has since been removed from the site and I have recommended that a condition to be attached to preclude lighting within the site given its location relative to the existing woodland.

## 8.0 Recommendation

8.1. Grant of retention permission is recommended.

## 9.0 Reasons and Considerations

9.1. Having regard to the nature and extent of the development to be retained, which comprises the retention of a grotto, Celtic cross and works associated with the cleanup of an existing Mass Rock site, it is considered that the development to be retained, subject to compliance with the conditions set out below, would be in accordance with the policy provisions of the Louth County Development Plan 2021-2027, is acceptable having regard to the visual amenity of this Area of High Scenic Quality and the immediately adjacent Area of Outstanding Natural Beauty, would not endanger public safety by reason of a traffic hazard, would not seriously injure the residential amenities of the area or of property in the vicinity and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development to be retained shall comply with the plans and particulars lodged with the application submitted, 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 and the development shall be completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of clarity.

2. The Applicant shall ensure that:
  - a. The Celtic Cross shall be painted in a dark green colour which shall be maintained in perpetuity.
  - b. All lighting within the curtilage of the Mass Rock site shall be removed.

**Reason:** In the interest of visual amenity.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Enda Duignan  
Planning Inspector

31/01/2024

**Appendix 1 - Form 1**

**EIA Pre-Screening**

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>		ABP-314575-22	
<b>Proposed Development Summary</b>		Retention of a steel cross and grotto, with general clean-up of curtilage to existing Mass Rock site.	
<b>Development Address</b>		Rockmarshall, Jenkinstown, Dundalk, Co Louth.	
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	Yes
		<b>No</b>	No further action required
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
			<b>Conclusion</b>
<b>No</b>	X		No EIAR or Preliminary Examination required
<b>Yes</b>			

**Inspector:** \_\_\_\_\_

**Date:** 31<sup>st</sup> January 2024