



An
Bord
Pleanála

Inspector's Report

ABP-318894-24

Development	Demolition of dwelling with associated outbuildings and the construction of 37 residential units with car parking, vehicular and pedestrian access along with all associated ancillary site works
Location	Old Golf Links Road, Haggardstown, Dundalk, Co. Louth, A91 XW62
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	2360113
Applicant(s)	Andrews Construction Limited
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Andrews Construction Limited
Observer(s)	David Conlon
Date of Site Inspection	7 August 2024
Inspector	Paula Hanlon

1.0 Site Location and Description

- 1.1. The site subject to this appeal (hereafter referred to as 'the site') is located along the northern side of a local road, namely the Old Golf Links Road in the townland of Haggardstown, on the southern approach into the centre of Dundalk (a designated regional centre), Co. Louth.
- 1.2. The site (stated area 1.68ha approx.) comprises a vacant bungalow, domestic outbuildings and associated overgrown, unused lands with scrub, long grass, woodland, scattered trees & boundary hedging.
- 1.3. The immediate area is typified as predominantly residential, with the subject lands bound to the east by a residential housing scheme (The Links), and to the west by a row of detached houses which front onto the adjoining road (to the south). The site which extends in a northerly direction from the roadside is bound to its north/northeastern (rear) boundary by Dundalk Golf Club, and undeveloped lands laid in grass adjoin its northwestern side. Agricultural lands and commercial development are also located within the wider surroundings of the site.
- 1.4. The topography of the site is lowlying, with the presence of spoil and overgrowth contributing to its uneven ground.
- 1.5. Vehicular access to the site is off the Old Golf Links Road and a narrow footpath aligns the site's frontage. It is within a 50kph speed limit zone.

2.0 Proposed Development

Construct a 37(no) housing development & all site development works including the demolition of an bungalow (102m²) which is of no architectural merit & lies unoccupied and associated domestic outbuildings. The housing development consists of:

- 1(no) cottage [3 bed], 32(no) 2-st houses [3-bed] and 4(no) 2-st houses [4-bed].
The external walls material finishes include render and buff coloured brick and black slates
- Landscaped open space areas (4,067m²)

- 69(no) 'in-curtilage' car parking spaces & 10(no) 'visitor' parking spaces, associated roads and footpaths, ESB substation, boundary treatment, landscaping and all associated works.
- A new vehicular access with adjoining footpaths is sought along the eastern corner of the site, onto the Old Links Road.
- Surface water to be discharged onsite via an attenuation system, designed and constructed in line with SuDS best practice guidance, with a flow break and a class 1 interceptor to a local waterbody.
- Water and wastewater connections to be obtained off the public network.

2.1. The application was accompanied by the following documentation of note:

- Architectural Design Statement (incl. Housing Quality Assessment)
- Civil Engineering Planning Report & Specification
- Transport Statement
- External Lighting Design Report
- Tree Survey Report
- AA Screening Report
- Landscape Masterplan
- Site Specific Flood Risk Assessment
- Outline Construction Environmental Management Plan.

3.0 Planning Authority Decision

3.1. Further Information

On 6 July 2023, the PA sought that further information be submitted to address a number of matters which are summarised as follows:

- Technical Matters: Road safety (Vehicle Speed Survey, Autotrack vehicle swept path analysis, calculations, Drainage (cross sections for stormwater storage) and Servicing (Confirmation of Feasibility from Uisce Eireann).
- Design and Layout: Appropriateness of density, revise housing mix, adaptability of units/universal design, EV charging spaces and to address discrepancies shown on house types.
- Open Space: Revise location & extent of proposed open space and a requirement that no residential related development (incl. roads/footpaths/driveways etc.) on open space zoned lands was outlined.
- Ecology: Bat survey sought and further consideration to be given to retaining existing trees as part of the development (where feasible).

3.2. Decision

By Order dated 8 December 2023, Louth County Council (LCC) issued a Notification of decision to refuse planning permission for 1(no) reason. The reason for refusal was on the grounds that the proposal would materially contravene a zoning objective (H1 - Open Space) of the Louth County Development Plan.

The stated reason given is as follows:

The proposed development provides for the provision of a service road and parking spaces on a portion of lands zoned 'H1 Open Space' as identified in the Louth County Development Plan 2021-2027, as varied. Such uses are considered ancillary to residential development that is not considered open for consideration on H1 zoned lands. The proposed development would materially

contravene the zoning objective and would therefore be contrary to the proper planning and sustainable development of the area.

3.3. Planning Authority Reports

3.3.1. Planning Reports

Two planning reports are attached to this case. The first report dated 03/07/2023 sought that further information be provided on a number of matters (as summarised in Section 3.1 above). A second planning report dated 12/12/2023 forms the basis for the decision by the Planning Authority (PA) to refuse permission.

In making its recommendation, the Planner's Report refers to the site's zoning, a portion of which is zoned 'H1 Open Space' and that the provision of a service road and parking spaces, considered as being ancillary to residential development is not considered open for consideration on 'H1' zoned lands. It would, therefore, materially contravene the zoning objective if permitted.

3.3.2. Other Technical Reports

Placemaking & Physical Infrastructure Section (11/12/2023): No objection subject to conditions following receipt of further information.

3.4. Prescribed Bodies

None received.

3.5. Third Party Observations

The PA received 7(no) third-party submissions during the course of their determination. 4(no) submissions were generally supportive, and 3(no) submissions raised matters of concern in respect of the proposed development. Many of the raised concerns are contained within the observation received on this appeal and summarised in Section 6.3 of this report, below.

Other matters were also expressed by third parties in relation to traffic management & lighting along the adjoining Old Golf Links Road, sustainable travel, western boundary

treatment, housing mix, public safety & tenure issues and the prematurity of this development pending approval of masterplan for the full development site.

4.0 Planning History

Subject Lands:

Pl. Ref. 04/1170: Permission granted for 68(no) residential units.

Pl. Ref. 05/1519: 74 (no) dwellings comprising 65 houses and 9 apartments with an extension of duration of permission permitted under Pl. Ref. 11/440 following a judicial review for an additional 5 years (14/02/12).

Pl. Ref. 11/440: 74 (no) dwellings comprising 65 houses and 9 apartments,

Lands in Surrounding Area:

Pl. Ref. 21/434: Permission was refused for 69(no) residential units and all associated works on the grounds that it would materially contravene the site's Business and Employment zoning and Appropriate Assessment concerns.

Pl. Ref. 22/261: Permission granted for modifications to previously permitted 106 bed nursing home (including 22 additional bedrooms) (Pl. Ref. 18/784).

ABP-303253-18: Permission granted on appeal for 166 residential units.

Pl. Ref. 18/784: Permission granted for an elderly care centre (106 bed nursing home, 12 assisted living units and other ancillary development).

Pl. Ref. 12/493: Outline permission granted for 42 bed residential care home and ancillary development.

Pl. Ref. 06/753: Permission granted for a neighbourhood shopping centre comprising 6 retail outlets (1,144m²), office, medical centre, creche and 83(no) residential units, with alterations permitted (pl. ref. 06/1786, pl. ref. 10/43, pl. ref. 10/21) and an extension of duration of permission subsequently granted under pl. ref. 11/33 and pl. ref. 11/139. This permission has now expired.

5.0 Policy Context

5.1. Louth County Development Plan 2021-2027

5.1.1 The Louth County Development Plan 2021-2027 (CDP) is the operative Development Plan for the county. [I note to the Board that the draft Dundalk Local Area Plan 2024-2030 is pending adoption].

5.1.2 Landuse Zoning

The settlement boundary and landuse zonings for Dundalk are set out within Map Number 1.2, contained within Volume 1A of the CDP. The site, which is located within the settlement boundary of Dundalk encompasses 3 land use zoning objectives, notably: A1 Existing Residential, C1 Mixed Use and H1 Open Space.

The landuse zoning objective attached to A1-Existing Residential zoned lands is -

‘to protect and enhance the amenity and character of existing residential communities’ (Section 13.21.5, CDP).

The CDP’s guidance outlines that infill developments which are appropriate to the character & pattern of development in the area, and which does not significantly affect surrounding amenities will be considered on this zoning (Section 13.21.5, CDP).

The landuse zoning objective attached to C1 - Mixed Use is -

‘to provide for commercial, business and supporting residential uses’.

The CDP’s guidance outlines that this zoning provides for the facilitation of residential uses as appropriate (Reference Section 13.21.13).

The landuse zoning objective attached to H1 – Open Space is -

‘to preserve, provide and improve recreational amenity and open space’.

The CDP’s guidance outlines that this zoning refers to areas of ‘active’ and ‘passive’ open space. Development that will improve the facilities or quality of the open space,

amenity or recreational facilities, or contributes to the enjoyment of the space will be considered.

5.1.3 Land Use Zoning Acceptability

Land Use Zoning acceptability is prescribed under three headings, notably: (1) Generally Permitted Use, (2) Open for Consideration Use and (3) Uses not listed (Section 13.21.2).

The CDP gives recognition to scenarios where proposals for uses not included in the list of 'Generally Permitted and 'Open for Consideration' occur under "Uses not listed" (Section 13.21.2.3).

It details that where this arises (i.e. proposed use is not listed), such proposals will be considered on their individual merits taking account of the following:-

- surrounding land uses,
- the compatibility of the use/development in the area in which it is proposed to locate,
- compliance with the CDP's relevant policy objectives, standards and requirements,
- and the general proper planning and sustainable development of the area.

Residential is listed under "Generally Permitted Uses" for both A1 – Existing Residential and C1 – Mixed Use zoned lands. It is not listed under "Generally Permitted Uses" or "Open for consideration" for H1 – Open Space zoned lands.

5.1.4 Transitional Zone Areas

The CDP states that abrupt transitions in scale and use should generally be avoided adjacent to the boundary of land use zones. Development proposals in transition areas should seek to avoid development that would be detrimental to the amenities of the contiguous zone (Section 13.21.3).

5.1.5 The following Chapters are relevant in the consideration of this appeal: Chapter 2 (Core Strategy); Chapter 3 (Housing); Chapter 7 (Movement), Chapter 8 (Natural

Heritage, Biodiversity and Green Infrastructure and Chapter 13 (Development Management Guidelines).

5.1.6 Policy objectives and Sections of particular relevance include:

Core Strategy/Settlement Strategy/Compact Growth

Policy Objective CS1: 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.

Policy Objective CS2: 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.

Policy Objective SS25: Manage the growth of Dundalk in a manner that will achieve the creation of a compact settlement with attractive and inclusive neighbourhoods where there is a choice of affordable homes for all.

Policy Objective HOU18: Develop sustainable and successful neighbourhoods through the consolidation and redevelopment of built-up areas...

Density

Policy Objective HOU15: Promote development that facilitates a higher, sustainable density which supports compact growth and the consolidation of urban areas, which will be appropriate to the local context and enhance the local environment.

Table 3.2. Recommended Minimum Densities 35 per ha at Edge of Settlements Locations in Dundalk.

Active Travel

Policy Objective HOU 22: (Prioritise and facilitate walking, cycling, and public transport).

Design and Layout

Policy Objective HOU19: (Requirement for good urban design, incl. well-designed visually attractive main entries into our towns....).

Policy Objective HOU 24: (Public open space - functional, centrally located & passively overlooked).

Policy Objective HOU25: (Requirement to accord with the Development Management Guidelines set out in Ch. 13).

Policy Objective HOU26: (Requirement for an appropriate mix of house types and sizes, meeting needs and supporting balanced and inclusive communities).

Policy Objective HOU 28: (Positively contribute to the built environment & local streetscape).

Policy Objective HOU 30: (Daylight, natural ventilation, energy efficiency & conservation measures).

Policy Objective HOU 32: (Encourage and promote the development of underutilised infill...sites, subject to the protection of the character of the area and the environment.

Policy Objective IU 21: (Surface water Drainage).

5.1.7 Development Management Standards (Chapter 13)

The sections and standards of particular relevance include land use zoning objectives (13.21), Density and Plot Ratio (13.8.4) and Infill & Backland Development (13.8.32).

5.2. **Regional Spatial and Economic Strategy for Eastern & Midland Region (RSES)**

The RSES supports targeted and significant population growth for Dundalk, a designated Regional Growth Centre. Its vision is that Dundalk reaches a targeted population in the region of 50,000 up to 2031.

5.3. Project Ireland 2040 – National Planning Framework (NPF)

The overarching policy objective of the NPF is to renew and develop existing settlements rather than the continual sprawl of cities and towns out into the countryside. The NPF sets a target of at least 40% of all new housing to be delivered within the existing built-up areas of cities, towns, and villages on infill and/or brownfield sites (NPO 3a). It also seeks to tailor the scale and nature of future housing provision to the size and type of settlement (NPO 33) and to increase residential density in settlements, through a range of measures including infill development schemes (NPO 35).

5.4. Climate Action Plan 2024 (CAP 2024)

Implements carbon budgets and sectoral emissions ceilings and sets out a roadmap for taking decisive action to halve emissions by 2030 and reach net zero no later than 2050.

5.5. National Planning Guidelines

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the PA, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Sustainable Residential Development & Compact Settlement Guidelines for Planning Authorities (2024).
- Design Manual for Urban Roads and Streets (2013, updated 2019).
- The Planning System and Flood Risk Management' Guidelines for Planning Authorities (2009) (including the associated 'Technical Appendices').

5.6. Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities' (2024)

The strategy for Regional Growth Centres is to support consolidation within and close to the existing built-up footprint. This site is within a 'Regional Growth Centre -

Suburban/Urban Extension' as defined within Table 3.4 of these Guidelines, with residential densities in the range 35 dph to 50 dph (net) to be generally applied.

Policy and Objective 4.1 [DMURS]: That PA's implement the principles, approaches and standards set out in DMURS (including updates) in carrying out their functions under the PDA (as amended) and as part of an integrated approach to quality urban design and placemaking.

5.7. Natural Heritage Designations

The site is not located on any designated Natura 2000 site(s), with the nearest Natura 2000 sites being Dundalk Bay SPA (Site Code 004026) and Dundalk Bay SAC (Site Code 000455) (also a designated pNHA) located circa 1.3 kilometres east of the site.

5.8. EIA Screening

See completed Form 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, or an EIA determination therefore is not required.

6.0 The Appeal (First Party)

6.1. Grounds of Appeal

- The PA's reason for refusal is unjustified.
- The proposed development does not constitute a material contravention to the CDP for a number of stated reasons.
- There are grounds in this case for approval under Section 37 PDA, should the Board consider that the proposal constitutes a material contravention.

6.2. Planning Authority Response

A response has been received from the PA dated 13/02/2024. It re-iterates its considerations in deciding that the proposal would materially contravene the 'H1 – Open Space' zoning objective attached to the site. It considers that there is ample

space within the A1 zoned lands of the site to accommodate residential related development including roads, footpaths, parking and other associated infrastructure located on the H1 Open Space zoned lands. It makes reference to a high court judgment and contends that a similar issue arose regarding location of roads and hard standing on open space zoned lands in the referenced case. It requests that the Board upholds its decision to refuse permission.

6.3. Observations

1 (no) observation was received. It outlines that whilst the appeal is premised on one reason for refusal (material contravention), there are many other issues which were sought to be addressed by way of further information at application stage, but were not addressed.

These include the matters of inappropriate density (22 units per ha); lack of universally designed units; potential impact on bats (protected species); biodiversity loss (extent of trees felled), concerns on the proposed open space strategy and outstanding details required on roads matters, drainage and Uisce Eireann services.

6.4. Further Responses

None.

7.0 Assessment

Having examined the application details and all other documentation on file, including the submission received in relation to this first-party appeal, observation received, the reports of the local authority, having inspected the site, and having regard to the relevant policies, objectives, standards and guidance, I consider that the principle of the development proposed is broadly acceptable and will consolidate and provide for compact growth within this urban neighbourhood, subject to compliance with all other planning considerations.

The PA's reason for refusal in this case, being the subject matter of this first party appeal, is grounded on one fundamental matter, notably that the proposed

development would materially contravene the 'H1 Open Space' zoning objective which is attached to a portion of the site.

I consider that the substantive issues in this first-party appeal to be considered are as follows:

- Zoning
- Other Matters
- Material Contravention

7.1. Zoning

7.1.1 Overview

There are three landuse zonings attached to the subject site, each of which are of an irregular shape.

By way of context, I note to the Board that this site (1.68ha approx.) is predominantly zoned 'A1 – Existing Residential'. A small pocket (431m² approx.) within its northern end is zoned 'C1 – Mixed Use and a pocket of land (2,674m² approx.) is zoned 'H1 - Open Space' within the eastern portion of the site.

In the outset, I note that the matter of zoning insofar as the proposed development relates to the 'A1' and 'C1' zonings attached to this site is not a raised issue or concern by any party (including the PA) in this case. I see no reason to dispute this, and the conclusions reached by the PA in regard to these two zonings attached to the site.

The focus of the examination on zonings in this case is therefore on the extent to which the proposed development is consistent with the 'H1-Open Space' zoning attached to the eastern portion of the site.

In noting that the PA in this case makes reference to a High Court Judgement and contends that similar issues arose, I submit that the case in hand is required to be assessed in accordance with the provisions of the Louth CDP, being the relevant, operative plan.

7.1.2 Acceptability of Use on 'H1 – Open Space' Zoned Land

Material Contravention

The PA in its reason for refusal makes specific reference to the provision of a service road and parking spaces on a portion of lands zoned 'H1 Open Space' within this site. It states that "such uses are considered ancillary to residential development that is not considered open for consideration on H1 zoned lands". It is on this basis that the PA in its stated refusal reason deems that the proposed development would materially contravene the zoning objective.

The first party appellant argues that no 'required' reason justification is given as to why the proposal clearly contravenes the CDP, and as, fails to clearly and concisely align with the requirements of the Development Management Guidelines.

In reviewing the PA's submission to this appeal, I am of the view that its conclusion reached in informing the decision in this case is premised on the availability of A1 – Existing Residential zoned lands within the site to accommodate roads, parking and other listed infrastructure without having to encroach on H1 Open Space zoned lands and to avoid setting an undesirable precedent. The PA also reiterates references made at application stage to a specific High Court judgement. In my opinion, this judgement appears to be integral to the PA's reasoning in refusing permission for the proposed development.

I have examined the PA's reason for refusal insofar as it is consistent with the provisions of the operative CDP, along with the Planner's Report (dated 12/12/2023), which informed the PA's decision in this case.

It is my view that full credence was not given to the Land Use Zoning Acceptability set out under Section 13.21.2.3 of the CDP. The CDP is explicit in stating that uses not listed as 'Generally Permitted' or 'Open for Consideration' will be considered on individual merit, subject to its compliance with surrounding land uses and compatibility in the area, coupled with its compliance with the provisions of the CDP and the general proper planning and sustainable development of the area.

Whilst I acknowledge that a road and parking spaces are not specifically listed as 'open for consideration' uses on H1 Open Space zoned lands, I am satisfied that the CDP does not provide a blanket restriction on any particular class of development on

this zoning (or any other listed zonings within the CDP) as no “not normally permitted” use(s) listing is given within the plan. The CDP is clear and unambiguous in setting out that ‘Uses not listed’ will be considered on lands which have a landuse zoning, based on their individual merit and stated requirements, set out within Section 13.21.3 of the CDP.

Accordingly, I am satisfied that the CDP affords flexibility in considering the use of a ‘service road and parking spaces’ [as referenced in the PA’s reason for refusal] and other such ancillary use(s) on a portion of lands zoned ‘H1 Open Space within this site, subject to compliance with the stated requirements set out within Section 13.21.2.3 of the CDP.

In light of this, it is my opinion that the site’s land use zoning objective and the acceptability of use(s) is not, sufficiently specific so as to justify the use of the term “materially contravene” in terms of normal planning practice in this case. I therefore concur with the first party, in that I am not satisfied that a reasoned justification is given as to the manner in which the proposed development materially contravenes the CDP, as stated by the PA in its reason to refuse permission.

Compatibility of service road/parking Use(s) Sought on H1 zoned land

In the outset, I note that the PA’s assessment on the appropriateness of a ‘service road – parking’ is solely based on land use zoning within the site. Whilst it was determined by the PA that “ample space” was available on A1 zoned lands for accommodating ‘these works’ (service road and parking) without encroaching upon the site’s H1- Open Space zoned lands, I consider that this is not a reason on its own to determine the acceptability or otherwise of “these works” on H1 zoned lands.

The Board in making its determination on the proposed development is required to afford due regard to the individual merit of the overall site layout sought, as provided for within Section 13.21.2.3 of the CDP.

This infill site (1.68ha) is adjoined by residential development, undeveloped lands and Dundalk Golf Club. I note that approximately 0.313ha of the subject site is zoned ‘H1 – Open Space’. I further note that approximately 0.0456ha of this ‘H1’ zoned area is sought to accommodate internal infrastructural provisions including the northwestern

end of proposed access roadway, footpath and parking. These ancillary works, which in my view, are integral to the overall development lie at the end (west) and immediately adjacent to a proposed linear public open space (POS) extends along the entirety of the development's eastern boundary. I note to the Board that in broad terms, the overall quantum (0.57ha) and approach to POS is good and meets the required standards for POS set out within the CDP.

Given the location of the H1 zoning which is along the eastern boundary and not centrally located within this site and that the development sought will provide a buffer area between the proposed residential development and Dundalk Golf Club whilst also providing both an active and passive POS area for residents and visitors within the proposed residential scheme, which is passively overlooked by future residents (house numbers 33-37), I consider that the proposal if permitted, would successfully integrate with surrounding lands. I am further satisfied that the proposal would comply with the provisions of the CDP and in particular, policy objective HOU 32 in encouraging the development of this underutilised infill site whilst protecting the character of the area and the environment.

The CDP sets out that the 'H1' zoning objective seeks "to preserve, provide and improve recreational amenity and open space". In applying the guidance set out within the CDP for this H1 zoning, it is my view that its objective provides for sufficient flexibility insofar as it allows for the consideration of development that will improve the facilities of the POS, or contribute to the enjoyment of the space. In this context, I submit that there are grounds which support the proposed layout, on the basis that the provision of the extent of access road in question, and inclusion of an accessible parking space immediately adjacent to the eastern most POS area is integral to the enjoyment of this POS by persons with a disability or persons with limited mobility. The proposal, by virtue of its layout would also maximise the passive surveillance of this POS area from house numbers 33-37, which in itself would contribute to the safety of persons and overall enjoyment of the POS.

Furthermore, in my view, a flexible approach in allowing for a joined-up approach to the development of this site is necessary and warranted due to the irregular shape of the H1 zoning attached to this site and the need to provide more compact development

on the adjoining A1 – existing residential zoned lands, without giving rise to an abrupt transition in use and scale of development within the site, which is sought to be avoided within the CDP (Reference Section 13.31.3). In this context, I concur with the applicant's design rationale whereby the proposed road/footpath infrastructure and associated car parking which partially oversails lands zoned H1 – open space, would provide for a combined usage, in a way that represents efficiency of design and good placemaking, by way of the successful integration and transitioning between the residential and POS amenity area, within the eastern area of the site. I am therefore satisfied that given the proposed layout, that the proposed development would accord with the proper planning and sustainable development of the area.

Overall, I am satisfied that the proposal complies with the site's landuse zonings and the policy objectives, standards and requirements set out within the CDP, would accord with the proper planning and sustainable development of the area and would not constitute a departure from a fundamental provision of the plan. It therefore would not constitute a material contravention of the CDP, in the event that the Board were minded to grant permission.

7.2. Other Matters

I have reviewed the matters raised within an observation received in this case. I note in the outset that no additional details by way of expert reports have been provided which have not already been considered at application stage.

7.2.1 Density & Design

In applying the Compact Guidelines (2024) I note that a density in the range of 35 dph to 50 dph (net) is to be generally applied for this edge of settlement, suburban location. In this regard, given the location and configuration of this irregularly shaped, infill site, its zoning and site constraints and to the pattern of development immediately adjoining, I am satisfied that the density proposed of approximately 30.2 units per ha, which is higher than the prevailing density of The Links residential scheme (east) and linear residential development (west) of the site, along the northern side of the Old Links Rd., but below the density to be generally applied as set out within national

guidelines, is appropriate in this instance and is consistent with adopted policy on compact growth.

In regard to design and layout, I acknowledge that the extent of POS proposed within this scheme which is above the 10- 15% of the net site area standard set out within the CDP is in response to the site's configuration & zoning, and the requirements of the PA. I am satisfied that the open space strategy incorporates passive and active POS areas which will accommodate future needs and allow for the successful integration of this development into its surroundings. The applicant indicated at further information stage to the satisfaction of the PA that the development meets the standards set out within the CDP in respect of the inclusion of universally designed units within the scheme.

I am of the view that an appropriate balance in protecting and enhancing the character of the area and the reasonable protection of the amenities and privacy of established residential property which adjoins this site, with the need to provide additional residential development and promote compact growth at this location, would be achieved on this site, if permitted.

7.2.2 Ecology & Biodiversity

Bats

The observer refers to the need for an updated Bat Survey, with the former survey carried out in 2023 and further concerns expressed given the presence of bats on this site. I have examined the content of the Bat Survey undertaken by suitably qualified persons and the findings, recommendations & mitigation measures proposed, as set out within report entitled 'Bat Emergence/Re-entry Survey'.

The survey found that there were no bat roosts within the buildings and trees which are the subject of this application and that there were low levels of bat activity (foraging and commuting) within the trees and hedgerows in the site.

All bats are protected species under national and EU legislation. There is no evidence provided to support the case that the proposed development will negatively impact on bat species. I am satisfied that an appropriate methodology was employed and that the survey was undertaken by suitably qualified persons. The findings of this survey

are robust and there is no evidence to contradict these findings. No change has been carried out to the site and its existing structures since the survey was undertaken which would be considered likely to give rise to any significant change in circumstances and I am satisfied that appropriate mitigation measures can be incorporated into the proposed development. Furthermore, there is a separate process which the applicant is required to undertake with the NPWS which requires that a derogation license be issued, should any change in circumstance arise in relation to bat roosting on this site or where any works undertaken would capture or kill, or disturb bats at important parts of their life cycle.

In light of the above, and subject to the appropriate implementation of mitigation measures, where possible, as stated, it is my view that the proposed development would not have a negative impact on bat species and there is no likelihood of significant effects on the environment.

Trees & Vegetation

I have considered the findings of the Tree & Vegetation Survey (incl. Arboricultural Impact Assessment), Screening for Appropriate Assessment Report, Bat Emergence/Re-entry Survey and Landscape Masterplan. Given the site's size and site context and that the findings of the Tree & Vegetation Survey identifies that the trees to be felled are of poor value or are non-native species with low ecological value that had been planted with a view to harvesting at a later date, I am satisfied that the proposal overall will not result in a significant loss of local biodiversity. The proposed landscaping plan, submitted at further information stage and which provides for the planting of native species on the site will contribute positively to the efficacy of the wider ecological network at this urban location.

7.2.3 Services and Infrastructure.

Whilst confirmation of feasibility in regard to water/wastewater connections is not attached to the submitted documentation, I am satisfied that the matter of connection to Uisce Eireann's water and wastewater network can be satisfactorily addressed by condition, if the Board is so minded to grant permission in this case.

The site is located in an urban area where the speed limit control is 50kph. A response by suitably qualified persons was provided at further information stage in respect of road and traffic safety matters in terms of vehicle speed and autotrack along the Old Links Road raised within the submitted observation. Similarly details provided in regard to storm water storage were also provided. I consider the details which were already provided on behalf of the applicant to be reasonable, and I therefore see no reason to dispute the findings of the PA in this regard.

7.2.4 Alternative Site Layout

I refer the Board to Section 4.3 of the appellant's appeal submission, which puts forward a revised site layout sketch such that there would be no encroachment on H1 zoned lands by the proposed access road, footpath and parking. Should the Board not concur with my views in regard to the acceptability of the submitted site layout, insofar as it does not constitute a material contravention to the CDP, I consider that a refusal of permission is not warranted solely on this ground.

In the event that the Board is therefore of a mind to grant permission, I suggest that a condition be attached which requires that a revised site layout to scale be provided for the written approval of the PA, prior to the commencement of any works on this site which provides for the relocation of all roads infrastructure and parking on H1 – Open Space lands onto the adjoining A1 – Existing Residential zoned lands within the subject site.

7.3. Material Contravention

- 7.3.1 As already discussed within Section 7.1 of this report, there is one matter of relevance to the proposed development in regard to potential for a material contravention of the Development Plan, notably, the site's land use zoning, a portion of which is zoned H1 Open Space 'to preserve, provide and improve recreational amenity and open space'.
- 7.3.2 Given that there is no uncertainty within the CDP that 'Uses not listed' can be considered on any respective landuse zoning, based on individual merit and stated requirements, set out within Section 13.21.3 of the CDP and that the guidance

attached to the H1 zoning provides for the consideration of development that will improve the facilities or quality of the open space, or recreational facilities, or contribute to the enjoyment of the space, it is my view that the site's land use zoning objective and the acceptability of use(s) with regard to ancillary residential infrastructure (including road, footpath and parking infrastructure) is not, in my view, sufficiently specific so as to justify the use of the term "materially contravene" in terms of normal planning practice and by reference to the text within the CDP in this case.

A material contravention of the H1 Open Space landuse zoning objective therefore does not arise in this case and the Board should not, therefore, consider itself constrained by Section 37(2) of the Planning and Development Act.

Should the Board not concur with my view on this matter, I have carried out the relevant tests under Section 37(2) (Refer Section 7.3.3 below).

7.3.3 Having regard to Section 37(2) of the Planning and Development Act 2000 (as amended) (PDA), the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the PA to whose decision the appeal relates, where:

- i. the proposed development is of strategic or national importance:

The development of 37 (no) residential units is not considered to be of strategic or national importance. Therefore, it would not justify a material contravention of the CDP in this case.

or;

- ii. there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned:

The interpreting of objectives within the CDP must be as they would be interpreted by a reasonably intelligent and informed lay person. In my opinion, there are no conflicting objectives or objectives that are unclearly stated within the CDP which would justify a material contravention in this case.

or;

- iii. permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government:

Whilst Dundalk is identified as a Regional Growth Centre within the RSES and the subject lands are included in the total land capacity for the provision of housing as set out within the Core Strategy for Co. Louth, I consider that there are no specific requirements, guidelines, policy or statutory obligations which necessitates the need to grant planning permission for the subject lands, in this instance

or;

- iv. permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

I refer the Board to Section 3.1 of the appellant's appeal submission, which provides evidence that similar such development, including a Part 8 has been approved in the area following the adoption and implementation of the CDP. It could be argued on this basis that a material contravention of the CDP is justified in this case.

Having regard to criteria under Section 37(2)(iv) of the PDA, as above, it is my view that a material contravention may be warranted in this case.

8.0 AA Screening

- 8.1 Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- Having regard to the absence of any direct hydrological connection from the subject site to any European Site

- Given the topography of the site which is predominantly lowlying, coupled with the location and separation distance from the European Sites, (the closest being 1.3km from this site) and the intervening urban land uses
- Having regard to the distance of the site from the European Sites (the closest being 1.3km from this site) regarding any other potential ecological pathways
- No ex-situ effects are likely having regard to the characteristics of the site which includes buildings & artificial surfaces, scrub, spoil & bare ground, woodland and scattered trees and drainage ditch
- Having regard to the screening report and determination of the PA.

8.2 I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site, either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required. The Board should note that I have not taken into account any measures intended to reduce or avoid any harmful effect on the European Sites.

9.0 Recommendation

It is recommended that permission be granted for the following reasons and considerations.

10.0 Reasons and Considerations

Having regard the site's landuse zonings and to the landuse zoning accessibility in regard to uses not listed as being 'generally permitted' or 'open for consideration', to adopted policy objectives on compact growth and the development of infill sites, and subject to compliance with the conditions below, the proposed residential development, would be appropriate in density, would not seriously injure the character of the area or the residential amenities of property in the vicinity, would not have a significant negative impact on the environment and biodiversity and would be

acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 17 November 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each housing unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all residential units permitted to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.
b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.
c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified residential units, in which case the planning authority shall

confirm in writing to the developer or any person with an interest in the land, that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

3. The proposed development shall make provision for the charging of electrical vehicles. All car parking spaces serving the development shall be provided with electrical connections, to allow for the provision of future charging points. Details on how the developer proposes to comply with these requirements, including details on design of, and signage for, the electrical charging points shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development and the development thereafter shall be carried out in accordance with the approved details.

Reason: in the interest of sustainable transportation.

4. (a) Details of the materials, colours, and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) All service cables associated with the proposed development (such as electrical, telecommunications and television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of the proper planning and sustainable development of the area.

5. (a) The site shall be landscaped in accordance with details submitted and shall be fully implemented no later than the first planting season following the substantial completion of the development or the occupation of a residence within this scheme, whichever is the sooner

(b) The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works.

(c) Any trees/plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

6. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

7. The applicant or developer shall enter into water and/or wastewater connection agreements with Irish Water prior to commencement of any development on this site.

Reason: In the interest of public health.

8. (a) The internal road network serving the proposed development, including footpaths and kerbs shall be in accordance with the detailed requirements of the planning authority for such works, and shall comply in all respects with the provisions of the Design Manual for Urban Roads and Streets.

(b) Visibility splays shall remain unobstructed.

Reason: In the interests of pedestrian and traffic safety and the proper planning and sustainable development of the area.

9. (a) The construction of the development shall be managed in accordance with an updated Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of

development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

(b) The developer, if so directed by the Planning Authority, shall monitor and record noise levels and the total dust emissions arising from all on site operation associated with the proposed development during construction. The number and locations of the monitoring and recording stations for sound and dust deposition necessary to comply with the requirements of this condition shall be in accordance with the requirements of the Planning Authority for such monitoring of sound and dust deposition.

Reason: In the interests of public safety and residential amenity.

10. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery, and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

11. Prior to the commencement of development, a revised public lighting plan which incorporates the mitigation measures set out within the Bat Emergence/Re-entry Survey shall be provided for the submitted scheme, for the written approval of the planning authority. Such lighting shall be provided prior to the making available for occupation of any dwelling.

Reason: In the interests of amenity and public safety.

12. Proposals for an estate name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

13. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard amenities of residents of property in the vicinity.

14. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this Order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

15. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

16. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and 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. Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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.

Paula Hanlon
Planning Inspector

31 January 2025

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-318894-24			
Proposed Development Summary	Demolition of dwelling with associated outbuildings for construction of 37 residential units with car parking, vehicular and pedestrian access along with all associated ancillary site works			
Development Address	Old Golf Links Road, Haggardstown, Dundalk, Co. Louth, A91 XW62			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X	
		No		
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes			EIA Mandatory EIAR required	
No		X	Proceed to Q.3	
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]?				
		Threshold	Comment (if relevant)	Conclusion
No				
Yes	X	Class 10 (Infrastructure Projects)		Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-318894-24	
Proposed Development Summary	Demolition of dwelling with associated domestic outbuildings for construction of 37 residential units with car parking, vehicular and pedestrian access along with all associated ancillary site works	
Development Address	Old Golf Links Road, Haggardstown, Dundalk, Co. Louth, A91 XW62	
<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>The site is infill in nature and is located in a edge of settlements/suburban area of Dundalk, a designated regional centre. The site is zoned A1-Existing Residential with residential use permissible. The proposed development is not exceptional in the context of the existing environment.</p> <p>The proposed development will not result in the production of any significant waste, emissions or pollutants.</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>No. The site area is 1.68ha.</p> <p>There are no other developments under construction adjoining the site. All other developments are established uses.</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>No. The proposed development is not located on or within proximity to any designated natura 2000 sites or any designated NHA/pNHA. It is on zoned and serviced lands within a built area and there is no hydrological or ecological pathway to any European site. The nearest Natura 2000 sites are Dundalk Bay SPA (Site Code 004026) and Dundalk Bay SAC (Site Code 000455) (also a designated pNHA) located circa 1.3 kilometres east of the site.</p> <p>The proposal does not have the potential to significantly affect other significant environmental sensitivities in the area due to the siting, nature, extent and scope of the proposal, with no environmental sensitivities.</p>	No
<p style="text-align: center;">• Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		

Inspector: _____

Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)