



An  
Bord  
Pleanála

## Inspector's Report

### ABP-318008-23

<b>Development</b>	Outline permission for the construction of 2 no. dwelling houses and associated site works
<b>Location</b>	Knocknagoran, Omeath, Co. Louth
<b>Planning Authority</b>	Louth County Council
<b>Planning Authority Reg. Ref.</b>	2360199
<b>Applicant(s)</b>	Noel Rooney
<b>Type of Application</b>	Outline Permission
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Sean O'Brien Michael McCarthy and Sophie Anderson
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	30 <sup>th</sup> November 2023
<b>Inspector</b>	Emma Nevin

## **1.0 Site Location and Description**

- 1.1. The appeal site has a stated site area of 0.22ha and it is located in the Townland of Knocknagoran, c0.3km to the west of the R173, on the western outskirts of Omeath, in north County Louth.
- 1.2. It consists of an overgrown and unkempt portion of land that adjoins a detached single storey dwelling house on its eastern side for which it appears to form part of its larger curtilage. At present the site does not benefit from an independent access onto Chapel Hill Road which bounds the northern boundary of the site, comprising an irregular hedgerow.
- 1.3. The site adjoins a two-storey semi-detached pair on its western side and the southern boundary of the site adjoins agricultural lands. The western boundary which also contains a timber post and panel boundary that runs alongside the boundary with the adjoining dwelling also contains a mixed and irregular hedgerow. This southernmost portion of the western boundary adjoins agricultural land.
- 1.4. From the site and surrounding area there are panoramic views predominantly comprising of a mountainous backdrop which includes Slieve Foy and Slieve Gullion. There is also a proliferation of one-off dwellings aligning with Chapel Hill Road with these extending westwards along this road. The village, and site, is set within a designated Area of High Scenic Quality (AHSQ).

## **2.0 Proposed Development**

- 2.1. The proposed development consists of outline permission for 2 no. dwelling houses and associated site development works.
- 2.2. The proposed dwelling houses will be positioned on two separate sites and will be located some 13 - 16 metres from the roadside boundary with Chapel Hill and will be some 4.3 metres from the northeast site boundary, and 4.9 metres from the southwest site boundaries with the nearest adjoining residential dwellings.
- 2.3. Rear garden lengths of 32-34 metres approx. are proposed.
- 2.4. The site boundary will comprise of a timber post, ranch style fencing and hawthorn hedgerow.

- 2.5. Parking will be positioned to the front of each dwelling with a proposed shared bell mouth vehicular entrance onto Chapel Hill.
- 2.6. The proposed development will be connected into the existing public infrastructure.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.1.1. On 18<sup>th</sup> August 2023, the Planning Authority issued a notification of their intention to GRANT outline permission for the proposed development subject to 11 conditions including:

Condition 2: (a) Details relating to design, orientation, layout, height, and external appearance of the proposed dwellings, as well as landscaping shall be submitted to, and approved by the Planning Authority, as a permission consequent to this outline application, prior to the commencement of any work on this site. The applicant shall ensure that any windows at first floor levels facing towards eastern or western party boundaries shall be from non-habitable rooms only.

(b) The design, siting, external finish, and architectural standard of the proposed dwellings shall be in accordance with the design and siting criteria as set out in Chapter 13 of the Louth County Development Plan 2021-2027, as varied.

Condition 3: A comprehensive landscaping scheme for the site shall be submitted to and approved by the Planning Authority.

Condition 6: Any proposed roadside boundary shall be set back a minimum of 3 metres from the road edge as per Drg. No 3882-FI-003-Revised Site Layout dated 06/06/2023.

Condition 7: Any entrance gates or piers, if any, shall be set back at least 5.5 metres from the road edge. Wing walls or fences shall be splayed at an angle of 45 degrees, and the gates shall open inwards. The gradient of the access road servicing the development shall not be greater than 2%.

Condition 11: (a). Where the applicant/developer proposes to connect to a public water/wastewater network operated by Uisce Éireann, the applicant shall sign a

connection agreement with Uisce Éireann prior to the commencement of the development and adhere to the standards and conditions set out in that agreement.

(b). All works, including separation distances between the existing Uisce Éireann assets and proposed structures, other services, trees, etc, shall comply with current Irish Water Code of Practice for Water and for WasteWater.

(c). Any proposal by the applicant to build over or divert existing water or wastewater services shall be submitted to Uisce Éireann prior to commencement of development for written agreement, and the development shall be carried out and completed in accordance with the agreed particulars.

(d). All development works shall be carried out in compliance with Uisce Éireann standards, codes, and practices.

- 3.1.2. I note to the Board that this grant of outline permission is accompanied by a number of advisory notes including but not limited to no oversailing, overhanging or other physical impingement upon adjoining properties without consent of adjoining property owner (Note: Advisory Note 3).

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

- 3.2.1. A planning Report dated 6<sup>th</sup> July has been provided.
- 3.2.2. This planning application was assessed under the Louth County Development Plan, 2021 – 2027.
- 3.2.3. The original planning report considered that the proposed development comes under the scope of this zoning objective, the siting, layout, vehicular entrance, and design of the development was considered acceptable. It was considered that appropriately designed house types for both sites could be constructed to ensure the protection of amenities of existing and proposed residents.

The housing density, site ratio and site coverage, and public open space were not particularly relevant in this case and that the proposal is similar in pattern to surrounding development.

3.2.4. The planners report concluded that the development is in accordance with the Louth County Development Plan 2021 – 2027, subject to 11 no. conditions.

3.2.5. Other Technical Reports

The Planning Authority Report indicates that the following internal Departments were consulted:

- Placemaking and Physical Development Section: Report received dated 14<sup>th</sup> August 2023, stating no objection subject to conditions.

3.3. **Prescribed Bodies**

3.3.1. The Planning Authority report indicated that the following prescribed bodies were consulted.

- Uisce Eireann: Report dated 11<sup>th</sup> August stating no objection, subject to conditions.

3.4. **Third Party Observations**

3.4.1. Five third party submissions were received, the main issues raised within which can be summarised as follows:

- Density, excessive proposal for this site and not aware of scale of proposal.
- Traffic hazards and compromised sightlines on Chapel Hill.
- Overlooking, overshadowing, and overbearing impact on adjoining sites.
- Environmental impact and impact on local fauna in Omeath which is an Area of High Scenic Quality.
- Previous refusal by An Bord Pleanála not addressed.
- Application does not address wastewater issues, there is no firm date for the completion of the Omeath Wastewater Treatment Plant from Uisce Eireann.
- No details submitted in respect of Part V agreements.
- Intended use not known and the area is restricted to local needs, the applicant is not local.

## 4.0 Planning History

- 4.1. The Planning Authority's Planning Officer's report sets out that the site and its immediate setting have an extensive planning history in relation to previous applications for residential developments.
- 4.2. The following planning history is considered to be most relevant to the instant appeal:

ABP-309394-21/Reg: Ref: 20818: Outline planning permission for 2 no. dwelling houses and associated site development works granted by the County Council and refused on appeal to An Bord Pleanála for the following reasons:

*"1. On the basis of the information provided with the application and having regard to the Stage 1 Appropriate Assessment Screening Report carried out as part of the appeal determination, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the designated Special Conservation Area: Carlingford Shore SAC (Site Code: 002306), or any other European site, in view of their Conservation Objectives. In these circumstances the Board is precluded from giving further consideration to a grant of planning permission. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.*

*2. The proposed development would be premature pending the availability of a public wastewater treatment plant to serve existing development and to facilitate the orderly expansion of the settlement of Omeath. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area".*

## 5.0 Policy Context

### 5.1. Development Plan 2021 - 2027

- 5.1.1. Under the Louth County Development Plan 2021 – 2027, the site is located within the boundary of Omeath, which is designated as a Level 4 Settlement (Small Towns and Villages) as per Table 2.4 of the Development Plan, referenced below.

5.1.2. The site zoned “Objective A1 (Existing Residential), with a stated objective “to protect and enhance the amenity and character of existing residential communities”.

*“The objective for this zoning is to conserve and enhance the quality and character of established residential communities and protect their amenities. Infill developments, extensions, and the refurbishment of existing dwellings will be considered where they are appropriate to the character and pattern of development in the area and do not significantly affect the amenities of surrounding properties. The strengthening of community facilities and local services will be facilitated subject to the design, scale and use of the building or development being appropriate for its location”.*

5.1.3. Residential is a generally permitted use under this zoning objective.

5.1.4. Policy Objective CS 1 “To secure the implementation of the Core Strategy and the Settlement Strategy in so far as practicable, by directing sustainable growth towards the designated settlements, subject to the availability of infrastructure and services”.

5.1.5. Policy Objective CS 2 “To achieve compact growth through the delivery of at least 30% of all new homes in urban areas within the existing built-up footprint of settlements, by developing infill, brownfield and regeneration sites and redeveloping underutilised land in preference to greenfield sites”.

5.1.6. Policy Objective CS 3 “To support and manage the self-sufficient sustainable development of all settlements in a planned manner, with population growth occurring in tandem with the provision of economic, physical and social infrastructure”.

5.1.7. Policy Objective NGB 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”.

5.1.8. Section 8.12.2 Areas of High Scenic Quality - The Areas of High Scenic Quality (AHSQ), whilst not quite possessing the exceptional natural beauty and landscape

quality of the AHSQ, nevertheless add significantly to the stock of natural scenic landscapes within the County.

- 5.1.9. Chapter 13 – Development Management Guidelines – requirements for residential development.

## **5.2. Local Other – Small Towns and Villages Omeath 2021 - 2027**

- 5.2.1. Policy Objective OTH 3 “To support and encourage residential development on under-utilised and/or vacant lands including ‘infill’ and ‘brownfield’ sites, subject to a high standard of design and layout being achieved”.
- 5.2.2. Policy Objective OTH 9 “To liaise with and support Irish Water to endeavour to provide adequate water services to meet the development needs of Omeath within the Plan period”.
- 5.2.3. Policy Objective OTH 19 “To protect the Area of High Scenic Quality (AHSQ) in the landscape setting of Omeath”.
- 5.2.4. Table 12.1: Settlement Overview - Water Services Infrastructure/Capacity “Omeath is located within the Cavan Hill and North Louth Water Resource Zone, which had capacity available at the time of writing. There was no capacity in the Omeath Waste Water Treatment Plant at the time of writing. In 2019, permission was granted for a new wastewater treatment plant, with construction due to commence in Q4 of 2020, subject to funding”.

## **5.3. National Planning Framework (NPF)**

- 5.3.1. The NPF provides an overarching policy and planning framework for the social, economic and culture development of the country. An important element of the growth strategy, intrinsic to the NPF, is securing compact and sustainable growth as it offers the best prospects for unlocking regional potential. The preferred approach for compact development is one which focuses on reusing previously developed ‘brownfield’ lands and development of infill sites and buildings. To this end the NPF requires at least 30% delivery of all new homes in settlements (outside of the 5 cities) to be within the existing built-up footprint (NPO 3(c)).



#### **5.4. Regional Spatial and Economic Strategy (RSES) - Eastern and Midland Regional Assembly (EMRA)**

- 5.4.1. The RSES sets out the strategic framework for the economic and spatial development of the Eastern and Midland Region up to 2031. The primary objective of the RSES is to support more sustainable settlement patterns that focus on compact growth, makes the most efficient use of land and infrastructure, and takes an integrated approach to development. At strategic level it provides a framework for investment to better manage spatial planning and economic development throughout the Region.

#### **5.5. Section 28 Ministerial Guidelines**

- 5.5.1. Having considered the nature of the proposal and the documentation on file, I am of the opinion that the directly relevant S28 Ministerial Guidelines are:
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas;
  - Design Manual for Urban Roads and Streets; and
  - Urban Development and Building Heights Guidelines.

#### **5.6. Natural Heritage Designations**

- 5.6.1. The subject site is not located within a designated European Site. However, the closest such sites are:
- Carlingford Shore SAC (Site Code IE0004078), which is approx. 390m from the site.
  - Carlingford Mountain SAC (Site Code IE0000453), which is approx. 1.09km from the site.

#### **5.7. EIA Screening**

- 5.7.1. I refer the Board to Appendix 1 – Form 1 EIA Pre-Screening and Form 2 EIA Preliminary Examination of this report.

- 5.7.1. The scale of the proposed development is well under the thresholds set out by the Planning and Development Regulations 2000 (as amended) in Schedule 5, Part 2(10) dealing with urban developments (500 dwelling units; 400 space carpark; 2 hectares extent), and I do not consider that any characteristics or locational aspects (Schedule 7) apply.

I conclude that 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**

Separate third party appeals, which highlight similar issues, have been received from Sean O'Brien, Knocknagoran, Chapel Hill and Michael McCarthy and Sophie Anderson, Knocknagoran, Chapel Hill.

- 6.1.1. The grounds of both appeals are summarised as follows: -

- The appeal is a natural extension to a previous case, ABP 309394-21, to which the Board decided to refuse permission for two reasons. There has been no material change in circumstances and the original refusal still stands in particular the proposal is (i) not a sustainable development for the local area in regard to the Appropriate Screening Report, and (ii) the decision is premature as the sewerage works in Omeath, as of time of writing the appeal, the works are ongoing with no definite timeline on completion.
- A recent timeline of planning history pertaining to the site has not been referenced.
- The site has been significantly reduced in size with part of the site sold to the owners of the property next to the land in question.
- Overlooking – due to the position and design of the dwellings, they will cause significant overlooking raising concerns around privacy.
- Entrance site lines – position of the proposed entrance relative to the existing is a safety concern and issues regarding sightlines.

- Area of High Scenic Quality – Omeath has been designated an AHSQ and the placing of two properties on the last remaining free space in the area is contrary to the spirit of keeping Omeath an AHSQ. The subject site has developed over many years into a beautiful natural habitat for birds/bees and butterflies, etc, as such full permission should have been sought.
- Planning Zone –
  - (i) The application is within the A1 Existing Residential for Omeath 2021-2027. There are therefore three primary criteria, infill development, extensions, and refurbishments.
  - (ii) It is submitted that infill is generally accepted as an urban planning term and not one that is used in the context for the countryside or low population density zones.
  - (iii) Infill development is mentioned in the assessment and in all those occasions it is done in the context of Urban City areas (high populated zones) or brownfield developments. Therefore, based on this predetermined context by Louth County Council it cannot be used with for this application, the land in question is not an infill site, nor is it a brownfield site.
  - (iv) The remaining criteria, ‘extensions’ and ‘refurbishment’ do not apply to this application as there is no existing dwelling on site.

Article V exemption –

- The planner reports that the applicant has submitted a copy for a Part V Article certificate granted by the Council on 15<sup>th</sup> October 2020. However, no such certificate could be located, and this was remarked in the original application.
- It is unfair to not allow scrutiny of all relevant material by the public and this certificate should be provided for inspection.
- Since the previous application on site, part of the land has been sold thus reducing the site considerably in size.

- Part V has highly specific rules on allowing its approval, in particular regarding the size of the land. The Part V Certificate is null and void and should not be used for consideration in this application.

Several points of concern within the planner's report have been highlighted as follows:

- (i) The subjective language used in the report i.e. 'infill' and the zoning objective.
- (ii) The reference to the existing dwelling on the land.
- (iii) The reference to the 'higher ground level'.
- (iv) No reference to the withdrawn planning applications pertaining to the site.
- (v) The submission from Uisce Eireann.
- (vi) The DUMRS report from the 14<sup>th</sup> August '23 is not with the application.
- (vii) It is not for the local authority to overrule the decision of ABP by saying effectively they believe that an EIA is not required.
- (viii) Overreach from planner as they overruled the previous ABP decision.
- (ix) The planner states that "the site is connected to the existing public sewer in that area", this is incorrect. Several years ago, before the house was previously on the site and the additional land was sold the site was connected, however, this is not the case after the sale.
- (x) The Part V referenced in the planner's report cannot be located.

## 6.2. Applicant Response

None.

## 6.3. Planning Authority Response

6.3.1. A response was received from the planning authority signed 9<sup>th</sup> October 2023. The submission responds to the third party appeals as follows:

- (i) The grounds of the third party appeal are noted and the key and pertinent planning issues pertaining to this site in the context of the proposal subject

to the planning assessment are set out in the planners report dated 15<sup>th</sup> April 2023.

- (ii) The issues raised in the appellants appeal statement have already been considered in detail by the Planning Authority.
- (iii) The reference to a replacement dwelling in the planners report is an error and should refer to two dwellings. This would not change the EIA Assessment in any way.
- (iv) There is clearly an existing single storey dwelling to the north-east of the site, so the appellants statement is incorrect.
- (v) The Planning Authority is satisfied that the proposed small residential infill development is acceptable in this urban zoned residential area.

6.3.2. The planning authority conclude that An Bord Pleanála are requested to uphold the decision of the planning authority to grant permission.

#### 6.4. **Observations**

None received.

#### 6.5. **Further Responses**

None received.

### 7.0 **Assessment**

Having inspected the site and considered the contents of the appeal, I consider the main issues which arise in relation to this appeal are as follows:

- I. Planning history on site
- II. Zoning and Objectives
- III. Entrance site lines
- IV. Impact on residential amenity
- V. Area of High Scenic Quality
- VI. Part V

- VII. Wastewater Capacity
- VIII. Appropriate Assessment, and
- IX. Other Matters.

### **7.1. Planning history on site**

- 7.1.1. I note the extensive planning history pertaining to this site, however, the most relevant planning decision on this site (ABP309394-21 (Reg. Ref. 20818)) is the most relevant to the instant application for outline permission and will therefore be referenced as part of my assessment.
- 7.1.2. Both appellants highlight the previous refusal stating that there has been no material change in circumstances and that the previous refusal reasons still stand, however I note that upgrade works to the Omeath Sewerage Scheme are progressing with a intended completion timeline of end of 2023.
- 7.1.3. In regard to the previous refusal (ABP309394-21), the size of the site has been decreased slightly, however, the location and characteristics of the site remain the same. While the previous application was assessed under the previous Louth County Development Plan, the development plan and zoning objectives also remain the same.
- 7.1.4. These issues have been further detailed below.

### **7.2. Zoning and Objectives**

- 7.2.1. The proposed development relates to outline permission for two detached dwellings on lands that are zoned for the principle of residential development, as such I am satisfied that the proposed development comes under the scope of this zoning objective and is acceptable, subject to compliance with other relevant planning considerations and safeguards.
- 7.2.2. I also highlight that both regional and national planning provisions in particular the National Planning Framework encourage and support new residential development into the existing built up areas and seeks to increase residential density in settlements to make the most efficient use of serviced lands within settlements.

7.2.3. The appellants question the reference to 'infill developments', stating that this is done in the context of urban city areas. I consider that this site is to be an infill type site given its location between an existing detached dwelling and a pair of semi-detached dwellings located in an urban area. I also refer specifically to the Omeath Policy Objective OTH 3: "To support and encourage residential development on under-utilised and/or vacant lands including 'infill' and 'brownfield' sites, subject to a high standard of design and layout being achieved".

7.2.4. As such, the principle of development is acceptable on this basis.

### **7.3. Entrance Site Lines**

7.3.1. Concerns have been raised regarding entrance site lines, and the position of the proposed entrances, relative to the nature, shape, and height of the road.

7.3.2. Following site visit, I acknowledge that the existing road is a narrow local road, with an uneven surface and varying ground levels with a significant number of existing vehicular entrances mainly serving one-off houses. The existing road also serves the Gael Cuchulainn GAA Club, which is located opposite the subject site, further along the road. However, the GAA Club provides on-site parking facilities for its users.

7.3.3. The proposed site layout plan indicates a sightline of 45 metres in both directions with a proposed splayed bell mouth shared entrance, and street parking to the front of each dwelling.

7.3.4. Therefore, I do not consider that the provision of a new shared entrance at this location, would impact negatively on the movement of traffic along the local road.

7.3.5. Condition 5 of the local authority grant of outline permission refers to the requirements of the proposed driveway in the interests of traffic safety. In the event that the Board considers that the outline application should be granted, I consider that a similar condition in respect of the proposed entrance should be included.

### **7.4. Impact on residential amenity**

7.4.1. I note that this application consists of an application of outline permission for two dwellings and as such the information provided is limited and essentially consists of the footprint of the proposed dwellings on the subdivided site.

- 7.4.2. In terms of residential amenity, both appellants raise concerns regarding overlooking and privacy.

As part of the local authority grant of outline permission Condition 2 (a) requires that any first-floor level windows facing eastwards or westwards shall be from non-habitable rooms. I acknowledge that such a condition would reduce the potential for adverse overlooking to occur.

In the event that the Board considers that the outline application should be granted, I consider that a similar condition in respect of the proposed first floor windows should be included.

- 7.4.3. I note that the dwellings are setback from the front of the site, by some 13 - 16 metres, which will result in the side elevations extending beyond the rear building lines of both adjoining properties, however, both dwellings will be set back from both adjoining site boundaries. I note that the scale and footprint of both dwellings has been reduced from that proposed under the previous refusal (ABP309394-21).

Having regard to the scale and position of the dwellings on site, I consider that there is capacity to accommodate residential development of this scale on the subject site. Notwithstanding, it would be incumbent that at planning consequent stage that regard to protecting the established residential amenities of properties from undue diminishment of their established residential amenities should be had in the design resolution for each of the proposed dwellings for Site 1 and Site 2.

- 7.4.4. In the event that the Board considers that the outline application should be granted, I consider that a condition in respect of the scale and design of the proposed dwellings should be included.

## **7.5. Area of High Scenic Quality**

- 7.5.1. As noted above, the site is located within a designated Area of High Scenic Quality (AHSQ). Both appellants highlight that the site is located in the AHSQ, and the development of this site is out of keeping with the area and natural habitat that has developed over the years.

- 7.5.2. Policy Objectives pertaining to the AHSQ are contained within both the Development Plan and the Omeath Plan (referenced in Section 5.1 and 5.2 above), however this



does not preclude development of these areas, once the development is appropriate to the setting of the landscape.

7.5.3. As noted previously the site is located in an urban area and is zoned “A1 Existing Residential”, and while the site has developed as a natural habitat, it is essentially a side garden area associated with the existing plot with a zoning objective which allows for residential development at this location once it does not impact on the adjoining residential amenity.

7.5.4. While I consider that the development as proposed can be accommodated on this site, it would be incumbent upon the applicant to ensure that the design put forward includes a qualitative landscaping scheme of suitable quality given the high scenic amenities of this setting and the openness of the landscape.

In the event that the Board considers that the outline application should be granted, I consider that condition in respect of the proposed landscaping should be included.

## **7.6. Part V**

7.6.1. The appellants express concerns regarding the Part V Exemption Certificate. I note that the appeal documentation includes a copy of the original exemption certificate granted by the local authority for this subject site for two no. dwellings. While the site area has reduced, the number of dwellings proposed remains consistent with the previous application. This was deemed acceptable by the planning authority in as part of their grant of outline permission.

7.6.2. I note that Part V requirements are to be agreed with the local authority, and as such, I consider that the Part V Exemption Certificate to be acceptable in this instance.

## **7.7. Wastewater Capacity**

7.7.1. Concerns have been raised in the appeals in relation to the proposed wastewater to the site and regard is had to the previous refusal on this site (ABP309394-21).

7.7.2. I note that concern was expressed in the planning inspectors report (ABP309394-21) that the applicant was not able to provide assurance that the existing foul drainage infrastructure had the capacity to cater for the low additional demands the

development would place upon it. Additionally, it was noted in the planning inspector's assessment that *"the 'Omeath Sewerage Scheme' was in planning phases and the situation that any untreated wastewater loading onto the existing substandard foul drainage system would add further to the cumulative level of untreated wastewater discharging into the Carlingford Shore SAC and Carlingford Lough itself"*. This was not an acceptable situation *"until such time as the 'Omeath Sewerage Scheme' had a definite timescale for completion"*.

- 7.7.3. The instant application for outline permission is accompanied by a pre-connection enquiry (PEC) (Ref: CDS200007990) with Uisce Eireann dated 15<sup>th</sup> January 2021, which confirms that it is feasible to connect to the public infrastructure without any upgrades being required.
- 7.7.4. Regard is also had to the referral report received from Uisce Eireann which stated no objection to the proposed development subject to conditions.
- 7.7.5. Notwithstanding this, I draw the Boards attention to the Uisce Eireann website, which states that the upgrade works to the 'Omeath Sewerage Scheme', is progressing well with works expected to be completed towards the end of 2023.
- 7.7.6. In this regard, I consider that the imminent completion of the upgrade works to the existing wastewater treatment scheme (i.e. end of 2023), will allow for the expansion of the settlement of Omeath and will serve the proposed development and as such addresses the concerns raised in the previous application ABP-309394-21.

## 7.8. **Appropriate Assessment**

- 7.8.1. As set out in the foregoing the appeal site is located c317m to the west of Carlingford Shore SAC (Site Code: 002306).
- 7.8.2. I note the previous reason for refusal under ABP-309394-21, and as noted above, there was a concern raised in respect of an unacceptable situation arising that *"untreated wastewater from the settlement of Omeath is discharging into Carlingford Lough and at a point where it enters directly into the westernmost boundaries of Carlingford Shore SAC"*, and *"...the existing foul drainage situation is substandard and as such this development in the absence of the completion of the said sewerage scheme would cumulatively add to the deterioration of the water quality in the receiving waters for discharge at a point where the shoreline is a designated SAC"*

*with this cumulatively adding to the adverse effect this type of pollution has on its qualifying interests”.*

- 7.8.3. The planning inspectors report (ABP-309394-21) also noted that *“Should the said sewerage scheme be completed and be operational this would ensure that the water quality in Carlingford Lough would improve with the discharge that would be associated with the scheme be treated so that it is compliant with National and European Regulations relating to the treatment of wastewater. Therefore, the potential for adverse effect to arise would be low”.*
- 7.8.4. The planning inspector concluded that *“that on the basis of the information on the file and that publicly available, 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 Carlingford Shore SAC (Site Code: 002306), or any other European site, in view of their conservation objectives upon the implementation and completion of the ‘Omeath Sewerage Scheme’. Until this time the proposed development sought under this application is premature and it has not been demonstrated otherwise by way of a Stage 2 Appropriate Assessment (and the submission of an NIS)”.*
- 7.8.5. Notwithstanding the above, I reiterate the progress and the proposed completion date of the upgrade works to the ‘Omeath Sewerage Scheme’ towards the end of 2023. As such, following the pending completion of the upgrade works to the system thereby improving the water quality in the area that the nature and scale of the proposed development and the improved nature of the receiving environment and the distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **7.9. Other Matters**

- 7.9.1. Appellants have referred to the planner’s assessment and specific phrases within the planner’s report, some of which have been noted in the above assessment. However, I note that the Board by way of third party appeal is tasked with assessment of this application on an entirely *de novo* basis.

## 8.0 Recommendation

- 8.1. I recommend that planning permission be granted for outline permission, subject to conditions as set out below, for the following reasons and considerations.

## 9.0 Reasons and Considerations

Having regard to the 'existing residential' zoning which applies to the site under the Louth County Development Plan 2021 - 2027, under which residential development is stated to be generally acceptable in principle, subject to the conditions set out below the proposed development would be an appropriate form of development, would not seriously injure the character and visual amenities of the area, would not seriously injure the amenities of the adjoining residential property in the vicinity, would not be prejudicial to public health or any environmental sensitivities in the immediate area and would be acceptable in terms of traffic and pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>This grant of outline permission is in respect of development as indicated in the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 5th day of July 2023 except as may otherwise be required in order to comply with the following conditions. No development is authorised on foot of this grant of outline permission and no development shall be undertaken until a grant of approval consequent on this outline permission is received.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>This outline permission relates solely to the principle of the development on this site and plans and particulars to be lodged for permission consequent on this grant of outline permission shall include the following information and comply with the following requirements:</p>

	<p>(i) The finished ground levels and finished floor levels of the proposed units shall be as indicated on the plans received by the Planning Authority on the 5<sup>th</sup> day of July 2023.</p> <p>(ii) Details of the design (including details of the materials, colours, and textures of all the external finishes), scale and height of all proposed residential units including proposals to protect the privacy and amenity of existing adjacent properties.</p> <p>(iii) The applicant shall ensure that any windows at first floor levels facing towards eastern or western party boundaries shall be from non-habitable rooms only.</p> <p>(iv) A detailed landscaping and boundary treatment plan for the entire site.</p> <p><b>Reason:</b> In the interest of clarity and to define the subject matter for consideration at permission consequent stage.</p>
3.	<p>Adequate visibility shall be made available and maintained for a minimum 45 metres on either side of the private driveway from a point 2.4 metres back from the edge of the carriageway over a height of 1.05 metres to 0.6 metres above road level in both directions. No impediment to visibility shall be placed, planted, or allowed to remain within the visibility triangle. Where it is necessary to remove hedges/banks/walls to provide adequate sightline visibility, this must be completed prior to the development on site and any new boundary wall/fence/hedge shall be located behind the visibility splay. Any pole, column, tree, or sign materially affecting visibility shall also be removed. No work shall commence on site until the visibility splays have been provided. The area within the visibility splay shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and shall be maintained and kept clear thereafter.</p> <p><b>Reason:</b> In the interest of traffic safety.</p>

4.	<p>That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble, or other debris on adjoining roads during the course of the works.</p> <p><b>Reason:</b> To protect the amenities of the area.</p>
5.	<p>All surface water runoff from roofs, driveways and paved areas shall be collected and disposed of within the site. No surface water runoff shall be discharged to the public sewer, to the public road or to adjoining properties.</p> <p><b>Reason:</b> In the interest of public health.</p>
6.	<p>(a). Where the applicant/developer proposes to connect to a public water/wastewater network operated by Uisce Éireann, the applicant shall sign a connection agreement with Uisce Éireann prior to the commencement of the development and adhere to the standards and conditions set out in that agreement.</p> <p>(b). All works, including separation distances between the existing Uisce Éireann assets and proposed structures, other services, trees, etc, shall comply with current Irish Water Code of Practice for Water and for WasteWater.</p> <p>(c). Any proposal by the applicant to build over or divert existing water or wastewater services shall be submitted to Uisce Éireann prior to commencement of development for written agreement, and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>(d). All development works shall be carried out in compliance with Uisce Éireann standards, codes and practices.</p> <p><b>Reason:</b> In the interest of public health.</p>
7.	<p>No development on foot of any permission granted consequent on this outline permission shall be undertaken until such time as the developer has paid 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</p>

	<p>behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and 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><b>Reason:</b> 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>
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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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Emma Nevin  
Planning Inspector

20<sup>th</sup> December 2023

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	318008-23		
<b>Proposed Development Summary</b>	Outline permission for 2 no. dwelling houses and associated site development works.		
<b>Development Address</b>	Knocknagoran, Omeath, 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>	X
		<b>No</b>	
<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>	X	Urban Development	
<b>No</b>			
<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>No</b>		N/A	
<b>Yes</b>	X	Urban Development	
			<b>Conclusion</b>
			No EIAR or Preliminary Examination required



**4. Has Schedule 7A information been submitted?**

<b>No</b>	<b>X</b>	<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

## Appendix 1 - Form 2

### EIA Preliminary Examination

An Bord Pleanála Case Reference	318008-23	
Proposed Development Summary	Outline permission for 2 no. dwelling houses and associated site development works.	
Development Address	Knocknagoran, Omeath, Dundalk, Co. Louth	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>Proposal for outline permission for 2 no. detached dwellings on residential zoned land located in an urban area. However, the proposal is not considered exceptional in the context of the existing urban environment.</p> <p>No, the proposal will be connected to the existing water supply and will be connected to the existing public sewer. Surface water will also be connected to the public sewer.</p> <p>I note that the Omeath Sewerage Scheme upgrade works is pending completion by end of 2023.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having</p>	<p>Site measuring 0.22 ha. The proposed floor areas have not been stated as application for outline permission with limited details provided with the application. The proposal is not considered exceptional in the context of the existing urban environment.</p> <p>There are no other developments under construction in the proximity of the site.</p>	No

regard to other existing and/or permitted projects?		
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The appeal site is located c317m to the west of Carlingford Shore SAC (Site Code: 002306), however, it is not considered that the development would have a significant impact on the ecological site. Again, I note that the Omeath Sewerage Scheme upgrade works is pending completion by end of 2023.</p> <p>The other nearest European site is located above 1km with the land in between occupying higher ground levels which varying contextual developments present with no hydrological or other tangible connection and therefore can be excluded in terms of the potential for effects on other European sites during construction and operational phases of the proposed development.</p>	No
Conclusion		
<p><b>There is no real likelihood of significant effects on the environment.</b></p> <p><b>EIA not required.</b></p>		

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

Date: \_\_\_\_\_

DP/ADP: \_\_\_\_\_

Date: \_\_\_\_\_

(only where Schedule 7A information or EIAR required)