



An
Bord
Pleanála

Inspector's Report ABP-319077-24

Development

Large scale residential development:
Construction of 502 residential units, a
creche and all associated site works.
An Environmental Impact Assessment
Report (EIAR) and Natura Impact
Statement (NIS) were submitted with
this application.
(www.haggardstownlrd.ie)

Location

Haggardstown, Dundalk, Co. Louth

Planning Authority

Louth County Council

Planning Authority Reg. Ref.

2360476

Applicants

Marina Quarter Limited

Type of Application

Permission for Large-Scale Residential
Development

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Appellants

Marina Quarter Limited

Observers

1. Blackrock Tidy Towns
2. Niall Henry

3. Andrew Coyle
4. Des McKeown
5. Aiveen Robinson
6. Aoife and John Henry
7. Brian P. Hopper
8. Hermione Duffy

Date of Site Inspection

15th April 2024

Inspector

Margaret Commane

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1.0 Site Location and Description

- 1.1. The appeal site is located c. 1.3km north of the seaside village of Blackrock and c. 3km south of the town of Dundalk, in Co. Louth. More specifically, the appeal site is a c. 18.54ha irregular shaped site located on the western side of the R172 Blackrock Road, c. 300 metres north of the junction of R172 Blackrock Road and Birches Lane. The site also has limited secondary frontages to Bothar Maol, which comprises a local road to the north of the site providing access to a no. of one-off private residential dwellings.
- 1.2. The appeal site comprises of two agricultural fields, the boundaries of which are generally delineated by hedgerows and scrub vegetation; and stretches of the R172 Blackrock Road (either side of the site entrance and adjacent to the junction of R172 Blackrock Road and Bothar Maol), Bothar Maol (where it flanks the site's northern boundary) and Harveys Lane (immediately west of its intersection with R172 Blackrock Road. Vehicular access to the site will be via its eastern site boundary with the R172 Blackrock Road. 2 no. pedestrian/cyclist accesses will be provided to Bóthar Maol along the northern boundary (1 no. of these access will also provide cycle access and limited emergency access). In terms of gradient, the site is at its lowest where it immediately abuts the R172 Blackrock Road, from there it rises by c. 20 metres in a westerly direction. The site is traversed by an ESB powerline.
- 1.3. The site is primarily bounded to the north and east by existing residential development and by agricultural and amenity uses to the south and west. More specifically, a small part of the site's northern boundary has frontage to Bothar Maol, with the remainder of the northern boundary flanking the rear/side boundaries of 14 no. detached one-off houses fronting Bothar Maol (including Glebe House, An Charraig and Coonrah). Bothar Maol itself is gated mid-way, thus prohibiting a through route between the R172 Blackrock Road and the N52 Road further west. Further north, on the opposite side of Bothar Maol, are 3 no. detached one-off houses fronting Bothar Maol and the R172 Blackrock Road and the Finnabair Industrial Estate. The field positioned between these dwellings/industrial estate, was recently granted permission for a housing development, comprising of 29 no. residential units, on foot of Reg. Ref. 211032/ABP Ref. ABP-311776-21, and construction has commenced on site. The eastern boundary is proximate to the rear/side boundaries of 4 no. detached one-off houses (Loaker

Lodge, Mountain View, Plunket Villa and Loft House) fronting the R172 Blackrock Road and an agricultural building. Agricultural fields and Nelgeo, a detached dormer bungalow fronting the R172 Blackrock Road, flank the sites southern boundary. The subject sites western boundary abuts the Dundalk Golf Club.

2.0 Proposed Development

- 2.1. A 10-year planning permission was sought for (in summary) a large scale residential development comprising: - (1) 502 no. residential units, ranging in height from 1-3 storeys, comprising of 26 no. 4-bedroom semi-detached houses; 209 no. 3-bedroom terraced and semi-detached houses; 1 no. 3-bedroom bungalow; 214 no. 2-bedroom houses and 52 no. 1-bedroom maisonettes; (2) a 570.7sqm 2-storey creche with associated external play area; (3) public open space (totalling c. 4.69ha of which c. 3.09ha comprises strategic amenity space); (4) vehicular, cyclist and pedestrian access/egress and associated circulation routes (including the construction of new dedicated entrance to the R172 Blackrock Road with a southbound right hand turning lane and a new northbound bus stop, 2 no. new pedestrian access points routes to Bóthar Maol and 1 no. new pedestrian and cycle path access point along the north eastern boundary to Bóthar Maol); (5) 762 no. car parking spaces (including 738 no. residential spaces, 4 no. accessible visitor spaces and 20. no spaces serving the proposed creche); (6) Electric vehicle charging infrastructure; (7) 660 no. bicycle parking spaces (502. no residential spaces; 120 no. visitor spaces; 6 no. long-term spaces for the creche; 16 no. visitor spaces for the creche and 16 no. shared spaces serving the proposed strategic amenity/public open space); (8) Bicycle storage; (9) Bin storage; (10) Photovoltaic roof panels; (11) 6 no. ESB sub-stations; (12) Undergrounding and diversion of existing 10kV and 20kV overhead power lines; (13) Provision of public lighting; (14) Boundary treatments; (15) Equipped play areas; (16) Public art and wayfinding; (17) All hard and soft landscaping; (18) Provision of Sustainable Urban Drainage Systems; (19) 1 no. Type 3 wastewater pumping station and associated 24 hour underground emergency storage tank; and (20) All other site excavation, infrastructure and development works above and below ground.
- 2.2. The 502 no. residential units proposed are provided across 6 no. neighbourhoods. In terms of materials and finishes, the proposed residential units/creche feature brick and render facades and grey roof tiles.

- 2.3. The application was accompanied by an Environmental Impact Assessment Report and a Natura Impact Statement.
- 2.4. A summary of the key site statistics/details of the proposed development are provided in the table below:

Site Area	18.54ha (net area is 13.24ha, excluding the part of the site comprising the main entrance road (0.66ha), H1 Zoned Open Space Land (3.7ha) and areas subject to letter of consent (0.94ha))
Demolition Works	c. 4sqm
No. of Residential Units	502 no. residential units (26 no. 4-bedroom houses; 210 no. 3-bedroom houses; 214 no. 2-bedroom houses and 52 no. 1-bedroom maisonettes)
Non-residential Uses	507.7sqm childcare facility
Part V Provision	101 no. Part V units (52 no. 1-bed units, 30 no. 2-bed units and 19 no. 3-bed units).
Total Gross Floor Area	42,813sqm
Open Space	46,856sqm of public open space (comprising of a 35,284sqm strategic amenity space featuring centrally (including 30,900sqm of H1 zoned land); and 11,572sqm provided across 6 no. open space areas scattered throughout the development)
Car Parking	762 no. in total (738 no. residential spaces, 4 no. accessible visitor spaces and 20. no creche spaces)
Bicycle Parking	660 no. in total (502 no. serving residents, 120 no. serving visitors to the residential units, 6 no. serving the creche staff; 16 no. serving visitors to the creche and 16 no. serving the proposed strategic amenity/public open space)
Density	37.9 units per hectare (based on a net area of 13.24ha)
Height	1-3 storeys
Plot Ratio	0.32
Site Coverage	19.6%

Dual Aspect Apartments	52 no. units (100%)
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2.5. In addition to the standard plans and particulars, the application is accompanied by the following documents/reports:

- Architectural Design Statement
- Schedule of Accommodation
- Housing Quality Assessment
- Planning Report and Statement of Consistency
- Statement of Response to LRD Opinion
- Landscape Design Report
- Arboricultural Impact Assessment
- Traffic and Transport Assessment, including Mobility Management Plan
- Building Life Cycle Statement
- DMURS Statement of Consistency
- Road Safety Audit
- Childcare Demand Report
- Social Infrastructure Audit
- BRE Daylight and Sunlight Assessment and Report
- Appropriate Assessment Screening Report
- Natura Impact Assessment
- Environmental Impact Assessment Report
- Feasibility Certificate and Design Acceptance Certificate

3.0 Planning Authority Opinion

- 3.1. The Planning Authority and the Applicant convened a meeting under Section 32C of the Planning and Development Act, 2000 (as amended), for the proposed Large-scale Residential Development on 28th April 2023. The record of that meeting is attached to the current file.
- 3.2. Further to that meeting, the Planning Authority issued an opinion on 25th May 2023, under Section 32D of the Act, stating that the documents that had been submitted did not constitute a reasonable basis on which to make an application for permission for the proposed LRD.
- 3.3. The following is a summary of the areas/issues which the opinion stated needed to be addressed/documents needing to be submitted to form a reasonable basis for an application for permission:
- An EIAR and a Stage 2 Natura Impact Statement (in Combination Effects needs to be examined as part of the AA and EIAR as notable nearby planning applications are absent from the draft list submitted. Monitoring proposals should be specific and quantifiable, and the content of both reports are required to fully align with each other).
 - Demonstrate that residential units are not at risk of flooding, nor will they exacerbate flooding elsewhere.
 - A School and Childcare Needs Assessment to calculate the actual childcare need in this location.
 - A Statement of Consistency document providing a site analysis and design concept for the scheme addressing the 12 urban design criteria outlined in the Urban Design Manual and the requirements of the County Development Plan.
 - Landscaping proposals regarding boundary treatments, including those along boundaries with existing residences along Bóthar Maol and at the front of the proposed residential units.
 - Consider impacts on residential amenity by way of overlooking/overbearing, in particular in the context of Glebe House from House Nos. 480 and 481.

- Consider impacts on residential amenity of proposed House Type D (Units 1-4) arising from its proximity to the entrance avenue.
- Cut and fill drawings, cross-sections and contextual elevations/streetscapes.
- Infilling of lands should be referenced in the planning application description of development. Infilling of lands including calculations of materials to be imported (if any) should also be identified in the Outline Construction Management Plan.
- A Construction Management Plan.
- A Waste Management Plan.
- A current/valid Confirmation of Feasibility Statement from Irish Water in relation to the proposed development confirming that there is or will be sufficient water network treatment capacity to service the development.
- A phasing plan shall be provided in accordance with Section 14.3.4.3 of the Development Plan.
- The following to address traffic and transport issues: - a Traffic Impact Assessment, evidence that the proposed main entrance onto the Coast Road/Blackrock Road has been designed in compliance with Transport Infrastructure Ireland requirements, a Road Safety Audit Assessment, a revised Site Layout Plan clearly showing sightlines required for entrance onto the 60km p/h stretch of the R172 Blackrock Road, corner radii of 4.3 at the entrance, provision of a footpath on the east side of the R172 Regional Road in addition to the west side, provision of bus stops on both sides of the R172, a formal gateway entry at the R172, bike spaces / placements as part of a Self Service Bike Hire Scheme, investigate the possibility of locating the bus stops further down the R172 outside the red line boundary, re-examine the road layout / horizontal alignments to achieve a 30 km p/h limit within the development, particularly at the section of road as one enters the development, 1.8 metres wide footpaths within the development, and Electric Vehicle charging points for each unit.
- To facilitate assessment of the suitability of design/unit mix/residential Amenity and compliance with standards, the following should be submitted: - a Housing Quality Assessment with house nos. that match the Site Layout Plan; a clear house numbering plan; clarity in relation to the quantum of Public Open Space

provision within the context of Section 13.8.15 of the Development Plan, clarification re the specific play equipment proposed within the three natural play areas, materials/colours of bin storage for the mid-terrace units, an Outdoor Lighting Report for Open Space Areas within the development, a Daylight Analysis and Overshadowing Report, and a Palette of Materials Report.

- Clarification regarding/consistency across the Infrastructure Design Report and the development description in the context of proposals for off-site drainage arrangement at Glenmore Park.
- A more precise timeline for delivery the Coes Road WWPS upgrade works or alternative/temporary solutions (if appropriate) should the prospective applicant wish to proceed with the development in advance of delivery of the upgrade works.
- The following watermain upgrade works: - (i) Upgrade main – Approx. 350m of new 200mm ID main to be laid in Blackrock Road, (ii) Connection main - Approx. 50m of new 200mm ID pipe (green line) main to be laid to connect the site development DMA meter to be installed on this connection and linked up with telemetry online, and (iii) On site storage for the average day peak week demand rate of the commercial section for 24-hour period.
- Upgrade works to extend the length of the Uisce Éireann wastewater network for approximately 870m of rising main to existing 600mm concrete sewer on Hardy's Lane.

4.0 Planning Authority Decision

4.1. Decision

On 23rd January 2024, the Planning Authority refused permission for the following reasons:

- 1. Due to the inadequacy of the information provided with the application, particularly in relation to wastewater disposal, surface water drainage, water flow rate calculations and biodiversity, the Planning Authority is unable to carry out a comprehensive environmental impact assessment of the proposed development*

as required by legislation. Accordingly, to permit the proposed development would be contrary to the proper planning and sustainable development of the area, and in such circumstances the Planning Authority is precluded from granting permission.

- 2. On the basis of the information provided with the application, particularly in relation to waste water disposal, surface water drainage, water flow rate calculations and biodiversity, the Planning Authority 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 European sites Dundalk Bay SAC (000455) and Dundalk Bay SPA (004026) or any other European site, in view of the site's Conservation Objectives. Accordingly, to permit the proposed development would be contrary to the proper planning and sustainable development of the area, and in such circumstances the Planning Authority is precluded from granting permission.*
- 3. Policy Objective HOU 29 of the Louth County Development Plan 2021–2027 (as varied), seeks to ensure that “all new residential developments in excess of 20 residential units provide for a minimum of 30% universally designed units in accordance with the requirements of ‘Building for Everyone: A Universal Design Approach’ published by the Centre for Excellence in Universal Design”. The proposed development provides only 11% universally designed units (53 units) and therefore materially contravenes Policy Objective HOU 29 of the County Development Plan, would set an undesirable precedent for other similar developments in the surrounding area and is contrary to the proper planning and sustainable development of the area.*

4.2. Planning Authority Reports

4.2.1. Planning Reports

- The Louth County Development Plan 2021-2027 (as varied) identifies both residential development and childcare facility as permitted uses on lands zoned A2. The planning application would also comply with the core strategy policies set out therein.

- The proposed development is consistent with national policy in terms of making stronger urban places, planning for urban growth and in providing compact growth. The principle of the proposed development is therefore considered to be acceptable.
- In the context of submissions received which refer to potential material contravention of the Louth CDP 2021-2027, in relation to the location of the proposed creche and other development on “H1 Open Space” zoned lands, the creche and its associated access road and car parking constitute a “Community Facility”, which is an “Open for Consideration” use on H1 zoned lands.
- The proposed development is considered to be a sustainable development of a high quality, which is well designed and provides for a visually attractive development within the urban settlement of Dundalk. It provides for high quality and attractive public open spaces, active and passive recreational areas that are accessible and safe places. It is considered that it will create a distinct sense of place at this location. The site layout has been informed in terms of its coastal setting close to protected EU sites and in proximity to other properties and the overall design, height, position, scale and layout of the proposed development is considered to be acceptable.
- The proposed site density is above the minimum standard required and is considered to be acceptable.
- The proposed development consists of 502 no. residential units spread throughout the site and offering a range of different housing types and sizes. The overall development unit mix and range of unit types proposed is considered to be acceptable.
- In the context of Policy Objective HOU 27, the proposed development provides well in excess of the 6 units (c.1%) required, the 26. No Type A1 maisonettes and 1 no. bungalow proposed all being single storey ground floor units.
- The proposed parking provision is considered acceptable in this instance.
- The proposed development is in compliance with Policy Objective MOV 11 in providing in excess of 20% of the total car parking spaces to have EV charging capacity.

- Having regard to the Development Plan and Apartment Guideline requirements, adequate cycle parking is provided for the proposed development.
- Separation distances of 22m between directly opposing first floor habitable rooms are proposed. This is considered acceptable and complies with the Louth County Development Plan requirements.
- The no. of universally design units provided, as stated in the documentation submitted is 53, and therefore equates to just 11%. This is well below 30%, so is clearly not in compliance with Policy Objective HOU 29 of the Louth CDP 2021- 2027, as varied, in which case the Planning Authority is precluded from granting permission, and so the proposal should be refused for that reason.
- Private amenity space for each house is provided for in the form of a rear garden. They are in accordance with Development Plan standards and are of a size and depth providing usable space for future residents which will not be affected by overlooking or overshadowing.
- Having considered the Childcare Demand Report submitted and its conclusions, the proposed crèche facility is considered to be acceptable. I do not consider that the proposed crèche location is too close to the boundary with Plunket Villa or will have a negative impact on its residential amenity or restrict maintenance of the creche building.
- It is considered that the height strategy incorporated within the proposed development is acceptable at this particular location.
- A total of 26% of the subject site comprises public open space, made up of strategic public open space (c.4.69ha of which c. 3.09ha is zoned H1 Open Space Land) and public open space in the residential lands (c. 1.6 ha zoned A2: New Residential Development Phase 1). The quantum of public open space to be provided is considered acceptable. Landscaping and boundary treatments are generally considered acceptable; however, it is considered that a 2m high block wall should be provided along the northern site boundary in the interest of protecting the residential amenity of all of the existing dwellings along Bóthar Maol. It is considered that these matters can be dealt with by way of condition.

- The maisonette units proposed are considered to meet the requirements of the Apartment Guidelines (2023).
- Five construction phases are proposed, with each including a mix of unit types, public open space and access road. This is considered to be acceptable.
- The design details and locations of the proposed 6 no. ESB Substations within the site are considered to be acceptable.
- Having regard to the layout of the site, I am satisfied that the proposed development will not adversely impact on the residential amenity of existing dwellings by way of overlooking, overshadowing or overbearing impact. The proposed development will not adversely impact on the residential amenity of nearby dwellings given the open and expansive nature of the site, the relatively low level 3-storey maximum height of the buildings and the adequate separation distances provided.
- With regards to the observations received raising issues regarding legal ownership of land included in the red line boundary, the Planning Authority is satisfied that sufficient legal interest as per Article 22(2)(g)(i) of the Planning and Development Regulations, 2001, as amended, to make this application has been demonstrated by the applicant.
- Having regard to the findings of the submitted SSFRA and the report from the Placemaking and Physical Development Section dated 09/01/24, the proposed development is not considered to represent a flood risk.
- A 10-year permission is sought. The EIAR sets out that the development will be constructed over 5 phases each with an 8 to 12 month construction period, giving rise to a total of 47 months. A 7 year permission rather than 10 years is therefore considered more reasonable.
- I am satisfied that the EIAR has been prepared by competent experts to ensure its completeness and quality. However, I am not satisfied that the information contained in the EIAR and supplementary information provided by the developer adequately identifies and describes the direct and indirect effects of the proposed development on the environment, or complies with Article 94 of the Planning and Development Regulations, 2000 (as amended). Due to the

inadequacy of the information provided with the application, particularly in relation to wastewater disposal, surface water drainage, water flow rate calculations and biodiversity, the Planning Authority is unable to carry out a comprehensive environmental impact assessment of the proposed development as required by legislation. Accordingly, refusal is recommended.

- On the basis of the information provided with the application, particularly in relation to waste water disposal, surface water drainage, water flow rate calculations and biodiversity, the Planning Authority 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 European sites Dundalk Bay SAC (000455) and Dundalk Bay SPA (004026) or any other European site, in view of the site's Conservation Objectives. Accordingly, refusal is recommended.

4.2.2. Other Technical Reports

Housing Section (01/12/23): As confirmed in previously issued letter dated 29th August 2023, an agreement in principle was reached in relation to Part V requirements for the acquisition of 101 units.

Placemaking and Physical Development (09/01/24): Recommended that further information be requested in relation to the extents of the agreement with Irish Water on their Confirmation of Feasibility (COF) for Foul Sewer Capacity; the re-aligned Regional Road at the site entrance/the necessary consents for the same; the concerns raised by the Road Safety Auditor relating to the location of the proposed bus stop to the north west of the entrance; works proposed to the junction of Bothar Maol and the R172/the upgrade of Bothar Maol; revisions to carriageway widths/local streets to facilitate vehicles entering & leaving perpendicular parking spaces/residential turning bays/pedestrian crossings' points/the adequacy of stagger distances; the discharge point of the storm water into the Dundalk Bay; the existing drainage channel running north alongside the Regional Road which it is proposed to discharge part of the storm water generated from the site to; and a safety audit of retention ponds / swales proposed.

Environment Section (16/01/24): No objection, subject to conditions.

4.3. Prescribed Bodies

Department of Housing, Local Government and Heritage - Recommended that the following further information be requested in the context of nature conservation:

- 1) *An amended NIS to include an evaluation of the potential of increased scour or erosion of the existing water course within the Dundalk Bay SAC /SPA north east of the R172 Road resulting from the intended discharge of surface water drainage from the proposed development into the water course through a new outfall having adverse effects on QI habitats or species for these European sites; this evaluation to include the establishment of current water flow rates within this water course and the existing outfall to it under the R172 Road from the Phragmites swamp area to the road's inland.*

Reason: *To allow full assessment of the possible effects of the proposed development on the Dundalk Bay SAC /SPA.*

- 2) *An amended Construction Management Plan (CMP) to include details of measures which will be employed to protect existing marsh and wet woodland habitats in the vicinity of the new entrance road into the proposed development from the R172 Road during the construction of the entrance road and associated modification of the layout of the R172.*

Reason: *To conserve habitats of local biodiversity significance which are hydrologically connected to the nearby Phragmites swamp section of the Dundalk Bay SAC.*

- 3) *An amended EIAR Chapter 8. Biodiversity to include an assessment of the usage by otter of the environs of the R172 Road between the entrance to the proposed development onto this road and its junction with Bóthar Maol based on a survey of this area by an otter specialist; this assessment to include if the survey reveals evidence of otter movement across the R172 proposals to maintain the movement in safety of otters across this road into the future by means of an underpass.*

Reason: *To conserve a species, namely otter, which is subject to a system of strict protection under the Habitats Directive (92/43/EEC).*

In the context of archaeology, the recommendations included in the Archaeological, Architectural and Cultural Heritage Chapter of the EIAR are concurred with and there are no further archaeological requirements in respect of the proposed development.

Uisce Eireann – No objection, subject to conditions.

4.4. Third Party Observations

18 no. third party observations were submitted to the Planning Authority. The main issues raised therein are as follows:

- Traffic hazard due to traffic volume and entrance proposed on the R172.
- Methodological issues with the transport assessments contained within the EIAR and TTA.
- “Car centric” development/Inadequate pedestrian and cycle infrastructure.
- Environmentally sensitive site/Ecological impacts of the development.
- Overdevelopment/Unsuitable density & scale of development.
- Negative impact on neighbourhood character.
- Flooding.
- Inadequate amenities/facilities/public transport in the area.
- Residential amenity impacts.
- Noise/air pollution.
- Legal ownership of land/adequacy of consents provided.
- Accuracy of Road Safety Audit.
- Adequacy of NIS/EIAR submitted.
- Inadequate infrastructural capacity.
- Lack of engagement with surrounding residents/Lack of consultation with NPWS.
- Unsuitable SuDS proposal.
- Proposal sets precedent for development of lands to the south.
- Previously granted SHD application for the site was not implemented/Previous SHD permission should not set a precedent for this proposed development being granted.

- Development contrary to the new Louth County Development Plan 2021-2027.
- Lack of LRD meeting pursuant to Section 32C.
- Inconsistency of red line boundary across application plans & material/Accuracy and adequacy of application drawings & material.
- Extent of open space areas used for detention basins.
- LRD ignores observations lodged to the SHD previously.
- Extent of proposed tree removal.
- Devaluation of property.
- Proposed development sets a poor precedent.
- 10-year planning permission is contrary to planning & environmental policy.

5.0 Planning History

5.1. Subject Site

5.1.1. The following applications pertaining to the subject site, or part thereof, are of relevance:

Reg. Ref. 2360330

An application was lodged in September 2023 seeking permission for a Large-scale Residential Development comprising of the following (in summary): - 1. Construction of 502 no. 1-3 storey residential units, comprising 26 no. four-bedroom semi-detached houses, 210 no. three-bedroom terraced houses & semi-detached houses, 1 no. three-bedroom bungalow, 214 no. two-bedroom houses, & 52 no. one-bedroom maisonettes; 2. Construction of a 570.7sqm crèche with associated external play area; 3. Provision of public open space (totalling c.4.69 ha of which c.3.09 ha comprises strategic amenity space) & private open space; 4. Provision of vehicular, cyclist & pedestrian access/egress & associated circulation routes (inc. the construction of new dedicated entrance to the R172 Blackrock Road, with a southbound right hand turning lane & a new northbound bus stop, 2 no. new pedestrian access points routes to Bóthar Maol, & 1 no. new pedestrian & cycle path access point along the north eastern boundary to Bóthar Maol); 5. 762 no. car parking spaces (inc. 738 no. residential car parking spaces, 4 no accessible visitor car parking spaces & 20 no. car parking spaces

serving the proposed crèche); 6. Electric vehicle charging infrastructure; 7. 660 no. bicycle parking spaces (comprising 502 no. residential bicycle parking spaces; 120 no. visitor bicycle parking spaces; 6 no. long-term bicycle parking spaces for the creche; 16 no. visitor bicycle parking spaces for the creche and 16 no. shared bicycle parking spaces serving the proposed strategic amenity / public open space); 8. Bicycle storage; 9. Bin storage; 10. Photovoltaic roof panels; 11. 6 no. ESB sub-stations; 12. Undergrounding & diversion of the existing 10kV and 20kV overhead power lines; 13. Provision of public lighting; 14. Boundary treatments; 15. Equipped play areas; 16. Public art and wayfinding; 17. All hard and soft landscaping; 18. Provision of Sustainable Urban Drainage Systems (SUDS); 19. 1 no. Type 3 Wastewater Pumping Station & associated 24 Hr underground emergency storage tank; and 20. All other site excavation, infrastructure and development works. The application was accompanied by an EIAR and NIS.

This application was subsequently withdrawn in late October 2023.

ABP Ref. ABP-304782-19

The Board granted permission in October 2019 for a Strategic Housing Development involving: - construction of 483 no. new residential dwellings, composed of 258 houses (41 no. 5 bedroom houses, 101 no. 4 bedroom houses and 116 no. 3 bedroom houses) and 225 apartments (6 no. 3 bedroom duplexes with 6 no. 2 bedroom apartments below, 149 no. 2 bedroom apartments and 64 no. 1 bedroom apartments), a crèche and a 3.1 ha public park, served by 824 no. car parking spaces and 512 no. bicycle spaces. The main vehicular, pedestrian and cyclist access for the development was off the R172 on the south-eastern corner, with two other pedestrian and cyclist accesses proposed off Bothar Maol.

To date, this permission has not been acted upon.

5.2. Adjacent Sites

5.2.1. There has been the following recent application on a site immediately adjacent to the subject site that is pertinent to the current proposal.

An Charraig, Bothar Maol, Blackrock, Co. Louth (to the north fronting Bothar Maol)

Reg. Ref. 19641

Permission was granted by Louth County Council in September 2019 for construction of a single storey extension and alterations to the existing dwelling and extension/alterations to garage/shed and associated landscape and ground works.

This permission has been acted upon and the extensions are currently under construction as evidenced during my site visit.

5.3. Sites in the Vicinity

- 5.3.1. There has been the following recent application on a site in the immediate vicinity of the subject site which is of relevance.

The Loakers, Blackrock Road and Bothar Maol, Blackrock, Co. Louth (to the north on the opposite side of Bothar Maol)

Reg. Ref. 211032 (ABP Ref. ABP-311776-21)

Permission was sought for (in summary): - construction of 29 no. residential units, comprising of 18 no. two bedroom apartments and 6 no. three bed apartments (across 2 no. three store-blocks), 4 no. semi-detached two-storey 3-bedroom dwellings and 1 no. detached two-storey, 3-bedroom dwelling; provision of a vehicular/pedestrian access from the Loakers and a pedestrian access onto Bothar Maol; construction of a public pavement along part of Bothar Maol; and all associated site development works including the laying of a new surface water sewer pipe on a section of the Blackrock Road (R172).

Permission was refused by Louth County Council in October 2021. The Planning Authority's decision was subsequently appealed to An Bord Pleanála by a no. of third parties (ABP Ref. ABP-311776-21). The Board, concluding that the proposed development would be acceptable, granted permission in April 2023. Construction has commenced on this neighbouring site as evidenced during my site visit.

6.0 Policy Context

6.1. National Policy

6.1.1. Project Ireland 2040 - National Planning Framework

The National Planning Framework (NPF) is a high-level strategic plan shaping the future growth and development of Ireland to 2040. The NPF includes 75 no. National Policy Objectives. The following objectives are of note in this instance:

NPO 3(a) - Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.

NPO11 - In meeting urban development requirements, there be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

NPO 33 - Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

NPO 35 - To increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

6.1.2. Housing for All – A New Housing Plan for Ireland to 2030 (2021)

A multi-annual, multi-billion euro plan which will improve Ireland's housing system and deliver more homes of all types for people with different housing needs. The overall objective is that every citizen in the State should have access to good quality homes:

- to purchase or rent at an affordable price.
- built to a high standard and in the right place.
- offering a high quality of life.

6.1.3. Climate Action Plan 2023

The Climate Action Plan 2023 implements carbon budgets and sectoral emissions ceilings and sets a roadmap for taking decisive action to halve our emissions by 2030 and reach net zero no later than 2050. By 2030, the plan calls for a 40% reduction in

emissions from residential buildings and a 50% reduction in transport emissions. The reduction in transport emissions includes a 20% reduction in total vehicle kilometres, a reduction in fuel usage, significant increases in sustainable transport trips, and improved modal share.

6.1.4. **Section 28 - Ministerial Guidelines**

The following Section 28 - Ministerial Guidelines are considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- Urban Development and Building Heights - Guidelines for Planning Authorities (2018).
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2023).
- Sustainable Residential Development and Compact Settlements - Guidelines for Planning Authorities (2024).
- Delivering Homes, Sustaining Communities (2007) and the accompanying Best Practice Guidelines - Quality Housing for Sustainable Communities.
- The Planning System and Flood Risk Management, including the associated Technical Appendices (2009).
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- Childcare Facilities, Guidelines for Planning Authorities (2001).
- Cycle Design Manual (2023).

6.2. **Regional Policy**

6.2.1. **The Regional Spatial and Economic Strategy (RSES) for the Eastern and Midlands Area, 2019-2031**

The RSES provides a framework for development at regional level. It encourages the regeneration of our cities, towns and villages by making better use of under-used land and buildings within the existing built-up urban footprint. The site is located in Dundalk which is identified as a 'Regional Growth Centre' within the region. 'Regional Growth Centres' are defined as: - *'large towns with a high level of self-sustaining employment and services that act as regional economic drivers and play a significant role for a wide catchment area'*. Dundalk also forms part of the Dublin-Belfast Economic Corridor

which compromises ‘a nationally important spine connecting the two largest settlements on the island of Ireland via the regional centres of Drogheda, Dundalk and Newry’. The Dublin – Belfast Economic Corridor is identified in this Strategy as a regional growth enabler. The RSES supports the direction of significant population and economic growth towards the key Regional Growth Centres of Athlone, Drogheda and Dundalk. More specifically, a target population of 50,000 by 2031 is identified for Dundalk.

The following Regional Policy Objectives (RPO) are noted in particular:

- RPO 3.2: Promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.
- RPO 4.19: A statutory Urban Area Plan (UAP) shall be prepared by Louth County Council for the Regional Growth Centre of Dundalk in collaboration with the EMRA. The UAP will support the development of Dundalk as an attractive, vibrant and highly accessible Regional Centre and economic driver. The UAP will identify a functional urban area and plan boundary for the plan area and strategic housing and employment development areas and infrastructure investment requirements to promote greater coordination and sequential delivery of serviced lands for development.
- RPO 6.3: Support the effective planning and development of large centres of population and employment along the main economic corridor, in particular Drogheda and Dundalk.

6.3. Local Policy

6.3.1. Louth County Development Plan 2021-2027

Land Use Zoning

The subject site is subject to 3 no. zoning objectives. The majority of the subject site is zoned ‘A2 - New Residential Phase 1’ in the Louth County Development Plan 2021-2027 with a stated objective ‘to provide for new residential neighbourhoods and supporting community facilities.’ Part of the subject site, an area featuring centrally, is zoned ‘H1 - Open Space’ with a stated objective ‘to preserve, provide and improve

recreational amenity and open space.' A small part of the subject site, the piece of land sitting to the west of Coonrah fronting Bothar Maol, is zoned 'A1 – Existing Residential' with a stated objective '*to protect and enhance the amenity and character of existing residential communities*'.

Other Relevant Sections/Policies

The Zoning and Flood Zone Map for Dundalk included in the Louth County Development Plan 2021-2027 places the easternmost part of the subject site (more specially the sites access on to the R172 Blackrock Road), as well as part of Hardys Lane included in the site boundary, within Flood Zones A and B. The Strategic Flood Risk Assessment for the Louth County Development Plan 2021-2027 informs this map.

The Composite Map for Dundalk included in the Louth County Development Plan 2021-2027 identifies the group of Sycamore and Ash Trees located at the junction of Bothar Maol and the Blackrock Road, which includes the trees featuring in the north-eastern corner of the eastern field, as Trees & Woodland of Special Amenity Value (Reference No. TWSAV94).

The following policies are considered relevant to the consideration of the subject proposal:

Section 1.6 Strategic Vision

The following Strategic Vision is outlined for County Louth:

'Promote County Louth, in particular the Regional Growth Centres of Drogheda and Dundalk, as uniquely attractive places in which to live, work, visit and do business and where the quality of employment and educational opportunities, natural and built environment, cultural experiences and provision of inclusive communities are all to the highest standards, while transitioning to a low carbon and climate resilient society'.

Chapter 2 Core Strategy

The Core Strategy & Settlement Strategy set out in Chapter 2 identifies Dundalk as a "Regional Growth Centre" (a Level 1 Settlement). It is targeted to grow to city scale with a population of 50,000 by 2031 and capitalise on its strategic location along the Dublin-Belfast Economic Corridor. A variation to the CDP was adopted on 18th July

2022 and the revised figures for Dundalk indicate a housing allocation of 2,606 units up to 2027.

Section 2.14.8 Strategic Settlement Strategy Policy Objectives for Dundalk: Policy Objective SS 25

To 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.

Section 2.11.1 Overarching Strategic Policy Objectives for the County

The following overarching strategic policy objectives are outlined for the County:

- **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.*
- **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.*
- **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.*
- **CS 4:** *To apply phasing to the delivery of new residential development as indicated on the zoning maps for the applicable settlements, whereby residential development, other than infill, brownfield or mixed use development will generally only be permitted on Phase 1 lands. Where lands zoned 'New Residential Phase 1' are not being brought forward for development in particular areas and this is impeding the achievement of Core Strategy projections and restricting the growth of the settlement as envisaged in national and regional policy, consideration may be given to releasing during the lifetime of this Plan appropriately located 'New Residential Phase 2' lands, subject to the lands contributing to compact and consolidated patterns of development.*
- **CS 5:** *To support the progression and delivery of projects that would facilitate the creation of vibrant, sustainable communities and the rejuvenation of towns and*

villages, including any project to be funded by the Urban or Rural Regeneration and Development Fund.

Section 3.6 Sustainable Neighbourhoods and Communities: Policy Objective HOU 10

To continue to support the creation of sustainable communities throughout the County for people across all the life stages by facilitating the creation of attractive neighbourhoods where there are strong links and connections to local services, community facilities and employment areas and where walking, cycling, and public transport is prioritised.

Section 3.11 Densities: Policy Objective HOU 15

To 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.

Section 3.14 Creating a Well Designed Place

The following Policy Objectives are outlined in the context of creating a well designed place:

- **HOU 19:** *To enhance and develop the fabric of existing urban and rural settlements in accordance with the principles of good urban design including the promotion of high quality well-designed visually attractive main entries into our towns and villages.*
- **HOU 20:** *To require a design led approach to be taken to sustainable residential development in accordance with the 12 urban design principles set out in the 'Urban Design Manual – A Best Practice Guide (2009)' and any subsequent guidance, to ensure the creation of quality, attractive, and well connected residential areas and neighbourhoods.*
- **HOU 22:** *To require residential developments to prioritise and facilitate walking, cycling, and public transport and to include provision for links and connections to existing facilities and public transport nodes in the wider neighbourhood.*
- **HOU 23:** *To require the layout of residential developments to take account of the Design Manual for Urban Roads and Streets (2019) in the provision of pedestrian*

and cycling infrastructure and crossing points and the design of estate roads and junctions.

- **HOU 24:** *To require the provision of high quality areas of public open space in new residential developments that are functional spaces, centrally located, and passively overlooked.*
- **HOU 25:** *All new residential and single house developments shall be designed and constructed in accordance with the Development Management Guidelines set out in Chapter 13 of this Plan.*

Section 3.15 Dwelling Mix and Adaptable Homes

The following Policy Objectives are outlined in the context of dwelling mix and adaptable homes:

- **HOU 26:** *To require the provision of an appropriate mix of house types and sizes in residential developments throughout the County that would meet the needs of the population and support the creation of balanced and inclusive communities.*
- **HOU 27:** *To require the provision of single storey properties in residential developments in excess of 100 units at a rate of at least 1% single storey units per 100 residential units unless it can be demonstrated by evidence based research carried out by an appropriately qualified professional that there is no demand for this type of accommodation.*
- **HOU 28:** *To encourage innovation in design that delivers buildings of a high quality that positively contribute to the built environment and local streetscape.*
- **HOU 29:** *To seek that all new residential developments in excess of 20 residential units provide for a minimum of 30% universally designed units in accordance with the requirements of 'Building for Everyone: A Universal Design Approach' published by the Centre for Excellence in Universal Design.*

Section 3.16.1 Infill, Corner and Backland Sites

The following Policy Objectives are outlined in the context of infill, corner and backland sites:

- **HOU 32:** *To encourage and promote the development of underutilised infill, corner and backland sites in existing urban areas subject to the character of the area and environment being protected.*

- **HOU 33:** *To promote the use of contemporary and innovative design solutions subject to the design respecting the character and architectural heritage of the area.*

Section 4.11 Childcare Facilities: Policy Objective SC 35

To support and facilitate the sustainable provision of childcare facilities in appropriate and suitable locations and seek their provision concurrent with new residential development, all having regard to the Childcare Facilities Guidelines for Planning Authorities (2001) and Childcare Regulations (2006) and any subsequent guidelines, in consultation with the Louth County Childcare Committee.

Section 8.3 European Sites in County Louth

The following Policy Objectives are outlined in the context of European Sites in County Louth:

- **NBG 3:** *To protect and conserve Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) designated under the EU Habitats and Birds Directives. Policy Objective*
- **NBG 5:** *To ensure that no plan, programme, or project giving rise to significant cumulative, direct, indirect or secondary impacts on European sites arising from their size or scale, land take, proximity, resource requirements, emissions (disposal to land, water or air), transportation requirements, duration of construction, operation, decommissioning or from any other effects shall be permitted on the basis of this Plan, either individually or in combination with other plans, programmes or projects.*
- **NBG 6:** *To ensure a screening for Appropriate Assessment (AA) on all plans and/or projects and/or Stage 2 Appropriate Assessment (Natura Impact Report/ Natura Impact Assessment) where appropriate, is undertaken to make a determination. European Sites located outside of the County but within 15km of the proposed development site shall be included in such screenings as should those to which there are pathways, for example, hydrological links for potential effects.*

Section 8.11.2 Trees and Woodlands of Special Amenity Value: Policy Objective NBG 30

To protect trees and woodlands of special amenity value. Review and where appropriate make Tree Preservation Order(s) in relation to trees of special amenity value.

Section 13.8.4 Density and Plot Ratio

A recommended minimum density of 35 and plot ratio of 1 is outlined for edge of settlement sites in Dundalk.

Section 13.8.11 Boundary Treatment

Boundary treatments in residential developments shall consist of the following:

- i. The rear boundary shall consist of a 2 metre high block wall;*
- ii. Side boundaries between properties shall be 2 metres in height. If timber boundaries are to be used they must be bonded and supported by concrete posts;*
- iii. Walls bounding any public areas shall be rendered and capped on both sides; and*
- iv. Front boundaries along the estate road and between properties shall be agreed as part of the planning application. They can be open plan, planted, consist of a low-level wall or railing, or as otherwise agreed with the Planning Authority.*

Section 13.8.15 Public Open Space

Public open space within a development shall normally equate to 15% of the total site area.

Section 13.8.16 Play Facilities in Residential Developments

Developments of 50 units or more shall include proposals for the provision of a dedicated children's play area designed to the satisfaction of the Planning Authority.

Section 13.8.17 Private Open Space

New dwellings and apartments shall be provided with a functional area of private open space as set out in the table overleaf (Table 13.4):

Unit Type	Town Centre and Infill / Brownfield Locations	Greenfield / Suburban Locations
Dwelling	Minimum private open space requirement (m ²)	Minimum private open space requirement (m ²)
1-2 Bedroom	50	60
3 or More Bedrooms	60	80
Apartments and Duplexes	See table 13.5	

Section 13.8.18 Car and Cycle Parking

New dwellings and apartments shall be provided with car and cycle parking spaces as set out in the tables below (Tables 13.11 and 13.12):

Car Parking Requirement			
Development Type	Area 1	Area 2	Area 3
Residential Dwelling	1 per unit	1 per unit	2 per unit
Apartment	1 per Apartment	1 per Apartment	2 per Apartment
Creches	1 per 6 children		

Cycle Parking Requirement		
Development Type	Long Term	Short Term
Apartment, Flat, Sheltered Housing	Minimum of 1 cycle space per bedroom. For studio units at least 1 cycle space	1 space per 2 units
Residential dwelling	1 space per unit	1 space per 5 units
Creche	1 space per 5 staff	1 space per 10 children

Section 13.8.20 Public Art

Public Art in a development can positively contribute to the design quality of a development and assist in creating a sense of place. In residential developments in excess of 100 units, developers will be encouraged to include proposals for a piece of art that reflects the heritage of the area.

6.3.2. Proposed Variation No. 2 to the Louth County Development Plan

Louth County Council is proposing to make a Variation (Variation No. 2) to the Louth County Development Plan 2021-2027. The purpose of the variation is to update the County Development Plan to accord with the new Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities 2024.

Public consultation on the variation took place between 27th March 2024 and 26th April 2024. At the time of writing this report, the variation had not been adopted and will be considered in the context of this application.

6.3.3. Dundalk Local Area Plan 2024-2030

Consistent with the requirements of Regional Policy Objective 4.19 included in the Regional Spatial and Economic Strategy (RSES) for the Eastern and Midlands Area, 2019-2031, Louth County Council have commenced preparation of a Local Area Plan for Dundalk.

Stage 1 of public consultation on the draft Local Area Plan took place between 1st June 2023 and 30th June 2023. At the time of writing this report, Stage 2 of public consultation had not commenced.

7.0 The Appeal

7.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- In the context of the first refusal reason, the LRD application was accompanied by all relevant and required information, including within the EIAR and NIS, to enable a complete and robust assessment of any potential environmental impacts. This information did in fact include the required particulars of wastewater disposal, surface water drainage, water flow rate calculations and biodiversity, referenced in refusal reason 1. Supplementary plans and information are provided within this appeal to further illustrate this point and, for completeness, to respond to the further information that had been recommended but not requested.

- In the context of the second refusal reason, the LRD application was accompanied by all relevant and required information, including within the EIAR and NIS, to enable a complete and robust assessment of any potential impacts on European Sites. This information did in fact include the required particulars of wastewater disposal, surface water drainage, water flow rate calculations and biodiversity, referenced in refusal reason 2. Supplementary plans and information are provided within this appeal to further illustrate this point and, for completeness, to respond to the further information that had been recommended but not requested.
- In the context of refusal reason 3, the seven principles of universal design were employed across the entire site, including in relation to specific units (House Type G and maisonettes - 11%) noted as satisfying objective HOU 29 requirements as endorsed at the LRD Section 32C meeting. In response to refusal reason 3, the internal configuration of House Types B, C and F has been improved with reference to the Universal Design Guidelines to further demonstrate compliance with Policy HOU 29. Revised plans/a revised HQA, prepared by John Fleming Architects, accompany the appeal submission.
- There is an extant SHD permission on the lands that remains available to be implemented. The proposed development builds and improves upon this extant SHD permission. Many of the matters raised by this planning appeal have already been determined by the Board as part of the SHD decision. The LRD application has further reduced many of the potential environmental effects. The LRD retains the overall layout, access and drainage arrangements from the extant SHD, increases residential density, 'own door' units, public open space, and cycle provision, while reducing car parking and surface water flow.
- The applicant has worked closely with Louth County Council through the LRD pre-application process to design a development that is in conformity with the Louth County Development Plan 2021-2027 and refined in response to items raised by the LRD pre-planning process and the findings of the expert planning application design team.
- The applicant initially lodged an LRD application in September 2023, but this was subsequently withdrawn. The current LRD application differs from this original

LRD application, as it requests a 10 year duration, corrects errors discovered in the context of the initial LRD application and adopting a more flexible approach to the wastewater delivery strategy. It appears that the elements of the assessment completed by Louth County Council in relation to the current LRD application are in fact related to the previously withdrawn LRD application.

- No Louth County Council internal departments or statutory consultees recommended refusal of the planning application. The Environment and Housing Sections of Louth County Council and Uisce Eireann had no objection to the proposed development, subject to conditions. Other internal departments and statutory consultees recommended that further information be requested. No such further information request was issued.
- Reasons for refusal of the LRD application remain in our view, without substance or foundation and relate to matters readily available for scrutiny in the application pack, as updated by this planning appeal. In light of this context and grounds together with the evidence provided in the remainder of this statement, the applicant respectfully requests that the Board overturn the decision of Louth County Council to refuse planning permission and that conditional planning permission be granted.
- Surface water from the development is proposed to discharge at current Greenfield rates from 2 no. separate proposed outfall locations into the Irish Sea at Dundalk Bay, representing an improvement over the extant SHD permission.
- Wastewater from the proposed development will drain northwards to the existing Coes Road Pumping Station prior to being pumped to the Dundalk wastewater treatment plant. This is, in principle, the same arrangement as the extant SHD permission. A 10-year permission has been sought to enable the flexible delivery of a wastewater solution for the site, allowing sufficient time for infrastructure to be completed in advance of occupation of the development.
- The planning merits of the development include it is aligned with the Louth County Development Plan 2021-2027, it builds and improves upon the extant planning permission, it provides a mix of high quality residential properties, it achieves medium density development, it adopts a landscape-led approach to development, it provides a creche to support residents of the development and

the wider area and it provides improved infrastructure in terms of vehicles, cyclists and pedestrians.

- The assertion by Louth County Council that the Construction Management Plan and Operational Waste Management Plan have a number of discrepancies such as reference to the River Liffey, Kildare County Council etc. is not correct. The Construction Management Plan and Operational Waste Management Plan accompanying the subject application do not include such references. It appears that Louth County Council are referring to the versions of these documents submitted with the previously withdrawn LRD application rather than the current LRD application that is the subject of this appeal.
- Further to the revised plans/HQA previously mentioned, the appeal submission is accompanied by the following:
 - In response to the matters raised by Louth County Council's Placemaking and Physical Development Section in relation to roads, the appeal is accompanied by a response to the further information items outlined and drawings, prepared by Donnachadh O'Brien & Associates Consulting Engineers.
 - In response to the matters raised by Louth County Council's first and second refusal reason regarding Biodiversity, the appeal is accompanied by a statement on biodiversity.
 - In response to the matters raised by Louth County Council's first refusal reason, the appeal is accompanied by a compliance statement regarding the submitted EIAR, prepared by Turley.
 - In response to the matters raised by Louth County Council's second refusal reason, the appeal is accompanied by a compliance statement regarding the submitted NIS, prepared by Enviroguide Consulting.
 - In response to the matters raised by Louth County Council in their first and second refusal reasons regarding wastewater disposal, surface water drainage and water flow rate calculations, the appeal is accompanied by a set of statements/analysis, calculation sets, flood maps and additional

drawings/sections prepared by Donnachadh O'Brien & Associates Consulting Engineers, Finn Design Partnership and IE Consulting.

7.2. Planning Authority Response

- The issues raised in the appellants appeal statement in relation to the merits of the LRD proposal, the reasons for the proposed 10-year permission, the extant SHD permission on the site, the contents of the application, EU sites, environmental impacts, wastewater, surface water drainage, water flow rates, biodiversity, traffic, universal design, referrals, submissions, road matters and government guidelines have already been considered in detail by the Planning Authority in the comprehensive planners report prepared for the initial application. The Planning Authority reiterates its opinion and recommendation to refuse planning permission for the subject development.

7.3. Observations

There were 8 valid observations on the first-party appeal lodged (as detailed at the front of this report). The issues raised therein are amalgamated and summarised below/underleaf under the following headings:

Zoning of Land/Principle of Development/Material Contravention

- In accordance with the Dundalk and Environs Development Plan 2008-2015, development of this Residential Zone 2 land should not occur until Residential Zone 1 land has been developed.
- This application comes on the back of an SHD application which was previously granted but should not have been due to the landlocked/un-serviced nature of the site. This site should never have been zoned for such development.
- The proposed development materially contravenes the Louth County Development Plan 2021-2027 in the context of the proposed creche being included on H1 - Open Space Zoned lands and the flood risk management objectives contained therein. Further to this, the proposal does not include supporting facilities as required by the 'A2 - New Residential Phase 1' Zoning.

Access, Traffic & Transportation

- The development is heavily car-dependent.
- This site is poorly served by public transport.
- The location of the proposed bus stop is considered unsuitable, as it would impact on an area being maintained by the Tidy Towns, will negatively impact upon sightlines from the development entry and of neighbouring properties, is within the revised Natura 2000 site area and the concern raised in the Road Safety Audit has not been addressed. It should be positioned within the scheme.
- Traffic hazard/danger to cyclists and pedestrians created on the R172 as a result of this development, particularly in the absence of traffic calming measures and the inadequacy of pedestrian/cycle infrastructure.
- The applicants planning report incorrectly claims an existing entrance to the east. No such entrance exists along the R172 currently. The construction of these dwellings will exacerbate existing traffic issues.
- The proposed development entrance off the R172 is unsuitable, due to the resultant additional traffic being added to an already busy road and it being on a flood plain. The additional traffic generated by this development in conjunction with the lack of suitable pedestrian/cyclist infrastructure will exacerbate dangers to pedestrians/cyclists.
- The proposed development incorporates removable bollards along the cyclist/pedestrian access to Bothar Maol which it is stated will facilitate emergency access. This proposal is not supported by any statement of intended use/method of regulation and is clearly open to abuse. In stating that only vehicular/cycle access is provided to Bothar Maol, the application is misleading.
- The veracity of the Transport Assessment and Road Safety Audit accompanying the application is questioned given the absence of collision data for the applicable section of road. The relevant information could have been gotten by way of a freedom of information request but the applicant failed to do so. The collision information sourced by this observer in this manner indicates that this section of road is unsuitable for such a development to be introduced. The submission made by the TII indicates that insufficient data has been submitted to

demonstrate that the proposed development will not have a detrimental impact on the capacity, safety or operational efficiency of the national road network in the vicinity of the site.

- An existing stone wall will impact on the provision of the re-aligned footpath along the R172. The applicant details that a portion of the applicable stone wall will be removed to facilitate the proposed footpaths. However, it is unclear from the application material if the necessary consents are in place for such works. The applicant has failed to address concerns pertaining to land ownership to address pedestrian and vehicular safety.

Environmental/Biodiversity

- The subject site is in close proximity to the SPA/SAC. Alternative sites should be selected for such a development in light of this.
- The proposed development physically encroaches on adjacent Natura 2000 sites which is inappropriate/will have an undesirable impact on the environment and on birdlife/wildlife/endangered species, including wild Irish hares and bats.
- As the planning application is framed by the applicant as an update to the previous SHD scheme, concerns arise as to whether the applicant has fully environmentally assessed/whether the Board has sufficient and sufficiently updated evidence-based reports to appropriately assess and to environmental impact assess this LRD scheme.
- The pumping of surface water from the site in to the adjacent SAC will have a negative impact on the natural environment and biodiversity.
- The EIAR is inadequate and contains insufficient and inaccurate information. Similarly, the submitted Appropriate Assessment Screening Report and NIS are incomplete and fails to demonstrate that the proposed development will not have a detrimental impact on Natura 2000 sites. No new EIAR or NIS has been submitted with the appeal. Given the deficiencies and failings of these two application reports form the substantive basis for the refusal decision, the failure to include wholly updated EIAR and NIS reports represents a significant shortcoming of this appeal.

- The wetland area immediately around the proposed entrance on to the R172 was not included in the NIS and AA assessments. The applicable area regularly sees buzzards and is breeding grounds for frogs.
- The developers have not fulfilled their legal obligations in relation to notifying National Parks and Wildlife Service of the details of the proposed development. In the absence of such consultation, it is difficult to argue that the NIS and or EIAR meets statutory requirements regarding their preparation.
- Amended drawings may be required to setback all works from the SAC/SPA boundaries.
- Upon review of the Construction Management Plan, it is clear that the author has just swapped the words 'Dundalk Bay' for 'River Liffey' and the mitigation measures are not specific to this site. It should be disregarded, as well as the EIAR.
- The applicant claims that their appeal submission addresses the report of the Department of Housing, Local Government and Heritage. However, this consultee report recommended that otters be protected, and an underpass be provided under the R172. No such underpass features in the scheme and the applicant does not have the necessary consents to facilitate its provision.
- The extent of tree removal proposed is considered excessive and unjustified.
- The site and its trees are home to bats and this is not adequately addressed. Also, the surveys carried out regarding migratory birds are insufficient.

Infrastructure/Services

- Uisce Eireann indicate that they will not consider developing the Coes Road pumping station until at least 2027 and Louth County Council have indicated that they will not be carrying out any facilitatory infrastructure works in the next 10 years. Given the uncertainty regarding infrastructure provision, this development should not be approved.
- There is insufficient infrastructural/social facility/school capacity to accommodate the proposed development.

- The proposed development directs surface water across neighbouring private property and also proposes to raise the level of the adjacent R172 which also has implications in terms of surface water drainage for adjacent properties. Both matters have not been appropriately considered in the application/appeal material. The application/appeal also fails to assess how surface water is currently dealt with on neighbouring sites and how the subject proposal could impact upon this. Also, the applicant was not afforded access to the neighbouring land in question, so the validity of statements made about the condition of the channel/drawings and section prepared for the channel are questioned. It is contended that the flow of surface water through this neighbouring property will exacerbate flooding already occurring on site.

Scale, Design and Layout

- A Large Scale Residential Development is unsuitable in this location.
- Development of this scale/height will have a negative impact on the community/the activities of the Tidy Towns.
- The extent of topographical changes by way of cut and fill, excavation, road level changes, raising of house levels, digging out of attenuation tanks and detention basins is contrary to the Development Plan.

Amenities

- The proposed development constitutes over development and would have negative impacts on surrounding properties.
- The creche, pumping station and parking area proposed adjacent to the eastern boundary are too close to neighbouring properties and will have negative effects on residential amenity. They should be pushed westwards.
- The extent of open space areas used for detention basins requires review. The level of attenuation tanks/detention basins proposed results in a substandard quality of public and communal open space.

Flooding

- The negative effect of draining the entire site onto the adjacent floodplain has not been considered in the context of adjacent properties (which are at a lower level) or its effect on Natura 2000 sites.
- The application has not considered the planned CFRAM sea defences in relation to flooding.
- The proposal to alter the water course along the eastern boundary of the site adjacent to the R172 and to use this as an outfall for its surface and flood waters is strongly objected to. The applicable water course flows through neighbouring land and no consent has been provided from the applicable neighbours for this aspect of the proposal (or alterations to their entrance/boundary fence erection) and concern is raised regarding potential flooding of neighbouring properties.

Other Issues

- It is understood that permission has not been secured in the context of consent/wayleaves.
- The development description and public notices are inadequate. Furthermore, the absence of Blackrock in the address advertised is misleading.
- The previous SHD scheme granted on the site has limited time left for implementation and no basis for an extension of time. This is a wholly new planning application, and it must be assessed as such. The previous SHD decision has no standing regarding current applications assessment. The applicant and Louth County Council placed unlawful reliance on pre-consultation pertaining to the previous SHD scheme.
- There are discrepancies in the red line boundary included across the planning application material. The applicants red line boundary fails to include: - all foul drainage proposals, the surface water discharge point and route of the surface water through neighbouring land (parallel to the R172) and the extent of the area of works which will be required to drain the marsh at the proposed scheme entrance onto the R172.
- Depreciation in the value of neighbouring property.

- A poor precedent is set by the proposed development.
- The 10-year permission sought is contrary to planning and environmental policy and will have long term negative impacts in terms of construction traffic on the adjacent busy road.
- The applicants appeal submission includes drawings showing revisions to house type B and a new bus stop proposed which were not included in the original planning application.
- In the context of the proposals put forward to address refusal reason no. 3, as planning permission is not required to alter the internal layout of a dwelling once granted permission, there is no way to condition these 'internal' alterations.
- The applicant seeks to argue that LCC is incompetent as they assessed the withdrawn LRD application instead of the current LRD application. This claim has been reviewed and found to have no basis.
- The refusal reasons of LCC are agreed with and it is felt that there are additional refusal reasons merited in this instance. Furthermore, it is considered that refusal reasons pertaining to the prematurity of the proposals pending certain foul drainage arrangements being in place with Uisce Eireann and Louth County Council, surface water agreements being in place with Louth County Council, adequate permissions being in place from neighbours to carry out the works and the surface water drainage proposals, and the proposed main entrance location being confirmed to exclude likely significant impacts on the SPA and SAC are also warranted.
- The application does not comply with the requirements of the Planning and Development Regulations, 2001 (as amended), in terms of the particular to be provided with the application in respect to the proposed development. In particular, they do not provide sufficient or any detail with respect to the detail and the extent of subterranean structures.

7.4. Further Responses

- None.

8.0 Assessment

This assessment is divided into three main parts: - planning assessment, appropriate assessment and environmental impact assessment. In each assessment, where necessary, I refer to the issues raised by appellant, the Planning Authority, Prescribed Bodies and observers.

8.1. Planning Assessment

As part of the grounds of appeal, the applicant submitted additional information and revised plans in response to the Planning Authority's reasons for refusal of planning permission. This additional information/revised plans included the following:

- A response (including drawings) to the further information items referenced in the Louth County Council's Placemaking and Physical Development Section, prepared by Donnachadh O'Brien & Associates Consulting Engineers.
- A statement on biodiversity, prepared by Turley.
- A compliance statement regarding the submitted EIAR, prepared by Turley.
- A compliance statement regarding the submitted NIS, prepared by Enviroguide Consulting.
- A set of statements/analysis, calculation sets, flood maps and additional drawings/sections prepared by Donnachadh O'Brien & Associates Consulting Engineers, Finn Design Partnership and IE Consulting.
- Revised plans for House Types B, C and F and a revised Housing Quality Assessment, prepared by John Fleming Architects.

The revised plans submitted for House Types B, C and F include amendments to the internal layout to achieve universal design. The applicants ask that they be read in conjunction with the original reports/material submitted with the planning application. It is noted that the revised plans submitted with the appeal introduce no new elements or issues which may be of concern to third parties in the context of the proposed development. Accordingly, this assessment is based on the plans and information received by Louth County Council on 21st November 2023 as amended by further plans and particulars received by the Board on 19th February 2024.

From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key planning considerations relevant to the appeal are:

- Principle of Development/Zoning
- Housing Mix and Compliance with Policy Objective HOU 29
- Density
- Design and Layout / Visual Impact
- Site Services, Surface Water and Flooding
- Access, Traffic and Parking
- Residential Amenity of Adjoining Properties/Amenity of the Adjoining Golf Course
- Residential Amenity of Proposed Development
- Open Space and Tree Retention
- Other Matters

8.1.1. Principle of Development/Zoning

The site is located within the development boundary of the town of Dundalk that is identified as a 'Regional Growth Centre' in the Eastern and Midland Regional Assembly - Regional Spatial and Economic Strategy, 2019-2031 (the RSES), with a focus on directing significant population and economic growth towards the key Regional Growth Centres of Athlone, Drogheda and Dundalk. The RSES identifies a target population for Dundalk of 50,000 by 2031. More specifically, the Core Strategy included in the Louth County Development Plan 2021-2027 (as varied) indicates a housing allocation of 2,606 units up to 2027 for Dundalk. The proposed development assists with the realisation of these targets.

In terms of land use zoning, the majority of the appeal site is zoned 'A2 - New Residential Phase 1' in the Louth County Development Plan 2021-2027 with a stated objective '*to provide for new residential neighbourhoods and supporting community facilities.*' Upon review of the plans submitted, it would appear that the dwellings and creche building proposed are located within the part of the site subject to this zoning objective. Under the 'A2 - New Residential Phase 1' land use zoning objective,

residential development and childcare facilities are generally acceptable in principle subject to the proposed development being acceptable in terms of its impact on the visual amenities of the area and the established residential amenities of properties in its vicinity. These matters are considered the subsequent sections of this report.

The car parking area and outdoor play space associated with the proposed creche are located on an area of 'H1 - Open Space' zoned land featuring centrally on the subject site. This zoning has a stated objective '*to preserve, provide and improve recreational amenity and open space.*' The observation received from Aoife and John Henry contends that the provision of the proposed creche on 'H1 - Open Space' zoned land materially contravenes the Louth County Development Plan 2021-2027. 'Community facility' is listed as an open of the open for consideration use set out under the 'A2 - New Residential Phase 1' zoning objective. I am satisfied that a creche constitutes a community facility and therefore this aspect of the proposed development does not constitute a material contravention of the 'H1 - Open Space' zoning objective. Section 13.21.2.2 of the Louth County Development Plan 2021-2027 states that uses listed as 'Open for Consideration' may be acceptable where the proposed development would be compatible with the overall policy objectives for the zoning category, would not have undesirable effects on the 'generally permitted uses' or conflict with other aspects of the Plan, and would otherwise be consistent with the proper planning and sustainable development of the area. Given the parking/outdoor play area associated with the proposed creche occupy such a limited amount of the 'H1 - Open Space' zoned land on the subject site, I do not consider that it will have an undesirable effect on the 'generally permitted uses' under this zoning objective. Given the proposed creche will serve residents of the development and the surrounding area, I consider it to be consistent with the proper planning and sustainable development of the area. The remainder of the 'H1 - Open Space' zoned land comprises a strategic amenity space consistent with the zoning objective.

The Childcare Facilities Guidelines for Planning Authorities (2001) state that, in the context of new housing areas, a standard of one childcare facility providing for a minimum 20 childcare places per approximately 75 dwellings is recommended. The proposed development includes the provision of a childcare facility with a stated floor area of 570.7sqm and which can accommodate 120 no. pre-school children between the ages of 1-6. In the context of the proposed creche, the application was

accompanied by a Childcare Demand Report, prepared by Turley. Given the proposed development includes 450 no. houses (2+ bedroom units only having regard to the guidance included in the 2023 Apartment Guidelines) capable of accommodating families, I consider the proposed creche to be consistent with the 2001 Guidelines in terms of no. of places and to address the projected demand for childcare services associated with the proposed development. Upon review of the plans, I also consider the outdoor play area provided to be appropriate, as well as the car parking area, to be suitable for parking/drop-off and collection (the appropriateness of the no. of car parking spaces provided will be considered later in this report in Section 8.1.6). It is noted that the south-eastern elevation, included on Drawing No. HGG-CR-ZZ-JFA-AR-P4002 submitted with the planning application, does not accurately reflect external door leading from Room 5 detailed on the ground floor plan. This discrepancy can be dealt with by way of condition. Subject to the inclusion of such a condition, I consider the nature and location of the proposed creche to be appropriate in this instance. I note, the Planning Authority raised no issues of concern in relation to the proposed creche.

8.1.2. Housing Mix and Compliance with Policy Objective HOU 29

Section 3.15 of the Louth County Development Plan 2021-2027 outlines a number of Policy Objectives in the context of dwelling mix and adaptable homes. The proposed 502 no. residential units comprise of 26 no. 4-bedroom semi-detached houses, 209 no. 3-bedroom terraced and semi-detached houses, 1 no. 3-bedroom bungalow, 214 no. 2-bedroom houses and 52 no. 1-bedroom maisonettes. The dwellings proposed come in a variety of sizes and configurations. I am satisfied that the that the proposed development provides an appropriate mix of house types and sizes, as required by Policy Objective HOU 26, and will support the creation of a balanced and inclusive community. Policy Objective HOU 27 requires the provision of single storey properties in residential developments of 100+ units at a rate of at least 1% per 100 residential units. The proposed development includes 26 no. ground floor single floor level maisonettes and 1 no. bungalow which equates to 5.4% of the proposed dwellings and thus complies with this policy requirement.

The Planning Authority's third refusal reason relates to Policy Objective HOU 29 of the Louth County Development Plan 2021–2027. More specifically, they contend that the

proposed development, which provides only 11% universally designed units (53 units), will materially contravene this policy and set an undesirable precedent for other similar developments in the surrounding area. The applicant argues that the seven principles of universal design were employed across the entire site and the proposal for 11% universally designed units was deemed to satisfy Policy Objective HOU 29 requirements at the LRD Section 32C meeting. In response to refusal reason 3, the appeal is accompanied by revised plans/a revised HQA, prepared by John Fleming Architects, which alter the internal configuration of House Types B, C and F with reference to the Universal Design Guidelines to further demonstrate compliance with Policy Objective HOU 29.

I would form a contrary view to the Planning Authority in relation to the proposed development materially contravening Policy Objective HOU 29. From my reading of Policy Objective HOU 29, the use of the terminology 'to seek' as distinct from 'shall' or 'must' would seem to suggest that there is no mandatory requirement for a development to provide 30% universally designed units, but rather that proposals should endeavour to provide this quantum of universally designed units. 30% universally designed units have not been proposed, but rather 11%. Although contrary to the requirements of Policy Objective HOU 29, I do not deem the provision of 11% universally designed units to materially contravene this policy objective.

I note that the applicant has submitted revised plans for House Types B, C and F which include an amended internal layout that is in accordance with the requirements of 'Building for Everyone: A Universal Design Approach' published by the Centre for Excellence in Universal Design. House Type B equates to 26 no. units, House Type C to 60 no. units and House Type F to 27 no. units. When combined with the proposed maisonettes, a total of 166 no. universally designed units would be achieved, equating to 33% of the overall total units proposed and meeting the requirements of Policy Objective HOU 29. Upon review of revised plans/HQA submitted, I am satisfied that the revised layouts put forward for House Types B, C and F to achieve universally designed units involve minimal changes to the exteriors of these units and provide a suitable level of internal amenity to prospective residents of the same. The adoption of these revised internal layouts in the context of House Types B, C and F could be easily addressed by way of condition thus satisfying the requirements of Policy

Objective HOU 29 and resolving the issues raised in the Planning Authority's third refusal reason.

8.1.3. **Density**

Observers on the appeal contend that the density/scale of the proposed development is not in keeping with the area and is more appropriate for a Dublin site. The 18.54ha site involved in the subject appeal comprises of two fields and stretches of the R172 Blackrock Road, Bothar Maol and Harveys Lane. The fields forming part of the subject site equate to 17.6Ha of land and have three zonings applying to them - 'A2 - New Residential Phase 1', 'A1 – Existing Residential' (the residentially zoned land totalling 13.9Ha) and 'H1 - Open Space' (3.7Ha). Excluding the 'H1 - Open Space' zoned land and the part of the site comprising the main entrance road (0.66ha), the developable area within this site is 13.24Ha. Based on 502 no. residential units, this results in a density of 37.9 units per hectare.

Section 13.8.4 of the Louth County Development Plan 2021-2027 recommends a minimum density of 35 for edge of settlement sites in Dundalk. The densities outlined in the current Development Plan are informed by national and regional policy, including the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities, 2009. In the intervening time since the Louth County Development Plan 2021-2027 was adopted and the planning application was prepared/lodged, the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities have been introduced. These 2024 Guidelines replace the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (2009). As discussed previously in Section 6.3, Louth County Council is proposing to make a Variation (Variation No. 2) to the Louth County Development Plan 2021-2027 to update the County Development Plan to accord with the new Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities 2024. Section 3.3.2 of the 2024 guidelines refers to Regional Growth Centres. Having regard to the location of the subject site, I am of the opinion that it could be considered to be a Suburban/Urban Extension Area within the Regional Growth Centre of Dundalk. As outlined in Table 3.4, residential densities in the range 35dph to 50dph (net) shall generally apply at suburban and edge locations in Regional Growth Centres.

At 37.9 units per hectare, the density of the proposed development falls within the range specified for locations such as this, be it on the lower side of the range specified. The Louth County Development Plan 2021-2027, in Section 3.11, states that '*whilst it is an objective of this Plan to support higher densities, this will take account of the capacity of the lands to accommodate this type of development, the location of the lands and public transport accessibility*'. Similarly, Section 3.4 of the 2024 Guidelines state that '*the density ranges set out in Section 3.3 should be considered and refined, generally within the ranges set out, based on consideration of centrality and accessibility to services and public transport; and considerations of character, amenity and the natural environment.*' Given the subject site is located c. 3km from the town of Dundalk, the limited availability of public transport along the R172 Blackrock Road and the suburban/low density character of the surrounding built form on Bothar Maol and the R172 Blackrock Road, I am satisfied that the proposed density is appropriate in this instance. In addition, and as will be documented in the subsequent sections, I am of the view that the proposed density could be achieved on this site without compromising the character and residential amenity of the area it is to be located within. I note that Louth County Council considered the proposed density to be acceptable.

8.1.4. Design and Layout / Visual Impact

The subject site comprises of 2 fields and a strip of land extending from the easternmost field to the R172 Blackrock Road. The site is irregular in shape and generally the two fields fall from west to east, with a c. 16m level difference between the highest point in the westernmost field and the lowest point in the easternmost field. The proposed development comprises the construction of 502 no. residential units and a creche in the two fields, accessible via a vehicular entrance off the R172 Blackrock Road provided through the strip of land extending eastwards. A pedestrian access point and a pedestrian/cyclist access point are also provided off Bothar Maol to the north of the site. To provide for appropriate levels, it is proposed to cut and fill sections of the site, as illustrated in the sections accompanying the application. In terms of road layout, the development comprises a series of local streets/cul-de-sacs leading off an arterial road encircling a large open space area provided centrally on site. Louth County Council's Placemaking and Physical Development Section raised some

concerns about the widths/layout of the carriageways and local streets within the development in the context of the requirements of DMURS and Recommendations for Site Development Works for Housing Areas (published by the Department of the Environment and Local Government) among other things and recommended that further information be requested in this regard. As part of the grounds of appeal, the appellant submitted a document and plans, prepared by Donnachadh O'Brien & Associates Consulting Engineers, in response to items raised by the Planning Authority's Placemaking and Physical Development Section in their commentary on the application. This document includes a specific section outlining the proposals consistency with the requirements of DMURS and Recommendations for Site Development Works for Housing Areas. I am satisfied with the street/road layout proposed having regard to the information accompanying the application/the supplementary information accompanying the grounds of appeal.

As previously discussed, a large open space area is to be provided as part the subject development. More specifically, this large strategic amenity space (Loakers Park) features centrally extending westwards from the site's eastern boundary, with 6 no. additional public open space areas scattered throughout the development. The scheme has been designed in such a way that open space areas proposed are overlooked by a no. of dwellings with direct frontage to the same or dual aspect corner units, which is welcomed. The scheme features a variety of residential units with 8 no. different typologies proposed, of which 1 would be detached, 6 would be semi-detached and 1 would be terraced (the appropriateness of the proposed houses in terms of residential amenity is considered subsequently in Section 8.1.8). The scheme is designed around 6 no. character areas – Mothar Maol, Cooley View, Bayview Crescent, Maol Green, Deeer Park and Pine Square, all of which feature a mix of the 7 no. different typologies proposed (the proposed bungalow being located in Mothar Maol).

More specifically, Mothar Maol is generally located in the north-eastern part of the site and comprises of 4 no. 3 storey semi-detached dwellings, 30 no. 2 storey semi-detached dwellings, 37 no. 2 storey terraced dwellings, 8 no. maisonette units, and 1 no. bungalow, which have an outlook across part of Loakers Park and the open space area featuring at the pedestrian/cycle access off Bothar Maol. Cooley View is generally

located in the south-eastern part of the site and comprises of the proposed creche and 6 no. 3 storey semi-detached dwellings, 26 no. 2 storey semi-detached dwellings, 37 no. 2 storey terraced dwellings and 4 no. maisonette units, which have an outlook across part of Loakers Park. Bayview Crescent is located at the centre of the site and comprises of 16 no. 3 storey semi-detached dwellings, 58 no. 2 storey semi-detached dwellings, 52 no. 2 storey terraced dwellings and 8 no. maisonette units, which have an outlook across Loakers Park. Pine Square is generally located in the south-western part of the site and comprises of 34 no. 2 storey semi-detached dwellings, 32 no. 2 storey terraced dwellings and 16 no. maisonette units, which have an outlook across an open space area featuring centrally. Deer Park is located adjacent to the western boundary (centrally) and comprises of 30 no. 2 storey semi-detached dwellings, 32 no. 2 storey terraced dwellings and 4 no. maisonette units, which have an outlook across an open space area featuring centrally. Maol Green is generally located in the north-western part of the site and comprises of 26 no. 2 storey semi-detached dwellings, 29 no. 2 storey terraced dwellings and 12 no. maisonette units, which have an outlook across an open space area featuring centrally and the open space area featuring at the pedestrian access off Bothar Maol.

All house typologies are contemporary in design with similar elevational treatments. A variety of brick types are proposed to differentiate the character areas. The finished floor levels and ridge heights are varied throughout the development in response to the natural topography of the site, which has informed the layout. Given the high-quality design and layout of the scheme and the landscaping proposals for the subject site, it is my view that the proposed development represents a reasonable response to its context and the topography of the site and would support the consolidation of the urban area.

The question that arises is whether the proposed development is appropriate in the context of the development currently featuring on adjoining sites/the character of the surrounding area. The surrounding area is generally characterised by low density suburban housing, agricultural fields and recreational land uses (Dundalk Golf Course). The site is currently devoid of development, comprising 2 no. agricultural fields which are delineated by tree lined hedgerows. In terms of residential abutments, the subject site is located immediately south of 14 no. detached single and double

storey houses fronting Bothar Maol and immediately west of 4 no. detached single and double storey houses fronting the R172 Blackrock Road and a 1.5-2 story agricultural building. Further north, on the opposite side of Bothar Maol, construction of 2 no. three storey blocks of apartments (comprising 24 apartments in total) and 5 no. two storey houses has commenced on foot of Reg. Ref. 211032/ABP Ref. ABP-311776-21. The majority (423 no.) of the houses proposed comprise semi-detached and terraced double storey houses and all of the maisonettes proposed are provided within double storey buildings. The development also includes one bungalow. This is similar to the predominant form of residential development in the immediate area. The remaining 26 no. dwellings proposed are 3 storey semi-detached dwellings, located centrally on the subject site and scattered amongst the double storey dwellings proposed. The proposed development will sit comfortably in the context of the existing and permitted residential estates/properties featuring to the north and east of the subject site, particularly having regard to the building heights/palette of materials proposed. The scale of development proposed, and in particular the inclusion of 3 storey dwellings, is considered appropriate in this instance, given the site's location on the edge of a Regional Growth Centre, current national planning policy guidance which encourages a greater mix of building height/types and the intensification of built form occurring in the immediately surrounding area, noting the three storey apartment blocks currently being constructed on foot of Reg. Ref. 211032/ABP Ref. ABP-311776-21.

Turning my attention to the proposed development's presentation to Bothar Maol and the R172 Blackrock Road. Due to the unusual shape of the subject site (the majority of the subject site sitting behind the previously referenced houses fronting Bothar Maol and the R172 Blackrock Road, the subject site's street frontage to both Bothar Maol and the R172 Blackrock Road is limited (c. 30 metres and a combined total of c. 72 metres, respectively). Due to the positioning of the proposed dwellings/creche to the rear of these neighbouring dwellings and the provision of public open space areas immediately proximate to the 2 no. pedestrian/cycle access points proposed off Bothar Maol/the access road proximate to the vehicular access point off the R172 Blackrock Road, as well as the retention of existing hedgerows/vegetation, there would be limited views of the proposed dwellings from the R172 Blackrock Road to the east/north-east and Bothar Maol to the north of the site. This is clearly illustrated by Aerial View, CGIs and Verified Views (more specifically verified photomontages prepared in the context

of Viewpoints 1, 3 and 5), prepared by 3D Design Bureau, which accompany the application.

More broadly, the proposed development would extend Dundalk's built-up area further south-eastwards, replacing agricultural fields on the periphery of the town with a suburban residential estate. This is in keeping with planned growth for the town, Dundalk having been identified as a Regional Growth Centre in the Regional Spatial and Economic Strategy (RSES) for the Eastern and Midlands Area, 2019-2031, and the Louth County Development Plan 2021-2027. In broader visual terms, views of the site from the wider area would not be significant/would be obscured by existing structures and trees/vegetation featuring proximate. This is clearly illustrated by Aerial View, CGIs and Verified Views, more specifically verified photomontages prepared in the context of Viewpoints 2, 6, 8 and 10, prepared by 3D Design Bureau. These verified views show the existing situation/the proposed development as viewed from the R172 Blackrock Road (further north), the Village Green Housing Estate, New Golf Links Road and Gyles Quay Pier (located to the north-east across Dundalk Bay), respectively. I would be of the view that the overall visual impact of the proposed development can be adequately absorbed at this location and would be acceptable in the context of the visual amenities of the area.

8.1.5. Site Services, Surface Water and Flooding

Site Services/Surface Water

Water Supply: - the proposed development will be served by a new 200mm diameter looped watermain with 150mm and 100mm diameter spurs. This 200mm watermain will connect to the existing water supply on the R172 Blackrock Road to the east of the development. Currently, the watermain featuring along the R172 Blackrock Road is 100mm diameter. This existing watermain is proposed to be upgraded to a 150mm diameter/its capacity increased as part of a current investment plan project which is due to be completed by Q1 in 2024. Uisce Eireann have confirmed, in their Confirmation of Feasibility, that a connection can be facilitated upon completion of these upgrade works.

Wastewater Drainage: - Wastewater from the new development will be collected via a main wastewater drainage network located within the road network around the

proposed development, discharging by gravity to a new 189sqm wastewater pumping station located adjacent to the subject site's eastern boundary. There is no existing wastewater drainage infrastructure on or in close proximity to the subject site. Therefore, it is proposed to install a new 110mm internal diameter rising main along the public roads, more specifically Bothar Maol, the R172 Blackrock Road and Finnabair Crescent, and/or lands in charge of Louth County Council which will connect to the existing gravity network featuring in Finnabair Crescent, approximately 0.8km north-west of the subject site. From there, it will drain northwards to the existing Coes Road Pumping Station prior to being pumped to the Dundalk Waste Water Treatment Plant. The Confirmation of Feasibility issued by Uisce Eireann indicated that upgrade works are required to the existing Coes Road Pumping Station to increase its capacity/allow for this connection.

One of the main contentions raised by observers to the first party appeal in relation to the servicing of the proposed development is that it is premature pending foul drainage arrangements being in place with Uisce Eireann and Louth County Council. It is argued that completion of the works required at the Coes Road Pumping Station are still some years away and in the absence of the necessary infrastructure the subject proposal should be refused. The Confirmation of Feasibility issued by Uisce Eireann indicated that the necessary upgrade works are to be carried out as part of an ongoing Uisce Eireann project and it is estimated that they will be completed in 2027. The appellant argues that the proposed 10-year permission sought provides adequate time for this infrastructure to be completed in advance of construction of the 502 no. residential units and the creche commencing. Alternatively, they contend that capacity in the existing Coes Road Pumping Station network catchment could alternatively be provided through water improvement works undertaken by Louth County Council, funded through the Louth County Council Development Contribution Scheme 2023, in advance of the scheduled upgrade works in 2027. I do not consider the alternative proposal put forward to be viable in light of the commentary provided by Louth County Council, more specifically the Placemaking and Physical Development Section, which clearly indicates that they have no plans regarding the carrying out of such upgrades. In the context of the upgrade works being carried out as part of an ongoing Uisce Eireann project, as they are estimated to be completed in 2027, I am satisfied that the relevant issues in relation to wastewater drainage capacity will be resolved in a timely

manner. I do not consider the subject proposal is premature in this regard. With regards to the 10-year permission sought by the applicant, I consider such a duration of permission appropriate in this instance as it will ensure sufficient time for the provision of this necessary infrastructure in advance of construction, as well as due to the scale of development proposed. I am satisfied that the applicant can provide for suitable water supply and foul drainage to serve the proposed residential units/creche.

On a related note, I note that the observation received from John and Aoife Henry raised concerns about the proximity of the pumping station proposed on site to neighbouring properties. They argued that it should be pushed westwards. The proposed pumping station is setback 15.2 metres from the site's eastern boundary, 29.6 metres from the creche proposed as part of this development and c. 66 metres from the closest neighbouring dwelling. The buffer provided is consistent with the requirements set out in the Uisce Eireann Code of Practice for Wastewater Infrastructure (2020), at Section 5.5.

Surface Water Drainage: - It is proposed to collect and manage surface water through a suite of Sustainable Urban Drainage System (SUDS) measures (including bioretention basins, bioswales, bioretention tree pits, filter drains, permeable paving and a petrol / oil separator), prior to discharge to Dundalk Bay. Discharge to Dundalk Bay will be via 2 no. routes: - via a new headwall constructed along an existing drain to the north-east of the main site area, and via an existing drainage channel in the eastern part of the site, adjacent to the proposed development entrance. Concerns have been raised by the Planning Authority, the Department of Housing, Local Government and Heritage and observers on the first party appeal about both of these routes.

Turning our attention to the first of these routes (the existing drain to the north-east of the main site area), I note that Louth County Council's Placemaking and Physical Development Section recommended that additional information be requested in relation to this discharge point into the Dundalk Bay, including the headwall location (there are inconsistencies on location between engineering and architectural drawings), maintenance access arrangements, clarification if the outfall structure acts as a flap valve to prevent high tides progressing upstream and design calculations to verify if this piped network will be positively surcharged during storm events. Given the Planning Authority refused permission, no such request for further information was

issued. In response to the Placemaking and Physical Development Section commentary, the appeal submission notes the following:

- The location of the stormwater discharge to Dundalk Bay is illustrated on Engineering Drawings No. 2268-DOB-XX-SI-DR-C-0200 and 2268-DOB-XX-SI-DR-C-0202, submitted with the application.
- The headwall location is illustrated on Engineering Drawings No. 2268-DOB-XX-SI-DR-C-0200 and 2268-DOB-XX-SI-DR-C-0202 and further elaborated upon in Engineering Drawing No. 2268-DOB-XX-SI-DR-C-0256, all submitted with the application.
- Maintenance access arrangements to the headwall are shown on Engineering Drawing No. 2268-DOB-XX-SI-DR-C-0256 submitted with the application.
- Wall mounted flaps are provided to the normal level and high-level overflow surface water discharges are illustrated on Drawing No. 2268-DOB-XX-SI-DR-C-0256 submitted with the application.
- Design calculations are provided within Appendix B of the Infrastructure Design Report submitted with the application, and are also provided with the appeal, which demonstrate that surface water arising from the site discharges at the allowable greenfield runoff rate (there being no increase in the baseline discharge rates).

Having regard to additional information accompanying the appeal, the suite of SUDS measures utilised and the greenfield runoff rate of discharge proposed, I am satisfied this comprises an appropriate route for surface water drainage and that the discrepancies that exist between the engineering and architectural drawings could be addressed by way of condition, if the Board was inclined to grant permission in this instance.

Turning our attention to the second of these routes, the existing drainage channel in the eastern part of the site. The Infrastructure Design Report submitted with the application notes that there is no existing formal surface water drainage on site with the exception of an existing watercourse, which is evident along the eastern boundary adjacent to the R172 Blackrock Road. This watercourse has been a point of contention among both the Planning Authority and observers on the first party appeal. Louth

County Council's Placemaking and Physical Development Section noted that they have no records of this drainage network alongside the R172 Blackrock Road and recommended that the following additional information be requested: - location plans, longitudinal sections, pipe diameters, gradients, cover/invert levels and eventual discharge point including pipe diameters and gradients both upstream and downstream of this proposed connection; and demonstration of the adequacy of capacity of this culvert/condition to cater for this flow and will not affect the drainage on the Regional Road. Given the Planning Authority refused permission, no such request for further information was issued. In response to this commentary, the appeal submission was accompanied by Engineering Drawing No. 2207-ENG-400, prepared by Finn Design Partnership, which illustrates the location, longitudinal sections, pipe diameters, gradients, cover/invert levels and eventual discharge point including pipe diameters and gradients both upstream and downstream of the proposed connection. Further to this, and as mentioned previously, they noted that design calculations are provided within Appendix B of the Infrastructure Design Report submitted with the application which demonstrate that surface water arising from the site discharges at the allowable greenfield runoff rate (there being no increase in the baseline discharge rates).

During my site inspection, the drainage channel referred to in the Infrastructure Design Report and proposed as a surface water drainage route could be clearly observed running northwards adjacent to the R172 Blackrock Road's western edge (although culverted in parts to accommodate access to neighbouring properties), as illustrated in the site visit photographs accompanying this report. Having regard to the additional information accompanying the appeal, the suite of SUDS measures utilised and the greenfield runoff rate of discharge proposed, I am satisfied this comprises an appropriate route for surface water drainage in the context of the proposed development.

The observation on the first party appeal, received from John and Aoife Henry, strongly objects to the use of this existing drainage channel as an outfall for surface waters. They argue that the applicable water course flows through neighbouring land and consent has not been provided by the applicable landowners (in this case John and Aoife Henry) for this aspect of the proposal. In the context of this aspect of the concerns raised regarding this route, I refer to the Development Management

Guidelines for Planning Authorities, as well as the role of the Local Authority to carry out development in its functional area. Section 5.13 of the Development Management Guidelines for Planning Authorities states that the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. In this regard, it should be noted that, Section 34(13) of the Planning and Development Act, 2000 (as amended), states that a person is not entitled solely by reason of a permission to carry out any development. Should planning permission be granted and should the appellants or any other party consider that the planning permission granted by the Board cannot be implemented because of landownership or title issue, then Section 34(13) of the Planning and Development Act, 2000 (as amended), is relevant.

The proposed surface water drainage arrangements in the context of the adjacent Natura 2000 sites and the environment will be considered further in Sections 8.2 and 8.3 of this report, respectively.

Flood Risk

In terms of assessing potential flood risk, I would note that the Guidelines for Planning Authorities: Planning System and Flood Risk Management (2009) which sets out a sequential test for assessing flood impact. The proposed residential development would constitute a highly vulnerable development in accordance with the Table 3.1 of these guidelines. Table 3.2 of the guidelines outlines that such highly vulnerable development is appropriate in areas falling within Flood Zone C and in Flood Zones A and B subject to the passing of a Justification Test. These Guidelines require that development is avoided in areas at risk of flooding, unless the development can be justified on wider sustainability grounds and the risk can be reduced or managed to an acceptable level. A sequential test for assessing flood impact is set out therein. In terms of local planning policy, the Zoning and Flood Zone Map for Dundalk included in the Louth County Development Plan 2021-2027 places the part of the site where vehicular access is to be provided to the R172 Blackrock Road within Flood Zones A and B. This part of the site will be subject to tidal/coastal flooding during extreme flood events. Further to this, pluvial flooding has been found to occur in parts of the subject site due to the overland flows of surface water runoff.

As previously discussed in Section 3 of this report, the LRD Opinion issued by Louth County Council raised some concerns/requested additional information in relation to flood risk on the subject site and at neighbouring properties. More specifically, in relation to pluvial flooding currently occurring on the subject site, flow to receiving waterways or storm sewers, storm water drainage sewer design, the retention of excess floodwater from the 1 in 100 year flood on site, the retention capacity of storm water retention facilities proposed on site, the adequacy of the infiltration system/below ground to deal with storm water infiltration, stormwater discharge in to Dundalk Bay and the potential for the raising of the R172 Blackrock Road/access road to exacerbate flooding elsewhere. I note, a no. of the observations received on the first party appeal have raised concerns about the suitability of the proposed vehicular entrance on a flood plain and the increased risk of flooding to neighbouring properties (which are at a lower level) arising from the proposed alterations to the R172 Blackrock Road, namely the proposed alterations to its vertical realignment along the site frontage.

In terms of flood mitigation, the proposed development includes the following measures (in summary):

- In the context of pluvial flood risk: - localised depressions where pre-development pluvial flooding occurs will be removed through cut and fill of the existing topography; the floor levels of the proposed dwellings are 500mm above the top water level of the on-site attenuation structures; a dedicated underground surface water drainage network which intercepts/collects surface water run-off arising from rainfall-generated overland flows from post-development hardstanding areas such as roofs, roads and footpaths is provided; a significant pluvial flow path through the site will be the intercepted/piped through the development site before being discharged at the north-eastern corner into an existing open channel that flows into the estuary; and flow paths adjacent to the proposed vehicular entrance will be intercepted by a series of drainage channels/pipes that will be installed below/adjacent to the new roadway before being discharged into the wetlands to the north of the roadway.
- In the context of tidal/coastal flood risk: - the proposed dwellings/creche are to be located in Flood Zone C; and the vertical alignment of a c. 185-metre-long section of the R172 Balckrock Road along the site frontage is to be raised.

The application was accompanied by a Site Specific Flood Risk Assessment, prepared by Finn Design Partnership, as well as a Site Specific Flood Risk Assessment Hydraulic Analysis prepared by IE Consulting. These modelled the following scenarios to assess existing and potential resultant flood risk:

- In the context of coastal/tidal flooding: - 0.5% AEP (1 in 200 year) for the Present Day Scenario; 0.1% AEP (1 in 1000 year) tidal event for the Present Day scenario; and 0.5% AEP (1 in 200 year) Mid-Range Future Scenario; and
- In the context of pluvial flooding: - 1% AEP (1 in 100 year) rainfall Present Day scenario event; 0.5% AEP (1 in 200 year) rainfall Present Day scenario event and an extreme 1% AEP (1 in 100 year) Mid-Range Future Scenario event.

Further to this, the Infrastructure Design Report, prepared by Donnachadh O'Brien Consulting Engineers, included an assessment of the potential for pluvial out-of-manhole flooding occurring from the proposed surface water drainage network for the site.

The Flood Risk Assessments submitted assessed the consequences of on and off-site impacts in detail for a range of scenarios and found flood risk to/from the proposed development to be low and concluded that the proposed development is not expected to adversely impact to the hydrological regime of the area/increase flood risk elsewhere and is therefore considered to be appropriate from a flood risk perspective. Further to this, the Infrastructure Design Report demonstrates that no pluvial "out-of-manhole" flooding occurs on the site for all storms up to and including a 1:100-year storm event, plus a 20% allowance for climate change. I note that the Planning Authority, in the Planners Report, indicated that they were satisfied that the matters pertaining to flooding raised in the LRD Opinion had been dealt with satisfactorily in the application material submitted. Upon review of the material submitted with the application, I would draw a similar conclusion in the context of flood risk.

With regards to the appeal site, I am satisfied that potential pluvial and tidal/coastal flooding has been appropriately mitigated against in the context dwellings and creche given the surface water drainage arrangements adopted, the floor levels adopted and their positioning entirely within Flood Zone C. Given the works proposed to the R172 Blackrock Road, I am also satisfied that suitable emergency access/egress is achieved in the context of the dwellings/creche proposed, consistent with the

requirements of the Guidelines for Planning Authorities: Planning System and Flood Risk Management (2009). As detailed in the Infrastructure Design Report, prepared by Donnachadh O'Brien and Associates, the bollards featuring at the pedestrian/cyclist access point to Bothar Maol can be removed to facilitate supplementary access to the subject site should an extreme flood event occur which renders access from the R172 Blackrock Road unavailable. In the context of the neighbouring property, I am satisfied that there is no increase in tidal/coastal or pluvial flood risk as a consequence of constructing the proposed access roadway/altering the vertical alignment of the R172 Blackrock Road and construction of the proposed dwellings/creche. Therefore, the proposed development does not create unreasonable additional flood risk for adjoining third-party properties.

8.1.6. Access, Traffic and Parking

Access & Traffic

The proposed development entails the construction of 502 no. dwellings and a creche. Vehicular access to the development is provided via a new road traversing the strip of land extending eastwards which connects to the R172 Blackrock Road. Currently, the subject site's frontage to the R172 Blackrock Road is devoid of a vehicular/pedestrian entry point. Vertical and horizontal realignment of a section of the R172 Blackrock Road along the site frontage is proposed to facilitate the creation of a priority junction/dedicated right turn lane at the proposed vehicular access point as well as facilitate safe access/egress during a flood event. (The appropriateness of the proposed vertical alignment in the context of the flood plain, as well as matters raised by the Planning Authority/observers in this regard, were previously considered in Section 8.1.5. Similarly, the appropriateness of the works associated with the proposed entrance being carried out in/adjacent to the Natura 2000 sites/concerns raised by observers about the same is subsequently considered in Section 8.2 of this report.) It is also proposed to upgrade/realign the existing public footpath featuring on the western side of the R172 Blackrock Road adjacent to the proposed vehicular entrance, provide a new northbound bus stop on the R172 Blackrock Road to the north of the proposed site entrance, and to amend/regularise the junction of Bothar Maol and the R172 Blackrock Road. The application was accompanied by a Transport Assessment, prepared by SYSTRA Ltd; a Stage 1 and 2 Road Safety Audit, prepared by Bruton

Consulting Engineers Ltd; a DMURS Statement of Consistency and a Designer's Response to Road Safety Audit, both prepared by Donnachadh O'Brien and Associates.

The observations on the first party appeal received raise a no. of concerns about the proposed entrance/the associated works. They consider the proposed vehicular access to be unsuitable given the R172 Blackrock Road is an already busy/dangerous road and the proposal will exacerbate existing traffic issues, particularly in the absence of traffic calming measures and in light of the inadequacy of pedestrian/cycle infrastructure along the applicable stretch of road. In the context of the proposed bus stop and footpath works, the observers contend it will negatively impact upon sightlines from the development entry/entries of neighbouring properties and that an existing stone wall impedes its provision, respectively. I note that the Placemaking and Physical Development Section of Louth County Council raised concerns about the re-alignment of the road at the site entrance/the necessary consents for the same; the Road Safety Auditor feedback in relation to the location of the proposed bus stop; and works proposed to the junction of Bothar Maol and the R172/the upgrade of Bothar Maol; and recommended that further information be requested in this regard. Given the Planning Authority's decision to refuse permission, a further information request was not issued in the context of the subject application. As part of the grounds of appeal, the appellant submitted a document and plans, prepared by Donnachadh O'Brien & Associates Consulting Engineers, in response to items raised by the Planning Authority's Placemaking and Physical Development Section in their commentary on the application. Each aspect of the proposed entrance works is considered in turn below.

Turning our attention firstly to the introduction of the proposed vehicular entrance to the R172 Blackrock Road and the realignments of the road (a c. 185 metre long section of road along the site frontage) required to facilitate the creation of the proposed vehicular access point. The proposed vehicular entrance will provide access to 762 no. car parking spaces associated with the proposed development (as will be discussed later in this section of my report, I am recommending that car parking provision be slightly increased - to 782 no. in total). In terms of the volume of traffic generated, the application is accompanied by a Transport Assessment, prepared by Systra. This, among other things, estimates traffic generated by the subject proposal

utilising the TRICS database V7.9.4, having regard to 2016 Census data for the area (more specifically for the for the four Census 'Small Areas' closest to the site) and the Climate Action Plan 2023. The demand analysis carried out suggests that the development is expected to generate 536 two-way person trips in the AM peak hour, and 421 two-way person trips in the PM peak hour (the peak hour in the afternoon is between 15:00 and 16:00, which is likely to be related to school travel). New traffic demand to/from the development has been distributed through the surrounding road network based upon the traffic splits observed in surveys carried out in March 2023. Capacity assessments have been undertaken at the Rock Road / Sandy Lane priority junction, the Rock Road / Old Golf Links Road priority junction and the R172 Blackrock Road / Finnabair Crescent priority junction, as well as at the site access junction on R172 Blackrock Road. All junctions tested are predicted to remain within capacity when development traffic is added to future flows. The report concluded that *'the traffic impacts of the development are likely to be modest, and that the roads and junctions in the area can accommodate the predicted increase in traffic'*.

Although the proposed site entrance is a new introduction along this section of the R172 Blackrock Road, in light of the priority junction/dedicated right turn lane provided at the proposed vehicular access point and the width/nature of the applicable section of the R172 Blackrock Road, as well as the sightlines and the public footpath improvements provided for (both of these items are discussed further in the subsequent paragraphs), I consider the proposed site entrance to be appropriate in this instance. Upon review of the information submitted with the application, I am satisfied that the traffic that would be likely to be generated by the proposal would be capable of being accommodated on the R172 Blackrock Road and the surrounding road network more broadly. I am satisfied, having regard to the material submitted with the application, that the proposed development will not pose an unacceptable level of traffic hazard or unduly impact on the carrying capacity of/cause an unreasonable increase in congestion on the surrounding road network and junctions.

Louth County Council's Placemaking and Physical Development Section was concerned that the proposed road realignment will impact on the visibility sightlines of the residential entrances to the north-west (these concerns were shared by a number of observers on the first party appeal also). They also queried if the applicant/developer had all necessary rights and/or permissions from third party

landowner(s) to facilitate the provision of the necessary sightlines, as well as the footpath works proposed. In response to this aspect of the commentary provided by the Placemaking and Physical Development Section, the appeal submission is accompanied by Drawing No. 2268-DOB-XX-SI-DR-C-0585, prepared by Donnachadh O'Brien & Associates Consulting Engineers, which illustrates adequate 65m sightlines available from the 2 no. neighbouring properties to the immediate north of the proposed vehicular entrance. In the context of the query raised regarding necessary rights or permissions, the appellant contends that the portion of existing stone wall required to be removed to facilitate the visibility splays for neighbouring properties, as well as the continuity of the realigned footpath, is within the appellants legal ownership, or has consent from Louth County Council to provide the same. I note that the Planner Report noted that the Planning Authority is satisfied that sufficient legal interest as per Article 22(2)(g)(i) of the Planning and Development Regulations, (2001) as amended, to make this application has been demonstrated by the applicant. I note that as stated in Section 5.13 of the Development Management Guidelines for Planning Authorities, the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. In this regard, it should be noted that, Section 34(13) of the Planning and Development Act, 2000 (as amended), states that a person is not entitled solely by reason of a permission to carry out any development. Should planning permission be granted and should the appellants or any other party consider that the planning permission granted by the Board cannot be implemented because of landownership or title issue, then Section 34(13) of the Planning and Development Act, 2000 (as amended), is relevant. If the Board is disposed towards a grant of permission, I recommend that a note be attached to any such grant noting that a person is not be entitled solely by reason of a permission to carry out any development.

It is proposed to upgrade/realign the existing public footpath featuring on the western side of the R172 Blackrock Road along the site frontage. This aspect of the proposed development is welcomed. In the context of this aspect of the proposed development, I note that Louth County Council's Placemaking and Physical Development Section queried if the existing stone wall, featuring to the north of the subject site, will impact on the provision of this re-aligned footpath. It was suggested that if the wall remains

in-situ, pedestrians movement will be restricted and they will have to step out onto the public road. In response to this commentary, the document prepared by Donnachadh O'Brien & Associates Consulting Engineers, which accompanies the grounds of appeal, notes that a portion of the applicable stone wall (c. 3.2 metres in length) is being removed to provide continuity between the proposed realigned/upgraded footpath and the existing footpath featuring further north. It also notes that the applicable section of wall is within the applicant's ownership. As per the preceding paragraph, as in all such cases, the caveat provided for in Section 34(13) of the Planning and Development Act, 2000 (as amended), applies which stipulates that a person shall not be entitled solely by reason of a planning permission to carry out any development. I also note the provisions of Section 5.13 of the Guidelines for Planning Authorities - Development Management, 2007, in this regard.

It is proposed to introduce a bus stop the north-west of the proposed site entrance. The Placemaking and Physical Development Section of Louth County Council raised concerns about the Design Team not having adequately addressed concerns regarding visibility when the buses are stopped etc. raised by the Road Safety Auditor during the application's preparation. For ease of reference, I note the applicable commentary of the Road Safety Auditor (Bruton Consulting Engineers) read as follows: - *"intervisibility issues are likely to occur for vehicles leaving the development to the left which will obscure vehicles entering the right turning lane. Drivers who exit the development to the left may try to overtake the bus resulting in an increased risk of a head on collision with vehicles entering the right turning lane. In addition, drivers travelling towards Dundalk on the R172 may attempt to pass out a stationary bus using the right turning lane. There is however limited stopping sight distance to the north due to the bank in the western verge. This could lead to head-on collisions"*. It went on to recommend that the bus stop be either relocated to a more appropriate location or that the bus stop be made 'off-line'. In response to this aspect of the Placemaking and Physical Development Section's commentary, the document prepared by Donnachadh O'Brien & Associates Consulting Engineers, which accompanies the grounds of appeal, notes this is the only suitable location available given the constraints of existing private property entrances north and south of the access and that despite initial concerns, the Road Safety Auditor went on to accept the proposed bus stop as originally proposed as indicated by the signed Road Safety Auditor

Feedback Form following a response provided/arguments made by the applicant in their Designer's Response to Road Safety Audit. The applicable argument was as follows (in summary): - the proposed bus stop is consistent with the NTA guidance regarding the preferred layout/siting of the bus stops in rural areas included in their "Guidance on Bus Stop Locations in Rural Areas" and that mitigation measures (a continuous single line and 'no overtaking signs') have been adopted in accordance with Section 5 of the NTA Guidance Note to alleviate matters raised in the audit, therefore it should be kept in line and not inset. The applicant expresses a preference that the bus stop remains as per the original proposal, however, the appeal submission is accompanied by an alternative option (comprising an off-line layout), included on Engineering Drawing No. 2268-DOB-XX-SI-DR-C-0590, for the Board's consideration.

While I appreciate the Road Safety Auditor's eventual acceptance of the bus stop as originally proposed, I would welcome the provision of an 'off-line' bus stop in this particular instance having regard to the busy nature of this stretch of the R172 Blackrock Road and the volumes of traffic entering/exiting the subject site given the scale of proposed development. Further to this, the provision of an 'off-line' bus stop also addresses concerns raised by a no. of observers on the first party appeal regarding impediments to sightlines from neighbouring property entries arising when a bus is stopped. Therefore, it is recommended that a suitably worded condition be attached to the Board's Order requiring that the bus stop be constructed in accordance with the Option B layout included on Engineering Drawing No. 2268-DOB-XX-SI-DR-C-0590.

There is one final matter raised regarding the proposed bus stop, in the observation on the first party appeal received by Andrew Coyle, that warrants discussion. That is the suggestion that the proposed bus stop should be provided within the subject scheme given the unsuitability of the proposed location. While such a repositioning would obviate the observer/Planning Authority concerns regarding its positioning on the road edge, I do not consider such a repositioning to be warranted. Firstly, as I consider the bus stop can be suitably located along the R172 Blackrock Road road edge, subject to condition (as discussed immediately above), and secondly, as relocating the bus stop in this manner would reduce the accessibility of the same to surrounding residents outside the proposed development.

The subject proposal also includes proposals to amend/regularise the junction of Bothar Maol and the R172. In the context of this alteration, Louth County Council's Placemaking and Physical Development Section recommended that a revised drawing be requested, by way of further information, which takes account of the two adjacent existing residential entrances ensuring that they can safely join Bothar Maol and position themselves at the stop line without interfering with vehicles entering Bothar Maol. The grounds of appeal were accompanied by Drawing No. 2268-DOB-XX-SI-DR-C-0723, prepared by Donnachadh O'Brien & Associates Consulting Engineers, which demonstrates how ingress/egress from the two adjacent property access points (from Loakers Lodge and the shared access road serving Loft House/the adjacent farm building). Upon review of the plans accompanying the application and the appeal submission, I consider the proposed amendments to the junction of Bothar Maol and the R172 to be a welcome feature which will improve road/pedestrian safety at this junction. I am also satisfied that ingress/egress from the two adjacent properties is unimpeded by the proposed alterations to the junction of Bothar Maol and the R172.

Turning my attention now to the proposed pedestrian/cyclist and pedestrian accesses provided to Bothar Maol to the north. More specifically, a pedestrian/cyclist access is proposed in the north-eastern corner of the site, proximate to the intersection of Bothar Maol and the R172 Blackrock Road, and a pedestrian access is provided further west where the access to the fields currently exists. A no. of observers have raised concerns about the inadequacy of existing pedestrian/cycle infrastructure in the area to accommodate the proposed development and the ability of Bothar Maol to accommodate additional pedestrian/cycle traffic. On the day of my site visit, the section of Bothar Maol proximate to the proposed pedestrian/cyclist access appeared to be in reasonable condition. Given Bothar Maol is a cul-de-sac, vehicular traffic would be expected to remain at existing levels (noting that the subject proposal or the development approved on the opposite side of Bothar Maol do not provide vehicular access to Bothar Maol). Currently, there is a continuous footpath from the junction of Bothar Maol/the R172 Blackrock Road all the way to Dundalk Town, although some sections are narrow in the context of cycling. I note that, as outlined in the Transport Assessment accompanying the application, there are future plans for upgrades to the cycle infrastructure featuring along the R172 Blackrock Road which would improve the existing conditions. The development at The Loakers (to the north on the opposite side

of Bothar Maol), currently under construction on foot of Reg. Ref. 211032/ABP Ref. ABP-311776-21, includes the construction of a 2-metre-wide public pavement on the northern side of Bothar Maol, between the proposed pedestrian access to Bother Maol and the junction of Bothar Maol and the R172 Blackrock Road. Given this access point is generally limited to pedestrian/cyclist use, the existing condition of/traffic levels on the applicable section of Bother Maol and the improvement works proposed on foot of Reg. Ref. 211032/ABP Ref. ABP-311776-21, I consider this aspect of the proposed development to be acceptable.

There is one further related matter, raised by Brian P. Hopper in his observation, that requires discussion is the emergency access proposed in the context of the proposed pedestrian/cyclist access off Bothar Maol. This observer contends that the proposal is not supported by any statement of intended use/method of regulating of the removable bollards, and it is open to abuse. The Infrastructure Design Report, prepared by Donnachadh O'Brien and Associates, which accompanied the application provided information on the intended use of the same. It notes that the removable bollards are to facilitate access to the subject site during an extreme flood event when access is unavailable from the R172 Blackrock Road and to provide a secondary vehicular access for emergency vehicles, such as fire brigades/ambulances. It also notes that this emergency access proposal has been provided in response to feedback received from Louth County Council during the S247 pre-planning meeting. Given the likelihood of this access being utilised in this manner is rare and its use can be restricted by way of condition, I do not consider this aspect of the proposed pedestrian/cyclist access to be problematic.

Parking

It is the contention of a no. of observers that the proposed development is heavily car dependent. In terms of residential car parking provision, the proposed dwellings will be served by 738 no. resident car parking spaces (472 no. to serve the 3/4 bed units and 266 no. to serve the 1/2 bed units) and 4 no. accessible visitor car parking spaces, totalling 742 no. spaces. Section 13.8.18 of the Louth County Development Plan 2021-2027 specifies a car parking rate of 1 space per dwelling/apartment for sites located within Area 2. The car parking provision proposed for 1/2 bed units is consistent with the rate specified, however, car parking provision 3/4 bed units exceeds it. In the

intervening period since the adoption of the Development Plan, the Sustainable Residential Development and Compact Settlements - Guidelines for Planning Authorities (2024) have been introduced. The Specific Planning Policy Requirement outlined in this document take precedence over conflicting Development Plan objectives (as previously discussed, Louth County Council is proposing to make a Variation (Variation No. 2) to the Louth County Development Plan 2021-2027 to update the County Development Plan to accord with these new Guidelines). Specific Planning Policy Requirement 3 contained within these guidelines requires that in intermediate and peripheral locations, the maximum rate of car parking provision for residential development shall be 2 no. spaces per dwelling. The residential car parking spaces provided is consistent the rates specified therein.

With regards to visitor car parking provision, I would have concerns about the level of visitor car parking proposed for a development of this scale. 4 no. accessible visitor car parking spaces to serve 502 no. dwellings is considered too low. The matter of under provision of visitor car parking spaces could be easily addressed by way of condition. I think there is ample opportunity to introduce additional visitor car parking spaces throughout the development without detrimentally impacting upon the amenity of residents of the development or the open space areas being provided. It is recommended that a condition be attached requiring provision an additional 20 no. visitor car parking spaces throughout the development.

In terms of non-residential car parking provision, the proposed creche will be served by 20 no. car parking spaces, which is consistent with the provision recommended in Section 13.8.18 of the current Development Plan.

With regards to bicycle parking provision, the development is served by 660 no. bicycle parking spaces in total, comprising of 502 no. serving residents, 120 no. serving visitors to the residential units, 6 no. serving the creche staff, 16 no. serving visitors to the creche and 16 no. serving the proposed strategic amenity/public open space. In terms of residential bicycle parking provision, the quantum of bicycle parking complies with the Apartment Guideline requirements and the standards set out in Section 13.8.18 of the current Development Plan and the proposed bicycle parking spaces are also considered to be appropriate in terms of shelter, accessibility, and passive surveillance. In the context of the proposed creche, the cycle parking provision is

slightly in excess of the standards set out in set out in Section 13.8.18 of the current Development Plan which require 5 no. long term spaces and 12 no. short term spaces. In both the context of the staff and parent spaces, I am satisfied that they are in a suitable location relative to the creche entry. The bicycle parking spaces provided in the context of the proposed strategic amenity/public open space are welcomed.

8.1.7. Residential Amenity of Adjoining Properties/Amenity of the Adjoining Golf Course

A no. of the third party observers received contend that the proposed development will have a negative impact on the residential amenities of the adjacent properties/surrounding area. The difference in levels between the subject site and its neighbours exacerbates its impact in their view.

Properties to the North

The subject site's northern boundary flanks the rear boundaries of 14 no. detached one-off houses fronting Bothar Maol. In the context of the proposed development, proposed Dwellings No. 346, 347-358, 383, 384, 385-392, 394, 422, 423, 454, 455, 456, 478 and 489¹ are located immediately proximate to the applicable common boundary. Before turning my attention to assessing the proposed development's potential impact in terms of residential amenity, there is one discrepancy in the application plans that is worth noting. As discussed in Section 5.2, a single storey extension/alterations to the existing dwelling and an extension/alterations to garage/shed were recently granted permission at An Charraig to the north (under Reg. Ref. 19641). This permission has been acted upon and the extensions are currently under construction on the neighbouring site. The extension to this dwelling extends to within 5 metres of the common boundary. This extension has not been reflected on the application drawings accompanying the application. However, it has been accurately reflected in the Daylight, Sunlight and Overshadowing Study, prepared by 3D Design Bureau, which accompanies the application.

Turning my attention firstly to potential overlooking of properties to the north. There are 5 no. dwellings to the north which feature south-facing upper floor level windows

¹ I note that there are some discrepancies between the dwelling numbering utilised in the Part Layout Plans and the Overall Site Layout Plans featuring in the architectural drawing set. The Part Layout Plans and the dwelling numbering contained therein have informed this assessment.

which require consideration (in the context of Glebe House there are also east-facing upper floor windows which require consideration). The side elevations associated with Proposed Houses No. 346, 422 and 456 are devoid of habitable room windows at upper floor levels and so there are no opportunities for overlooking between opposing upper floor windows associated with properties to the north. Proposed House No. 478 is a bungalow so there are no opportunities for overlooking between opposing upper floor windows in the context of this dwelling. Proposed House Nos. 353-358 feature multiple north-facing habitable room windows at upper floor levels. These dwellings adopt a minimum setback of 15.5 metres from the common boundary and 34 metres from the rear façade of the applicable neighbouring property which is well in excess of the 16-metre separation distance specified by Specific Planning Policy Requirement (SPPR) 1 of the Sustainable Residential Development and Compact Settlements - Guidelines for Planning Authorities (2024). Similarly, the side elevation of Proposed House No. 489 features 1 no. habitable room window at upper floor level (serving Bedroom 3). This dwelling adopts a minimum setback of 22 metres from the side façade of Glebe House which complies with SPPR 1. The remaining 9 no. dwellings to the north are bungalows so there are no opportunities for overlooking between opposing upper floor windows, resulting from the proposed development.

In terms of overlooking of private open spaces areas associated with Dwellings to the north, proposed Dwellings No. 346, 383, 384, 394, 422, 423, 454, 455, 456 and 478 are devoid of upper floor level habitable room windows with an outlook across the northern abutments or is a bungalow, in the context of Dwelling No. 478. Dwellings No. 347-358, 385-392 and 489 feature upper floor level habitable room windows with an outlook across the northern abutments. However, these dwellings are setback a minimum of 15.5 metres from the common boundary which is sufficient to restrict undue overlooking of private amenity spaces.

Although the proposed development is to be introduced on a site generally devoid of development, I do not consider the proposed development would result in an unreasonable overbearing impact on properties to the north. The proposed dwellings being developed proximate to the site's northern boundary are one and two storeys in height (with the proposed 3-storey dwellings being located centrally on the subject site) which respects the prevailing heights of northern neighbouring properties. The proposed double storey dwellings adopt setbacks of between 2.9 metres and 22.5

metres from the subject site's northern boundary and setbacks from houses featuring to the north of between 9.3 metres (to the recently constructed extension to An Charraig) and 60.9 metres. Given the separation distance that exists between the proposed double storey dwellings and the planting featuring/proposed along the subject site's northern boundary, as well as their double storey height, I do not consider the proposed development would result in unreasonable impacts on the residential amenity of adjacent properties to the north by way of overbearing. I am of the view that it will sit comfortably in this context, particularly having regard to the height of adjacent dwellings/the generous plots on which they sit. Proposed Dwelling No. 478 adopts a less generous setback of 2 metres from the common boundary and 8.5 metres from Glebe House. Given this dwelling is a bungalow, it is not considered that it will have an unreasonable overbearing impact on its northern neighbour.

Given the generous separation distances that exist between the proposed development and these properties to the north, I do not consider the proposed development would result in any negative impacts on the residential amenity of adjacent properties to the north by way of overshadowing. The application was accompanied by a Daylight, Sunlight and Overshadowing Study, prepared by 3D Design Bureau, which assessed vertical sky component and annual/winter probable sunlight hours in the context of An Charraig and Glebe House. These 2 no. properties are most proximate to the boundary to the north. This report found that the proposed development meets with the targets set out in BRE Guidelines in this regard, with well in excess of 50% of their private open space areas receiving above 2 hours sunlight on March 21st. I am satisfied with the findings of this report.

With regards to potential impacts on daylight/sunlight received by dwellings to the north, the application was accompanied by a Daylight and Sunlight Assessment Report, prepared by 3D Design Bureau, which assessed vertical sky component and annual/winter probable sunlight hours in the context of An Charraig and Glebe House. These 2 no. properties are most proximate to the northern boundary. It concluded that the proposed developments impact on daylight and sunlight in the context of these dwellings will be negligible. I am satisfied with the assessments regarding vertical sky component and annual/winter probable sunlight hours contained therein and that sufficient distance is provided between the proposed development and these dwellings. In the context of the remaining 12 no. dwellings to the north, I am satisfied

that the proposed development is sufficiently distanced from these dwellings featuring to negate any potential impacts on daylight/sunlight they currently receive.

Property to the South

Nelgeo, a detached dormer bungalow fronting the R172 Blackrock Road, flanks the sites southern boundary. More specifically, the access road provided off the R172 Blackrock Road to serve the proposed development. Given development proposed proximate to this property is limited to the access road/infrastructural proposals, it is not anticipated that this property will be impacted upon by way of overlooking, overbearing or overshadowing.

Properties to the East

The subject site's eastern boundary abuts the rear/side boundaries of 4 no. detached one-off houses fronting the R172 Blackrock Road - Loaker Lodge, Mountain View, Plunket Villa and Loft House. In the context of the proposed development, proposed Dwellings No. 496-502 and the proposed creche are located immediately proximate to the applicable common boundary. One issue raised in the observations, lodged by Aoife and John Henry/Andrew Coyle, is that the creche, pumping station and parking area proposed adjacent to the eastern boundary are too close to neighbouring properties/will have negative effects on residential amenity and so should be pushed westwards.

Turning my attention firstly to potential overlooking of properties to the east. There are 2 no. dwellings to the east, Mountain View and Loft House which feature west-facing upper floor level windows which require consideration (in the context of Loft House there are also north-facing upper floor windows which require consideration). The west-facing upper floor windows associated with Mountain View sit directly opposite an area of open space, the proposed wastewater pumping station and a car parking area associated with the proposed so there are no opportunities for overlooking of upper floor windows associated with this property. The adjacent Loft House's west-facing and north-facing upper floor level windows sit directly opposite areas of open space proposed as part of the development so there are no opportunities for overlooking of the same.

In terms of overlooking of private open spaces areas associated with dwellings to the east, proposed Dwellings No. 496-502 and the creche adopts minimum setbacks of

25.7 metres and 26.2 metres, respectively, from the eastern boundary proximate to these properties. This is sufficient to restrict undue overlooking of the adjacent private amenity spaces.

Although the proposed development is to be introduced on a site currently devoid of development, I do not consider the proposed development would result in an unreasonable overbearing impact on properties to the east. The majority of the site's eastern boundary is flanked by areas of open space proposed as part of the development. Where dwellings/the creche are located proximate to the eastern boundary, generous separation distances are provided and screening is provided by trees and vegetation featuring/proposed along the subject site's eastern boundary, as well as the existing agricultural building featuring to the south of proposed Dwelling No. 502.

Given the generous separation distances that exist between proposed Dwellings No. 496-502/the creche and these properties to the east, I do not consider the proposed development would result in any negative impacts on the residential amenity of adjacent properties to the north by way of overshadowing. With regards to potential impacts on daylight/sunlight received by dwellings to the east, I am satisfied that the proposed development is sufficiently distanced from dwellings featuring to the east to negate any potential impacts on daylight/sunlight they currently receive.

Adjoining Golf Course

The subject site's western boundary flanks the Dundalk Golf Club. I am satisfied that the proposed development will not have a seriously negative impact on the amenities of the users of the golf course. While I accept there may be some noise during construction, this will be temporary and subject to the mitigation measures, as outlined in the Construction Management Plan. Once constructed, views of the proposed development will be limited due to the extensive tree planting and vegetation featuring along/the separation distances provided from the common boundary. All the proposed dwellings adjacent to the western boundary are double storey in height. The majority of the proposed dwellings featuring adjacent to the site's western boundary have been orientated to face eastwards, with their rear gardens abutting the golf course. The 3 no. dwellings positioned immediately adjacent to the western boundary, Proposed Dwellings No. 299, 300 and 326, are located adjacent to a part of the common

boundary featuring heavy tree planting/vegetation. Further to this, a 1.8m high boundary is proposed along the site's eastern boundary. Therefore, there will be limited views of the proposed development from the golf course. I do not consider that the amenities of the golf course will be significantly negatively impacted upon by the proposed development.

8.1.8. Residential Amenity of Proposed Development

Proposed Houses

The proposed 2-bed double storey dwellings have a total floor area of 73.6sqm, the proposed 3-bed double storey dwellings a total floor area of between 88.9sqm and 100sqm, the proposed 3-bed bungalow has a total floor area of 111.5sqm and the proposed 4-bed three storey dwellings have a total floor area of 147.8sqm, all of which comply with the requirements set out in the Quality Housing for Sustainable Communities, 2007. The proposed dwellings were also found to be compliant with the same in the context of the main living room area, aggregate living area, aggregate bedroom area and storage. Having reviewed the proposed floor plans, I am satisfied that the houses are suitably designed and adequately sized internally to provide an adequate level of residential amenity to future residents, including in regard to daylight/sunlight access.

The Sustainable Residential Development and Compact Settlements - Guidelines for Planning Authorities (2024), at Specific Planning Policy Requirement 2, requires that 2-bed houses are provided with a minimum of 30sqm of private open space, 3-bed houses are provided with a minimum of 40sqm of private open space and 4-bed + houses with 50sqm. Upon review of the plans submitted with the application, the proposed dwellings will be served by private open space areas well in excess of these requirements. Specific Planning Policy Requirement 1 of the same guidelines requires a minimum separation distance exceeding 16 metres between opposing windows serving habitable rooms at the rear or side of houses above ground floor level. Upon review of the plans submitted with the application, the proposed development also complies with this requirement.

Unit Mix

The proposal would entail the provision of 52 no. 1-bedroom maisonettes which exceeds the 50% one bed/studio units specified in relation to unit mix in apartments in Specific Planning Policy Requirement 1. The provision of only 1-bedroom apartments is considered appropriate in this instance having regard to the mix of residential units provided across the subject site more broadly.

Floor Areas and Apartment Layout

As detailed in the floor plans/Housing Quality Assessment accompanying the application, the 1-bed maisonettes proposed would have a floor area of between 56.5sqm and 81.4sqm. With respect to minimum floor areas, the proposed apartments exceed the minimum overall apartment floor areas specified in Specific Planning Policy Requirement 3 as well as generally complying with the associated minimums set in relation to aggregate floor areas for living/dining/kitchen rooms; widths for the main living/dining rooms; bedroom floor areas/widths; and aggregate bedroom floor areas. In addition, there is a requirement under Section 3.8 for *'the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10% (any studio apartments must be included in the total, but are not calculable as units that exceed the minimum by at least 10%)'*. In this case, this requirement is also met. Further to this, having reviewed the proposed floor plans, I am satisfied that the apartments proposed are suitably laid out internally to provide an adequate level of residential amenity to future residents.

Dual Aspect/Floor to Ceiling Heights

Specific Planning Policy Requirement 4 requires that a minimum of 50% of apartments proposed are dual aspect units in suburban or intermediate locations and Specific Planning Policy Requirement 5 requires that ground level apartment floor to ceiling heights shall be a minimum of 2.7 metres and Specific Planning Policy Requirement 6 specifies a maximum of 12 apartments per core. With regards to dual aspect, all 52 no. maisonettes constitute dual aspect units (with no single aspect north-facing apartments proposed). At 100%, the proposed development complies with the requirements of SPPR 4. The minimum floor ceiling height at ground floor level would be 2.7 metres, thus complying with the requirements of these two standards.

Storage

As detailed in the floor plans/Housing Quality Assessment accompanying the application, the 1-bed maisonettes would be provided with 3.4sqm or 3.8sqm of storage which complies with the numerical storage requirements specified in Appendix 1 of the Apartment Guidelines, 2023. Upon review of the plans, it would appear that the storage spaces serving Maisonette Type A2 is provided in the form of an individual room >3.5sqm within the apartment which is contrary to the following stipulation set out in Paragraph 3.31 of the guidelines: - *‘as a rule, no individual storage room within an apartment should exceed 3.5 square metres.’* However, I am satisfied that compliance with this aspect of the requirements could be addressed by way of condition should the Board be inclined to grant planning permission.

Private Amenity Space

Turning to private amenity space. As detailed in the plans/Housing Quality Assessment accompanying the application, the 1-bed maisonettes proposed would be served by private gardens between 32sqm and 71sqm in size, which complies with the quantitative requirements set out in relation to private amenity space. With regards to the quality of the private amenity space provided, upon review of the plans, I am satisfied that the proposed private amenity areas also satisfy the qualitative requirements of the Apartment Guidelines given their orientation (with the majority of private amenity spaces being positioned to the south, west or east of the proposed units) and screening provided.

Communal Amenity Space

In accordance with Appendix 1/paragraph 4.13 of the Apartment Guidelines, a minimum of 260sqm of communal amenity space would be needed to serve the proposed maisonettes. Communal open space is not provided as part of the proposed development. This is considered appropriate in this instance given the generous private amenity spaces serving the proposed maisonettes, the level of public open space provided as part of the proposed development and the maisonettes positioning relative to the public open space areas provided.

Daylight/Sunlight

The Apartment Guidelines state that levels of natural light in apartments is an important planning consideration and regard should be had to the BRE standards. In

this regard, the application is accompanied by a Daylight and Sunlight Assessment Report, prepared by 3D Design Bureau, which among other things includes an assessment of the proposed maisonettes in terms of sunlight/daylight to habitable rooms. In the context of sunlight, a 94% compliance rate was achieved in the context of the BRE Guidelines set out in relation to sunlight exposure. In the context of daylight, 100% of the rooms tested achieve the Spatial Daylight Autonomy targets set out in the BRE Guidelines. I am satisfied that daylight and sunlight considerations have informed the proposed maisonettes layouts and design in terms of separation distances, scale, window sizing and the aspect of units.

Conclusion

In conclusion, subject to the aforementioned condition, I am satisfied that the proposed development would provide quality maisonettes which provide a suitable level of amenity for future residents.

8.1.9. Open Space and Tree Retention

Open Space Provision

Section 13.8.15 of the Development Plan requires that 15% of the total site area shall be reserved for public open space provision. Section 13.8.16 goes on to require that developments of 50 units or more include proposals for the provision of a dedicated children's play area.

The proposed development provides 46,856sqm of public open space which equates to 27.5% of the 17Ha of land comprising the development site (the stretches of the R172 Blackrock Road, Bothar Maol and Harveys Lane forming part of the appeal site and the proposed access road from the R172 having been omitted from this calculation). It comprises of a 35,284sqm strategic amenity space, referred to as Loakers Park, featuring centrally (including 30,900sqm of H1 zoned land) and 11,572sqm provided across 6 no. open space areas scattered throughout the development. This is well in excess of the development plan requirements pertaining to quantum. Upon review of the plans accompanying the further information request response, I am satisfied that the proposed public open space areas provided also satisfies requirements pertaining to children's play area provision, with 2 no. (a natural

play area and an equipped play area) provided centrally in the strategic amenity space as well as natural play elements elsewhere throughout the development.

The proposed public open space areas are also considered appropriate from a qualitative perspective. All public open space areas provided are appropriately sized/designed, have good solar access, feature a variety of recreational and amenity uses and are appropriately overlooked, with all public open space area positioned in front of a no. of houses/maisonettes. As indicated in the architectural/landscape plans accompanying the application, an area within the central strategic amenity space has been reserved for the provision of public art, consistent with the requirements of Section 13.8.20 of the Louth County Development Plan 2021-2027.

The observation received from Aoife and John Henry raises concerns about the level of attenuation tanks/detention basins proposed resulting in a substandard quality of public open space. The Landscape Design Statement, prepared by Park Hood Landscape Architects, which accompanies the application includes a diagram (in Section 11.0) illustrating the proposed attenuation areas in the context of proposed public open space area. This diagram is informed by the Engineering Drawings, prepared by Donnachadh O'Brien and Associates, which accompany the application. Upon review, I am satisfied that the proposed attenuation areas have been appropriately incorporated into the proposed public open space and do not overwhelm or negatively impact on the quality/usability of the space. Having regard to the foregoing/the Development Plan requirements, public open space provision is considered appropriate in this instance.

Tree Retention

The observation received from John and Aoife Henry has raised concerns about the extent of tree removal proposed. They deem it to be excessive and unjustified.

The application was accompanied by an Arboricultural Impact Statement, prepared by Dr. Philip Blackstock. A total of 78 no. trees and hedgerows featuring throughout the site were surveyed in February 2023. In the context of the trees surveyed, 60 no. trees or 77% of the total are proposed to be retained. With regards to the trees featuring on site, which form part of the group of Sycamore and Ash Trees identified as Trees & Woodland of Special Amenity Value (Reference No. TWSAV94) in the Louth County

Development Plan 2021-2027, only trees deemed to be in 'poor' condition and recommended for felling by the Arborist are proposed for removal. All other trees featuring in this part of the site are to be retained. In terms of hedgerows, the majority of the main hedgerows within the site and around the eastern boundary north of the access road, which are in good condition, are proposed to be retained with only minor sections to be removed to facilitate the proposed development. Further to this, as illustrated in the Landscape Plans/Landscape Design Statement (prepared by Park Hood Landscape Architects) submitted with the application it is proposed to plant 456 no. additional trees (a mix of medium-large and smaller trees) as part of the subject proposal.

Based on the arboricultural material/landscape proposals submitted with the application, I am satisfied that the level of tree retention/loss required to facilitate the proposed development is acceptable in this instance and that the proposed development complies with Policy Objective NBG 30 included in the Louth County Development Plan 2021-2027.

8.1.10. Other Matters

Land Ownership/Red Line Boundary Anomalies - A no. of observers have raised concerns about the necessary consents having been secured for all of the lands included in the application boundary. I note that the application material includes 2 no. drawings (Drawings No. HGG-CR-ZZ-JFA-AR-P1001 and HGG-CR-ZZ-JFA-AR-P1001-A) illustrating the extent of the application lands owned by Glenveagh Homes Limited (whom the Applicant Marina Quarter Limited is a subsidiary of) and in the ownership of Louth County Council. Further to this, the application is accompanied by letters of consent from both Glenveagh Homes Limited and Louth County Council. Having considered the information available on file, I am not satisfied that the objectors in this case have demonstrated that the applicant does not have sufficient interest to carry out the works pertaining to the proposed development. Irrespective of this, I note that as stated in Section 5.13 of the Development Management Guidelines for Planning Authorities the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. In this regard, it should be noted that, Section 34(13) of

the Planning and Development Act, 2000 (as amended), states that a person is not entitled solely by reason of a permission to carry out any development. Should planning permission be granted and should the appellants or any other party consider that the planning permission granted by the Board cannot be implemented because of landownership or title issue, then Section 34(13) of the Planning and Development Act, 2000 (as amended), is relevant. One observation received has raised concerns about anomalies regarding the red line boundary utilised across the application material. More specifically, it is contended that there are discrepancies in the red line boundary featuring on the plans and in the Planning Report & Statement of Consistency accompanying the application. I note that the Planning Report & Statement of Consistency accompanying the application specifically describes the annotated aerial image, included on page 9, as an 'Indicative Extent and Location of the Subject Site'. In my view, it is clear from this that images included in the Planning Report & Statement of Consistency are not intended to indicate the official application boundary.

Procedural Issues - I note that there are a number of procedural issues raised within the observations received on the first party appeal. More specifically, observers contend that the development description/public notices are inadequate as they did not fully or adequately describe the nature and extent of the development, in particular the infrastructure works proposed, and the absence of Blackrock in the address utilised for advertising is misleading. In this regard, I note that the development description/address utilised in the public notices were considered to be acceptable by the Planning Authority and the application was deemed valid. In the context of the development description, I note that Article 18 of the Planning and Development Regulations, 2001 (as amended) requires that public notices should give "a brief description" of the nature and extent of a proposed development. The Development Management Guidelines for Planning Authorities, 2007, notes that they are not required to go into excessive detail. I am satisfied that the applicable legislation was complied with in this instance. With regard to the development address utilised, based on the quantity of third-party submissions it is evident that the local public were well informed of the application on the site and as evidenced by the submissions received and the subsequent appeals have not been disenfranchised from taking part in the planning process. I do not consider that the development description/address utilised

are inadequate so as to warrant invalidation of the application or for the purposes of determining the proposal before the Board.

Previous SHD Application - I note that a no. of observers have queried whether the Board has sufficient/sufficiently updated evidence-based reports to appropriately assess the proposed development, as the planning application is framed by the applicant as an update to the previous SHD scheme, and suggested that the applicant/Louth County Council have placed unlawful reliance on the pre-consultation pertaining to the previous SHD scheme. Irrespective of some statements made by the applicant in respect of the application 'building upon' the previously granted SHD application, I would point out for the purpose of clarity that the current development before the Board is considered "de novo". That is to say that the Board considers the proposal having regard to the same planning matters to which a planning authority is required to have regard when making a decision on a planning application in the first instance and this includes consideration of all submissions and inter departmental reports on file together with the relevant development plan and statutory guidelines, any revised details accompanying appeal submissions and any relevant planning history relating to the application. Further, I have considered the information available on file and I am satisfied that together with my site inspection that there is adequate information available to consider the appeal.

Devaluation of Property - I note that John and Aoife Henry raise concerns in respect of the devaluation of properties in the immediate surrounds. However, having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

Social Infrastructure/School Capacity – A no. of observers have raised concerns about their being a lack of social infrastructure and capacity in local schools to accommodate the proposed development. The application was accompanied by a Social Infrastructure Audit. In the context of schools, this Audit concluded that given the number of primary and post-primary schools featuring within the study area (a 5km radius as the crow flies) the proposed development will be sufficiently serviced. This Audit also identified an extensive provision of social infrastructure in the surrounding area capable of serving residents of the proposed development. The Planning Authority had no concern with the school capacity or the availability of social

infrastructure. Therefore, it would not be reasonable to refuse planning permission on the basis of inadequate educational/social infrastructure.

Overall Planning Conclusion

I am satisfied that the proposal will provide much needed residential development for the Dundalk area. I am satisfied that the number of units and the density of development on this site is acceptable, particularly having regard to the locational context and existing development featuring in the surrounding area.

The dwellings and crèche are located on lands zoned for such development. Similarly, the public park is proposed on lands zoned for such purposes and will provide recreational facilities/amenities for both existing and future residents of the area.

It provides for a mix of dwelling types of 1 to 4-bedroom units in housing and apartment form and will provide distinct character areas in response to the location within the development and having regard to the views available of the Cooley Mountains.

In conclusion, the proposal accords with the policies and objectives of the National Planning Framework and complies with the over-arching Louth County Development Plan 2021-2027, as well as going some way towards meeting the housing targets set out in the Core Strategy of an additional 2,606 units by 2027. It is therefore in accordance with the proper planning and sustainable development of the area.

8.2. Appropriate Assessment

8.2.1. Introduction

The Planning Authority's second refusal reason pertains to the matter of Appropriate Assessment. More specifically, they contend that they 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 European sites Dundalk Bay SAC (000455) and Dundalk Bay SPA (004026) or any other European site, on the basis of the information provided with the application, particularly in relation to waste water disposal, surface water drainage, water flow rate calculations and biodiversity. A number of the observers on the first party appeal have also raised concerns about the subject proposal in the context of the adjacent Natura 2000 sites. They argue that the proposed development physically encroaches on adjacent Natura 2000 sites which is

inappropriate/will have an undesirable impact on the same and that the application should be refused/alternative sites should be selected for such a development. The pumping of surface water from the site in to Dundalk Bay is of particular concern. It is also claimed that the developers have not fulfilled their legal obligations in relation to notifying National Parks and Wildlife Service of the details of the proposed development.

The grounds of appeal submitted by the appellant refutes the Planning Authority's second refusal reason claiming that the LRD application was accompanied by all relevant and required information, including the required particulars of wastewater disposal, surface water drainage, water flow rate calculations and biodiversity, to enable a complete and robust assessment of any potential impacts on European Sites. The grounds of appeal are accompanied by the following supplementary plans and information to further illustrate this point and, for completeness: - a statement on biodiversity, prepared by Turley; a compliance statement regarding the submitted NIS, prepared by Enviroguide Consulting; and a set of statements/analysis, calculation sets, and additional drawings/sections prepared by Donnachadh O'Brien & Associates Consulting Engineers, Finn Design Partnership and IE Consulting.

Regard will be had to the contents of the Appropriate Assessment Screening Report and Natura Impact Statement submitted with the application in carrying out this appropriate assessment. Regard will also be had to the concerns raised by the Planning Authority and the observers to the first party appeal, as well as the relevant matters raised in the appellants grounds of appeal.

8.2.2. Appropriate Assessment Screening

The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under Part XAB, Sections 177U and 177V of the Planning and Development Act, 2000 (as amended) are considered fully in this section. The areas addressed are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive.
- Screening the need for appropriate assessment.

- Appropriate assessment of implications of the proposed development on the integrity of each European site.

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given.

The subject lands and the proposed development are described in detail in Section 1.0 and Section 2.0 of this report, respectively.

8.2.3. Applicant's Stage 1 – Appropriate Assessment Screening

The application is accompanied by an Appropriate Assessment Screening Report, prepared by Enviroguide Consulting. This report identified the following 2 no. European Sites within the Zone of Influence of the subject development:

European Site	Site Code	Distance from Site
Dundalk Bay SAC	000455	Immediately adjacent to the site's eastern boundary
Dundalk Bay SPA	004026	Immediately adjacent to the site's eastern boundary

Connectivity-Source-Pathway-Receptor: The submitted Appropriate Assessment Screening Report makes full consideration of the Connectivity-Source-Pathway-Receptor model for each of the identified sites. The following is found in summary:

European Site	Direct Hydrological Connection	Comment
Dundalk Bay SAC	Yes	There is a direct hydrological pathway via surface water run-off from the site.

		<p>There is a potential indirect hydrological pathway through foul water treatment at Dundalk WWTP which discharges into Dundalk Bay.</p> <p>Potential direct hydrogeological connection via groundwater migrating vertically downward to the underlying bedrock aquifer and laterally within the aquifer to the SAC during groundworks/other construction activities.</p> <p>There is a direct impact pathway via air and land exist given immediate proximity.</p>
Dundalk Bay SPA	Yes	<p>There is a direct hydrological pathway via surface water run-off from the site.</p> <p>There is a potential indirect hydrological pathway through foul water treatment at Dundalk WWTP which discharges into Dundalk Bay.</p> <p>Potential direct hydrogeological connection via groundwater migrating vertically downward to the underlying bedrock aquifer and laterally within the aquifer to the SAC during groundworks/other construction activities.</p> <p>There is a direct impact pathways via air and land exist given immediate proximity.</p> <p>There is potential for loss of infrequently used ex-situ foraging habitat (a single waterbird (Snipe) recorded using the site as an ex-situ foraging resource).</p>

8.2.4. Applicant's Screening Report Assessment of Likely Significant Effects

The submitted Appropriate Assessment Screening Report, more specifically Section 4.4, considers the potential impacts on European Sites from the proposed development.

As the project is located adjacent to and maintains ecological links with Dundalk Bay SAC (000455) and Dundalk Bay SPA (004026), there is the potential for loss or alteration of QI listed habitats as a result of the proposed development. The potential bus stop along the eastern side of the R172 Blackrock Road will be located along the road verge that is technically within the SAC/SPA boundary and so some minor loss of habitat could occur.

Waste and surface water arising from the site will ultimately discharge to the SPA/SAC. The SUDS system has been designed to collect and attenuate waste/surface water arising from the site and discharge same at the allowable greenfield runoff rate to the proposed outfalls alongside the R172 Blackrock Road. Due to there being no increase in the baseline discharge rates above the greenfield run-off rates to either channel, there will be no significant adverse effect relating to erosion or scouring of habitats within the SAC/SPA at either of the proposed outfall points. Furthermore, it is noted that the drainage channel to the north-east of the site, where the main proposed surface water outfall is located, is tidally influenced, and thus surface water discharges limited to the greenfield runoff rates will be further assimilated during hightide periods. This impact can therefore be screened out at this stage. With regards to wastewater, the wastewater expected to be generated from the proposed once operational can be facilitated within the overall remaining treatment capacity at the Dundalk WWTP as stated in the latest available AER for the facility (UÉ, 2022). Once the receiving WWTP is operating effectively, there is no potential for likely significant cumulative effects involving wastewater generated by the proposed development this impact has therefore been screened out.

As noted in the Site Specific Flood Risk Assessment accompanying the application, the existing flow path in the easterly marshy area will be maintained (via conveyance pipe culverts installed underneath the new road which collect/convey the pluvial runoff from the south and discharge it to the north) with no adverse impacts to the existing pluvial and hydrological regime occurring. This will ensure that the flows of surface water to the swamp-like section of the SAC that exists to the north of the main entrance will be maintained into the future. This impact can therefore be screened out at this stage.

As there is a chance of habitat loss within European sites, habitat fragmentation although considered unlikely, may occur as a result of the proposed development.

There is the potential for the generation of suspended sediment in surface water runoff during the Construction Phase and the release of suspended solids to surface waters which could affect the water quality of downstream receptors such as the QI listed habitats and species of Dundalk Bay SAC/SPA. Adverse impacts to water quality as a result of the emission of potentially polluting substances will have the potential to result in impacts of minor to major negative significance to aquatic habitats and fauna occurring within Dundalk Bay SAC/SPA.

There is some potential for disturbance impacts (e.g., lighting, construction noise, visual stimulus) to roosting/foraging waterbird species along the stretch of coastline on the edge of the SAC/SPA during the construction phase of the Proposed Development in the absence of mitigation.

Given the potential for water quality impacts, habitat loss and species fragmentation/disturbance owing to the proposed development, direct or indirect, may be envisaged. As a result, adverse effects on the SCI species, vegetation, and plant community structure of the habitats of the relevant European sites are possible in the absence of mitigation. Therefore, the potential for likely significant changes to population densities of QI/SCI species within the relevant European sites cannot be ruled out.

8.2.5. Applicants' AA Screening Conclusion

The applicant in carrying out the AA screening, has not taken into account any specific mitigation measures. It cannot be ruled out that the proposed development would not have a significant effect on the Dundalk Bay SAC and Dundalk Bay SPA. Therefore, the applicant considers it necessary to proceed to Stage 2 of the Appropriate Assessment Process and a Natura Impact Statement (NIS) has been prepared.

8.2.6. Stage 1 AA Screening

I have considered the material submitted by the applicant, including the Appropriate Assessment Screening, Natura Impact Statement and environmental reports, and the information regarding European sites contained on the NPWS website. In determining the European sites to be considered, I have had regard to the nature and scale of the development, the sites proximity to the designated European sites (noting that a section of the R172 Blackrock Road is located within the Dundalk Bay SAC/SPA), and any pathways which exist/may exist from the development site to a Natura 2000 site

as well as by the information on file, including observations on the application made by prescribed bodies, and I have also visited the site. The proposal is not directly connected with, or necessary to the management of any European sites.

In terms of the zone of influence, I would note that the site is partially within and immediately adjacent to the Dundalk Bay SPA/SAC and therefore there is potential for direct loss or alteration of habitat, or habitat/species fragmentation as a result of the proposed development. The specific qualifying interests and conservation objectives of these sites are described above. The Stabannan Braganstown SPA is located within c. 10km of the subject site (Policy Objective NBG 6, included in the Louth County Development Plan 2021-2027 requiring consideration of European sites within 15km of the proposed development site shall be included in the context of screening for Appropriate Assessment/Stage 2 Appropriate Assessment). Given the distance between the subject site and this SPA and the lack of a pathway between them, I am satisfied that this site can be screened out.

I concur with the conclusions of the applicant's screening that significant effects on the Dundalk Bay SPA/SAC cannot be ruled out at the screening stage and that a Stage 2 Appropriate Assessment is required.

There is one specific matter that requires further discussion in advance of a Stage 2 Appropriate Assessment commencing. That is the concerns raised by Louth County Council and the Department of Housing, Local Government and Heritage regarding surface water drainage. Firstly, turning my attention to the concerns of the Planning Authority in this regard. Louth County Council in their second refusal reason that on the basis of the information provided with the application regarding surface water drainage and water flow rate calculations, among other things, they 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 European sites. The commentary provided by the Placemaking and Physical Development Section elaborated on this matter further, recommending that additional information be requested in relation to the following: - the storm water discharge point into the Dundalk Bay, including the headwall location (there are inconsistency on locations between engineering and architectural drawings), maintenance access arrangements, clarification if the outfall structure acts as a flap valve to prevent high tides progressing

upstream and design calculations to verify if this piped network will be positively surcharged during storm events, and the drainage channel adjacent to the R172 Blackrock Road, including location plans, longitudinal sections, pipe diameters, gradients, cover/invert levels and eventual discharge point including pipe diameters and gradients both upstream and downstream of this proposed connection; and demonstration of the adequacy of capacity of this culvert/condition to cater for this flow and will not affect the drainage on the Regional Road. Given the Planning Authority refused the application, no such request for further information was issued. In response to the Planning Authority's first and second refusal reasons and the comments from the Placemaking and Physical Development Section, the appeal submission notes the following:

- The location of the stormwater discharge to Dundalk Bay is illustrated on Engineering Drawings No. 2268-DOB-XX-SI-DR-C-0200 and 2268-DOB-XX-SI-DR-C-0202, submitted with the application.
- The headwall location is illustrated on Engineering Drawings No. 2268-DOB-XX-SI-DR-C-0200 and 2268-DOB-XX-SI-DR-C-0202 and further elaborated upon in Engineering Drawing No. 2268-DOB-XX-SI-DR-C-0256, all submitted with the application.
- Maintenance access arrangements to the headwall are shown on Engineering Drawing No. 2268-DOB-XX-SI-DR-C-0256 submitted with the application.
- Wall mounted flaps are provided to the normal level and high-level overflow surface water discharges are illustrated on Drawing No. 2268-DOB-XX-SI-DR-C-0256 submitted with the application.
- Design calculations are provided within Appendix B of the Infrastructure Design Report submitted with the application and are also provided with the appeal.

Further to this, the appellant has submitted Engineering Drawing No. 2207-ENG—400, prepared by Finn Design Partnership, which illustrates the location, longitudinal sections, pipe diameters, gradients, cover/invert levels and eventual discharge point including pipe diameters and gradients both upstream and downstream of the proposed connection.

The Department of Housing, Local Government and Heritage's concerns regarding surface water drainage relate to its potential significant adverse effect relating to erosion or scouring of habitats within the SAC/SPA at the proposed outfall points. More specifically, the Department of Housing, Local Government and Heritage contends that there is no estimate available of what the total water flow rates in the water course within the Dundalk Bay SAC/SPA will be once the new main outfall from the proposed development becomes operational in the EIAR and that there is no information as to current flow rates in the stream which flows north from the proposed entrance to the new development parallel with the R172 Blackrock Road into the Phragmites swamp part of the Dundalk Bay SAC or as to whether these flow rates will be maintained. In the absence of this information, they conclude that *"it does not seem possible, based on the data provided, to be confident that no increased scouring or erosion of this water course will occur which has the potential to detrimentally affect QI habitats within the SAC or foraging areas for SCI species for the SPA"*. Therefore, they recommended that an amended NIS be requested by way of further information which included an evaluation of the potential of increased scour or erosion of the existing water course within the Dundalk Bay SAC/SPA northeast of the R172 Blackrock Road resulting from the intended discharge of surface water drainage from the proposed development into the water course.

As previously outlined in Section 8.2.4, it is the appellants contention in the NIS submitted that there will be no significant adverse effect relating to erosion or scouring of habitats within the SAC/SPA at either of the proposed outfall points, due to there being no increase in the baseline discharge rates above the greenfield run-off rates to either channel and that this impact could therefore be screened out at Stage 1 of the Appropriate Assessment. The NIS goes on to specify that the outflow at the proposed development entrance will discharge to the receiving drainage channel north of the entrance at the greenfield runoff rate of 3.0 l/s and the discharge at the proposed north-eastern outfall to the SAC/SPA at the greenfield runoff rate of 64.5 l/s. In response to the feedback received from the Department of Housing, Local Government and Heritage, the appellant has submitted the following with the grounds of appeal:

- Design calculations for the proposed outfall points (previously provided within Appendix B of the Infrastructure Design Report submitted with the application), outlining current flow rates.

- An excerpt, more specifically a Hydraulic Analysis of Drainage Channels, from the Flood Risk Assessment (prepared by IE Consulting) which was submitted with the previous SHD application.

They also note in their grounds of appeal that the northern drainage channel is heavily vegetated prior to joining a stream that originates from the culvert under the R172 which would further reduce any potential scouring. In addition to this, it is noted that the proposed surface water outfall design incorporates a Reno Mattress (which is a scour protection measure) at the proposed outfall to the northern drainage channel, as illustrated in Drawing No. 2268-DOB-XX-SI-DR-C-0256, prepared by Donnachadh O'Brien & Associates Consulting Engineers, accompanying the application.

Upon review of the material submitted with the application and included with the appeal submission, I am satisfied that surface water resulting from the subject development during construction and operational phases has been appropriately considered and that given there is no increase in the baseline discharge rates above the greenfield run-off rates to either channel, this particular aspect of the proposed development can be screened out at this stage.

It is worth noting that that the Department of Housing, Local Government and Heritage did not recommend that permission be refused, but rather that additional information be requested, and included the following commentary regarding the proposed development having considered the surface water flow mitigation measures outlined for construction and operational stages: - *"The Department accepts that with the implementation of the measures referred to above and others set out in the NIS there should be no significant potential for pollution arising from the proposed development having adverse effects on the QI habitats for the Dundalk Bay SAC or Special Conservation Interest (SCI) bird species for the Dundalk Bay SPA. The AA Screening Report however also concludes that because there will be no increase in the baseline water discharge rates above the greenfield run-off rates from either the outfall to the channel north of the R172 road or the outfall to the channel running northward inside".*

8.2.7. Applicants' Stage 2 - Appropriate Assessment

The application is accompanied by a Natura Impact Statement, prepared by Enviroguide Consulting. It examines and assesses the potential adverse effects of the

proposed development on the Dundalk Bay SPA and Dundalk Bay SAC, where it has been established that a Source-Pathway-Receptor link exists.

The Natura Impact Statement identifies and assesses potential for significant effects of the proposed development on specific Qualifying Interests and Conservation Objectives of these 2 no. European sites. A summary description of the European sites is provided in Section 4.3 of the Natura Impact Statement and details of the likelihood of significant effects on the various Qualifying Interests/Special Conservation Interests are provided in Table 4 and Section 4.4.2. The following potential impacts are identified in the context of the construction and operational phases of the proposed development (in summary):

Construction Phase:

- Surface Water Pollution: - installation of the surface water drainage infrastructure and headwall in the north-east of the site, could cause contaminated surface waters to discharge into the Dundalk Bay SAC/SPA. The installation of the proposed main access road/possible construction of the bus stop along the eastern side of the R172, could result in contaminated surface waters entering Dundalk Bay SAC/SPA via the existing named watercourse which discharges in a northerly direction parallel to the R172.
- Dust Deposition: - Due to the site's proximity, there is the potential for dust generated to deposit in the Dundalk Bay SAC/SPA and adversely affect their ecology.
- Disturbance of SPA Waterbirds: - Due to the site's proximity, there is t potential for disturbance impacts (e.g., lighting, construction noise, visual stimulus) to roosting/foraging waterbird species along this stretch of coastline.

Operational Phase:

- Surface Water Pollution: - Operational surface waters flowing through existing drainage channel, which ultimately discharges into Dundalk Bay and to QI listed habitats for this SAC (1330 & 1410), could carry hydrocarbons, detergents and other harmful contaminants associated with an active residential development, into the SAC/SPA.

- Disturbance of SPA Waterbirds: - The resultant increase in population arising from the proposed development could result in increased recreational usage of Dundalk Bay; resulting in knock on effects on SCI waterbirds within the SPA as a result of associated increased recreational pressure.

Avoidance and mitigation measures are outlined in Section 4.5. Three broad approaches are being adopted to ensure the mitigation of impacts on Dundalk Bay SAC and Dundalk Bay SPA:

- Pollution/dust control in the construction phase.
- Pollution control in the operational phase.
- Prevention of disturbance to SPA species in the construction phase.

These broad approaches to mitigation will be implemented through the following measures:

- Construction Environmental Management Plan (CEMP).
- Construction Programme.
- SUDS.
- Silt Traps & Hydrocarbon Interceptors.
- Site-Specific Environmental Management Plan (EMP).

The following mitigation measures are outlined in the context of the construction phase:

Construction Environmental Management Plan (CEMP)

A CEMP informed by the mitigation commitments presented in the various EIAR Chapters and this NIS, will be prepared. A Construction Management Plan has been prepared/submitted with the planning application and provides a framework for the contractor to develop further as the project moves into the construction phase. A breakdown of the contents of/inclusions in this document is provided in Section 4.5.2.1. The CEMP will incorporate the following specification mitigation measures in the context of pollution or siltation of surface or groundwaters from construction activities; hydrocarbon/chemical contaminants; and surface water/groundwater impacts via. release of cementitious materials (in summary):

- To prevent pollution or siltation of surface or groundwaters from construction activities:

- Any groundwater temporarily dewatered during the construction of the attenuation basin, wastewater pumping station and any deep building foundations in localised areas in the eastern portion of the site will be treated via the installation of a temporary in-situ water treatment system.
- Provision of a site-specific dewatering plan, clearly setting out proposed excavation methodology, estimated dewatering rates, details of the proposed treatment system, and discharge location.
- Surface water attenuation measures are to be designed which will not be overwhelmed by one-off adverse precipitation events.
- Where practical, cut-off V drains will be utilised to divert water entering site and reduce the amount of water to be managed on-site. All drains and temporary channel will be maintained/protected to minimise scour and the mobilisation of suspended solids.
- Control of mud at site entries/exits using wheel washes and/or road sweepers, and tools and plant will be washed out and cleaned in designated areas. Wheel washings will be contained and treated prior to discharge.
- Runoff will be directed to/intercepted by temporary settlement lagoons.
- Neither groundwater nor surface water runoff from the working areas will be permitted to discharge directly to the environment. Runoff generated within the site during construction will be filtered and treated to remove hydrocarbons and sediment. Total Suspended Solids (TSS), pH/EC and colour will be monitored daily and outlets from sedimentation ponds will incorporate a turbidity monitor with alarm at a high level.
- Subject to consent, water that is unpolluted, aside from its silt content, may be pumped out over adjacent vegetated ground, where appropriate.
- In the event of surface water failing to meet the required standards water will be recirculated to the inlet of the sediment pond to provide further time for settlement. A penstock will be provided on the outlet from the sediment pond to control discharge from the site.
- Maintenance/monitoring of the surface water drainage network performance, noting that the proposed storm system will include permanent hydrocarbon separators.

- Where pumping to drain works areas are utilised, a back-up pump and generator must be provided for use in the event of the primary pump failing.
- Procedures are to be put in place to ensure the identification, remediation and correct reporting of any silt or other pollution incidents that may occur.
- To prevent any potential surface water/groundwater impacts via. release of hydrocarbon/chemical contaminants:
 - Training of all site personnel in the handling of materials/sensitive nature of the receiving environment/the drainage system/consequences of accidental spillages.
 - Fuels, lubricants and hydraulic fluids for equipment used on the construction site, as well as any solvents, oils, and paints, will be carefully handled to avoid spillage, properly secured against unauthorised access or vandalism, and provided with spill containment;
 - Waste oils/hydraulic fluids will be collected in leak-proof containers and removed off-site for disposal or recycling.
 - Immediate containment of spillage of fuels/lubricants/hydraulic oils and removal/proper disposal of contaminated soil.
 - Refuelling of site vehicles in bunded and adequately sealed/covered areas.
 - Strict supervision of contractors to ensure that all plant/equipment utilised is in good working condition. Unsuitable will not be permitted for use within the site.
 - All oil stored on site for construction vehicles will be kept in a locked and bunded area.
 - Generators, pumps and similar plant will be placed on drip-trays to prevent contamination.
 - Temporary construction fuel tanks will be located in a suitably bunded area/double skinned.
 - All fuel/oil deliveries to on-site oil storage tanks will be supervised, and records will be kept.
 - Fixed plant shall be self-bunded; mobile plant shall be in good working order, kept clean, fitted with drip trays where appropriate and subject to regular

- inspection. Drip trays will be covered, emptied regularly as required and disposed of off-site having regard for local waste management legislation.
- Spill kits/oil absorbent material shall be carried with mobile plant and located at vulnerable locations around the site to reduce the risk of spillages entering the sub-surface or groundwater environment.
 - Booms shall be held on-site for works near drains or dewatering points.
 - Procedures are to be put in place to ensure the identification, remediation and correct reporting of any fuel, oil, chemical or other pollution incidents that may occur.
- To prevent any potential surface water/groundwater impacts via. release of cementitious materials (in summary):
 - No mixing of concrete on site.
 - Strict planning/supervision of the production, transport and placement of all cementitious materials. Site batching/production of concrete will not be carried out on site.
 - Shutters will be designed to prevent failure.
 - Correct clean-up/disposal of any spillages.
 - Where concrete is to be placed by means of a skip, the opening gate of the delivery chute will be securely fastened to prevent accidental opening.
 - Where possible, concrete skips, pumps and machine buckets will be prevented from slewing over water when placing concrete.
 - Surplus concrete will be returned to batch plant after completion of a pour.
 - Disposal of all alkaline wastewaters/contaminated stormwater offsite having regard for local waste management legislation.

Construction Programme

The CEMP will include a section setting out the construction programme informed by the avoidance of disturbance to SPA species. For example, all rock breaking, blasting and other high-intensity construction activities will be programmed to take place outside the wintering season for SPA feature species (i.e. to take place between May and September) to ensure that disturbance to wintering species is avoided. All discrete elements of Site construction close to the shore of Dundalk Bay

(establishment of the main site access, construction of the bus stop and installation of proposed outfall and site drainage and discharge infrastructure in the north-east) are to be programmed to take place outside the wintering season for SPA feature species (i.e. to take place between May and September) to ensure that disturbance to wintering species is avoided.

Dust Control

The following mitigation measures, as outlined within the CMP accompanying the application, will be employed as necessary to prevent significant adverse dust related impacts occurring:

- Spraying of exposed earthwork activities and site haul roads during dry weather.
- Provision of wheel washes.
- Covering of stockpiles.
- Control of vehicle speeds, speed restrictions and vehicle access.
- Sweeping of hard surface roads.
- Hoarding (1.8m high min.) will be erected to minimise the dispersion of dust from the working areas.
- Any generators will be located away from sensitive receptors in so far as practicable.

The following mitigation measures are outlined in the context of the operational phase:

Sustainable Urban Drainage Systems (SUDS)

Storm and surface water arising will ultimately discharge to the SPA/SAC. The SUDS system has been designed to filter, collect and attenuate storm/surface water arising from the site and discharge it at the allowable greenfield runoff rate to 2 no. existing outfalls alongside the R172. Maximum discharges are limited to pre-development greenfield runoff rates, further reduced and diffused through the various nature-based solution measures designed upstream into the SUDS system.

Silt Traps & Hydrocarbon Interceptors

The SUDS design includes silt removal traps and Class 1 hydrocarbon separators within the drainage network. This is the primary mechanism for preventing contaminated surface water runoff entering Dundalk Bay during the Operational Phase.

Site-specific Environmental Management Plan

A site-specific Environmental Management Plan should be prepared for the Operational Phase which adopts a series of mitigation measures (outlined in Section 4.5.3.3).

During the construction phase, the following monitoring will be carried out to ensure the implemented mitigation measures are maintained effectively:

- Dust control measures will be checked on a weekly basis, and more often during dry weather, to ensure they remain effective. The R172/its grassy verge will be checked for any potential dust impacts, and the dust control measures reviewed if impacts are noted.
- Surface water and groundwater protection measures will be checked weekly to ensure they remain effective, and more often during moderate to heavy rainfall events.
- The results of the above monitoring be made available to Louth County Council on request and any remedial measures that are required based on the results of same will be agreed with the same if required.

8.2.8. Applicants' Appropriate Assessment Conclusion

The NIS concludes that once the avoidance/mitigation measures are implemented, the proposed development will not have an adverse effect on the integrity of the Dundalk Bay SAC/SPA, individually or in combination with other plans and projects. Where applicable, a suite of monitoring surveys has been proposed to confirm the efficacy of said measures. It concludes, beyond reasonable scientific doubt, that the proposed development will have no significant adverse effects on the QIs, SCIs and on the integrity and extent of Dundalk Bay SAC (000455) and Dundalk Bay SPA (004026).

8.2.9. Stage 2 – Appropriate Assessment

I have relied on the following guidance as part of this assessment:

- Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities, DoEHLG (2009).

- Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC, EC (2002).
- Guidelines on the implementation of the Birds and Habitats Directives in Estuaries and coastal zones, EC (2011).
- Managing Natura 2000 sites, The provisions of Article 6 of the Habitats Directive 92/43/EEC, EC (2018).

The Dundalk Bay SAC (000455) and Dundalk Bay SPA (004026) are subject to appropriate assessment. A description of the sites and their Conservation Objectives and Qualifying Interests are set out below:

European Site (Site Code)	Conservation Objectives/Qualifying Interests
Dundalk Bay SAC (000455)	<p>Conservation Objectives: - <i>To maintain the favourable conservation condition of these habitats in Dundalk Bay SAC/(in the context of Salicornia and other annuals colonising mud and sand) to restore the favourable conservation condition of these habitats in Dundalk Bay SAC</i></p> <p>Qualifying Interests:</p> <p><i>Estuaries [1130]</i></p> <p><i>Mudflats and sandflats not covered by seawater at low tide [1140]</i></p> <p><i>Perennial vegetation of stony banks [1220]</i></p> <p><i>Salicornia and other annuals colonising mud and sand [1310]</i></p> <p><i>Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330]</i></p> <p><i>Mediterranean salt meadows (Juncetalia maritimi) [1410]</i></p>
Dundalk Bay SPA (004026)	<p>Conservation Objectives: - <i>To maintain the favourable conservation condition of these species in Dundalk Bay SPA/(in the context of Wetland and Waterbirds) to maintain the favourable conservation condition of the wetland habitat as a resource for the regularly occurring migratory waterbirds that utilise it.</i></p> <p>Qualifying Interests:</p> <p><i>Great Crested Grebe (Podiceps cristatus) [A005]</i></p> <p><i>Greylag Goose (Anser anser) [A043]</i></p> <p><i>Light-bellied Brent Goose (Branta bernicla hrota) [A046]</i></p>

	<i>Shelduck (Tadorna tadorna) [A048]</i>
	<i>Teal (Anas crecca) [A052]</i>
	<i>Mallard (Anas platyrhynchos) [A053]</i>
	<i>Pintail (Anas acuta) [A054]</i>
	<i>Common Scoter (Melanitta nigra) [A065]</i>
	<i>Red-breasted Merganser (Mergus serrator) [A069]</i>
	<i>Oystercatcher (Haematopus ostralegus) [A130]</i>
	<i>Ringed Plover (Charadrius hiaticula) [A137]</i>
	<i>Golden Plover (Pluvialis apricaria) [A140]</i>
	<i>Grey Plover (Pluvialis squatarola) [A141]</i>
	<i>Lapwing (Vanellus vanellus) [A142]</i>
	<i>Knot (Calidris canutus) [A143]</i>
	<i>Dunlin (Calidris alpina) [A149]</i>
	<i>Black-tailed Godwit (Limosa limosa) [A156]</i>
	<i>Bar-tailed Godwit (Limosa lapponica) [A157]</i>
	<i>Curlew (Numenius arquata) [A160]</i>
	<i>Redshank (Tringa totanus) [A162]</i>
	<i>Black-headed Gull (Chroicocephalus ridibundus) [A179]</i>
	<i>Common Gull (Larus canus) [A182]</i>
	<i>Herring Gull (Larus argentatus) [A184]</i>
	<i>Wetland and Waterbirds [A999]</i>

I have also examined the Natura 2000 data forms as relevant and the Conservation Objectives supporting documents for these sites available through the NPWS website.

Mitigation/Monitoring

A range of mitigation/monitoring measures, relating to construction and operational phases, are provided in the NIS, and these are noted. These are outlined in Sections 4.5 and 4.6 of the NIS, but the main points were summarised in the preceding section. Overall, I consider that the proposed mitigation/monitoring measures are clearly described, and precise, and definitive conclusions can be reached in terms of avoidance of adverse effects on the integrity of the Dundalk Bay SAC/SPA based on the outlined mitigation/monitoring measures. I consider that the mitigation/monitoring measures are necessary having regard the pathways that exist between the subject

site and the SAC/SPA. Overall, the measures proposed are effective, reflecting current best practice, and can be secured over the short and medium term and the method of implementation will be through a detailed management plan.

In Combination Effects

There is no likelihood of in-combination effects with other plans and projects subject to the full implementation of mitigation/monitoring measures outlined in the NIS.

8.2.10. Appropriate Assessment Conclusion

The proposed residential development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act, 2000 (as amended).

Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have significant effects on the Dundalk Bay SAC (000455) and Dundalk Bay SPA (004026). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of these sites in light of their conservation objectives.

Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the Dundalk Bay SAC (000455) and/or Dundalk Bay SPA (004026).

This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation and monitoring measures in relation to the Conservation Objectives of the Dundalk Bay SAC (000455) and Dundalk Bay SPA (004026).
- Detailed assessment of in combination effects with other plans and projects including historical projects, plans and current proposals.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of the Dundalk Bay SAC (000455) and Dundalk Bay SPA (004026).

I have had full consideration of the information, assessment and conclusions contained within the NIS. I have also had full regard to National Guidance and the information available on the National Parks and Wildlife Service (NPWS) website in relation to the identified designated European sites. I consider it reasonable to

conclude that on the basis of the information submitted in the NIS, including the recommended mitigation/monitoring measures; reports submitted in support of this application; information contained in the grounds of appeal; that the proposed development, individually or in combination with other plans or projects would not be likely to adversely affect the integrity of the Dundalk Bay SAC (000455) and Dundalk Bay SPA (004026).

8.3. Environmental Impact Assessment

8.3.1. Introduction

This section sets out an Environmental Impact Assessment of the proposed development and should be read in conjunction with the planning assessment and appropriate assessment (Section 8.1 and Section 8.2 of this report, respectively). A number of the topics and issues addressed in the planning assessment/appropriate assessment concern environmental matters. Where relevant, I have cross-referenced between sections to avoid unnecessary repetition.

Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations, 2001 (as amended), provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects comprising of either:

- *Construction of more than 500 dwelling units.*
- *Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.*

The proposed development involves the construction of 502 no. residential units/a creche on a site in a built-up area comprising 18.54ha in size. The proposed development exceeds the relevant dwelling unit nos. and area specified in Part 2 of Schedule 5 and is therefore subject to mandatory EIA.

The application is accompanied by an Environmental Impact Assessment, prepared by Turley. The EIAR comprises a non-technical summary (Volume 1), a main report (Volume 2) and supporting appendices (Volume 3). In the context of the main report, Chapters 1 to 6 inclusive set out an introduction and description of methodology; a description of alternatives considered; and a description of the proposed development.

Chapters 7 to 18 describe and assess the likely significant direct, indirect and cumulative effects of the proposed development in accordance with the relevant headings listed in Article 3(1) of the 2014 EIA Directive, including the interactions between relevant effects. Potential cumulative impacts and proposed mitigation measures are outlined in Chapter 19 and Chapter 20, respectively².

The Planning Authority's first refusal reason pertains to the matter of environmental impact assessment. More specifically, they contend that they are unable to carry out a comprehensive environmental impact assessment of the proposed development due to the inadequacy of the information provided with the application, particularly in relation to wastewater disposal, surface water drainage, water flow rate calculations and biodiversity. A no. of the observers on the first party appeal have also raised concerns about the subject proposal on the environment and on birdlife/wildlife/endangered species. They argue that the EIAR is inadequate and contains insufficient/inaccurate information and given the deficiencies/failings of EIAR accompanying the application, the failure to include wholly updated EIAR represents a significant shortcoming of the appeal.

The grounds of appeal submitted by the appellant refutes the Planning Authority's first refusal reason claiming that the LRD application was accompanied by all relevant and required information, including in relation to wastewater disposal, surface water drainage, water flow rate calculations and biodiversity, to enable a complete and robust assessment of any potential environmental impacts. The grounds of appeal are accompanied by the following supplementary plans and information to further illustrate this point and, for completeness: - a statement on biodiversity; a compliance statement regarding submitted EIAR (both prepared by Turley); and a set of statements/analysis, calculation sets, flood maps and additional drawings/sections prepared by Donnachadh O'Brien & Associates Consulting Engineers, Finn Design Partnership and IE Consulting.

The subsequent sections of my report examine of the information presented by the applicant, including the EIAR, made during the course of the application and carries out an independent and objective environmental impact assessment (EIA) of the

² I note there is a slight discrepancy between the chapter numbering utilised and that outlined in Table 1.1 included in Section 1.6 (Format and Structure of the EIAR) of the document, Architectural Heritage and Archaeology having been considered in the same chapter.

proposed project in accordance with the requirements of relevant legislation. In carrying out an independent assessment (in particular in the context of biodiversity and hydrology/hydrogeology), regard will also be had to the concerns raised by the Planning Authority and the observers to the first party appeal, as well as the relevant matters raised in/information submitted with the appellants grounds of appeal.

There is one aspect of the Planning Authority's commentary that requires discussion ahead of my assessment of the likely significant direct and indirect effects of the proposed development, given it permeates all matters requiring assessment. That is the Construction Management Plan, prepared by Donnachadh O'Brien and Associates, which accompanies the application and informs the EIAR. The Planning Authority contends that the Construction Management Plan has a no. of discrepancies, (such as reference to the River Liffey, Kildare County Council, rivers etc. which are incorrect) and in light of this are not satisfied that the mitigation measures proposed are specific to this site. The first party appeal contends that Louth County Council's assertion regarding discrepancies in the Construction Management Plan is not correct and that they are referring to the versions of these documents submitted with the previously withdrawn LRD application (Reg. Ref. 2360330) rather than the current LRD application that is the subject of this appeal. Upon review of the Construction Management Plans accompanying the previously withdrawn LRD application and the subject application, it would not appear that the incorrect references to Kildare County Council, the River Liffey etc. featuring in the withdrawn LRD application's Construction Management Plan appear in the version accompanying the subject application. Further to this, I noted the inclusion of information very specific to the subject site and proposed development, including the proposed development phase durations outlined in Table 5 and mitigation/monitoring measures specific to certain aspects of the proposed development, such as the construction of the proposed bus stop & new entrance road off the R172 Blackrock Road. Contrary to the view of the Planning Authority, I am satisfied that the Construction Management Plan submitted, and the mitigation/monitoring measures contained therein to be specific to the subject site/the proposed development.

I am satisfied that the information contained in the EIAR has been prepared by competent experts (as outlined in Section 2.6 of the EIAR) and generally complies with Article 94 of the Planning and Development Regulations, 2001 (as amended), and the

provisions of Article 5 of the EIA Directive 2014. I am also satisfied that appropriate opportunities have been afforded for public participation, and that the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions.

8.3.2. Vulnerability of Project to Major Accidents and/or Disaster

Article 3(2) of the 2014 EIA Directive includes a requirement that the expected effects derived from the vulnerability of the project to major accidents and / or disasters that are relevant to the project concerned are considered.

The Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment (2018) identify two key considerations:

- The vulnerability of the project to potential disasters/accidents, including the risk to the project of both natural disasters and man-made disasters.
- The potential of the project to cause accidents and/or disasters, including implications for human health, cultural heritage, and the environment.

The EIAR, at Section 2.5.1, outlines that the subject site is not within the consultation distance of any Seveso facility (the closest Seveso Sites being c. 21kms away and having a consultation distance of 400 metres). Therefore, there are no implications for major accidents or hazards at the proposed development site.

Chapter 9 and Chapter 10 of the EIAR consider geohazards and the risk of flooding, respectively, and the application is accompanied by a site-specific flood risk assessment. This concludes that the proposed development is not at risk of flooding from external sources, or as result of the proposed development and will not give rise to flooding impacts elsewhere. The proposed buildings featuring in this development are located within Flood Zone C. Pluvial and groundwater flooding will be managed through the implementation of the design/drainage measures. Having regard to the nature of the proposed residential development on zoned lands, and to the surrounding pattern of land uses and development, I am satisfied that the development is not likely to cause, or to be vulnerable to, major accidents and / or disasters.

8.3.3. Consideration of Alternatives

Article 5(1)(d) of the 2014 EIA Directive requires the following:

“a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment”.

Annex (IV) (Information for the EIAR) provides the following additional detail in relation to ‘reasonable alternatives’:

“A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.”

Chapter 4 addresses ‘Key Alternatives’. The reasonable alternatives examined can be summarised as follows:

- Do Nothing Alternative: This scenario would mean that the lands would not be developed in accordance with the Louth County Development Plan 2021-2027, which zones the subject site for residential development and a new public open space. Not developing the site would have negative impacts on housing provision, local services, tree planting, and community/public open space provision. The do-nothing scenario is likely to be neutral in environmental terms, in respect of land, soils, geology and hydrogeology, noise and vibration, townscape and visual impact assessment, archaeology and cultural heritage, waste, built services and roads and traffic. In relation to biodiversity, if the site were to remain undeveloped, it is expected that the biodiversity value would increase as a result of neglect or a reduction in maintenance of the site.
- Alternative Locations: Taking into consideration the zoning and development objectives relating to the subject site, it is considered that the site is suitable for the proposed development. The site's location, proximity to existing services and availability of utilities and infrastructure also make it a suitable location for the proposed residential development.
- Alternative Layouts and Designs: Alternative designs and layouts were also considered during the design process to establish the optimal redevelopment for the lands. The various designs and layouts considered responded to a range of

site constraints and opportunities. The design process also considered feedback at key stages from consultation and engagement to balance the issues and opportunities in order to establish design principles that ensure that the potential for the redevelopment of the lands is optimised.

I am satisfied that the alternative designs and layouts have been adequately explored for the purposes of the EIAR. In the prevailing circumstances the overall approach of the applicant is considered reasonable, and the requirements of the 2014 EU Directive in this regard have been satisfactorily addressed.

8.3.4. Assessment of the likely significant direct and indirect effects

The likely significant direct and indirect effects of the development are considered under the following headings, in accordance with those set out in Article 3 of the EIA Directive 2014/52/EU:

Population and Human Health

Population and Human Health is addressed in Chapter 7 of the EIAR. The methodology for assessment is described as well as the receiving environment. Recent demographic trends are examined, and it is noted that the population of Dundalk represented 30.3% of Louth County's population in 2016 and 30.9% in 2022. This equates to a population growth of 10.5%, which exceeds both the Louth average growth (8.5%) and the national average (7.6%) within the intercensal period. A population target of 50,000 persons by 2031 is outlined for Dundalk. With regards to age profile, County Louth has a lower proportion of residents aged 65+ years (14.2%) when compared with the national average of 15.1% and a higher proportion of younger residents in each of the 0-14 years and 15-24 years cohorts when compared with the national average. In terms of economic/employment activity, Dundalk is located along the Dublin-Belfast Economic Corridor and is identified in the Louth County Development Plan 2021-2027 as a 'Regional Growth Centre' to be promoted for regional enterprise with an objective to achieve critical mass for economies of scale. The importance of Dundalk as a Regional Growth Centre for the County is highlighted by the fact that in 2016, the amount of employment in the town equate to 40% of the total jobs in the County. Moving forward, population and economic growth will be focused primarily on County Louth's regional growth centres (Drogheda and Dundalk).

An overview of the social and community infrastructure available within Dundalk and nearby areas for existing residents/employees and future residents of the proposed development is provided in Section 7.6. A significant quantum of relevant social/community facilities have been identified as being in close proximity to the subject site. With respect to education, a total of 16 no. primary schools and 8 no. post-primary schools were identified, with a combined total capacity of 4,682 no. spaces and 4,628 no. spaces, respectively. A total of 2 no. third level education facilities were identified as being located within the assessment area. In light of existing childcare facilities in the area being at near capacity, the subject proposal includes a new childcare facility with capacity for 120 children.

In terms of human health, the 'do-nothing' scenario and potential impacts arising during the construction and operational phases have been considered in the context of the proposed project. Under the 'do-nothing' scenario, no significant impacts would arise in relation to population and human health locally. However, given the ongoing national housing crisis and the housing demand identified for Louth County, this scenario is considered to represent an underutilisation of the subject site and a socially suboptimal outcome, in light of the site's land use zoning context.

Potential impact has been identified as a direct result of both construction and operation phases. Considering the construction stage firstly. There is deemed to be potential impacts in the context of hydrology and hydrogeology; air & climate; noise and vibration; waste management; traffic and transportation; services; health and safety; visual impacts; economic impacts; housing; and community infrastructure. In the context of the economy, job creation arising from the construction of the proposed development will result in a positive, moderate, short-term local economic impact. The presence of site personnel in the area during the construction phase will create additional demand in the area for goods and services. There will also be economic benefits for providers of construction materials and other supporting services.

Considering the operational stage, noting the information contained in the applicable EIAR chapters, as well as the best practice design, construction and mitigation measures referred to therein, and the various management plans submitted with the application, no significant adverse population (human beings) and human health impacts are predicted during the operation of the proposed project. With respect to

human health and safety, the operational stage of the proposed project is not expected to create any long-term negative impacts.

The provision of much needed housing accommodation at a highly accessible location in Dundalk is predicted to have a moderate to significant and positive long-term impact from a population/human health/housing perspective. The provision of new housing will enhance local spending power; create additional demand for goods and services; and support existing businesses, services, infrastructure, and employment opportunities and the employment opportunities associated with the proposed creche/childcare facility, the operational stage of the proposed project is therefore expected to have a positive, moderate, long-term economic impact. Further to this, the strategic amenity area and pedestrian/cyclist routes proposed will have a long-term positive impact on the overall health levels of existing/future residents in the area, as well as visitors to the area/development.

With regards to potential negative impacts in the context of the construction phase - mitigation measures are outlined in Chapters 10 and 14 to reduce any water impacts; Chapter 11 to reduce any potential air quality and climate impacts; Chapter 12 to reduce any potential noise and vibration impacts; Chapter 13 to address potential impacts arising in the context of waste management; Chapter 14 to reduce any potential traffic and transport impacts; Chapter 15 to reduce any potential service/utility impacts; and Chapter 18 to reduce any potential impacts on the landscape/the visual amenity of the area; arising from construction activities on population and human health. The construction stage of the proposed project will be managed and undertaken in accordance with best practice measures and controls to reduce the potential for any health and safety impacts with respect to population and human health. Further to this, reference is made to the Construction Management Plan and Construction Traffic Management Plan accompanying the application which outline best practice construction management practises to be adopted in the context of the subject development. The contractor will also be required to produce a Construction Waste Management Plan (informed by the recommended controls and measures included in Chapter 13) prior to any works commencing on site. Having regard to this mitigation measures already adopted within the scheme, no further mitigation is

required for Population and Human Health to address any residual impacts arising during the construction or operational phases.

Having regard to the other specialist chapters contained within the EIAR, the proposed project and the application site do not present risks of major accidents or disasters, which could be caused by the scheme itself or from external man-made or natural disasters.

Considering the design, nature and location/siting of the proposed project, and having regard to the construction and operation best practice, mitigation and monitoring measures prescribed in the various specialist chapters of this EIAR, no likely significant direct or indirect effects are predicted during either the construction or operation stages of the proposed project with respect to 'Population and Human Health'.

Having regard to the foregoing, I am satisfied that impacts predicted to arise in relation to population and human health would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative environmental impacts in terms of population and human health.

Biodiversity

Biodiversity is addressed in Chapter 8 of the EIAR. It is noted that an Appropriate Assessment Screening Report and a Natura Impact Statement (standalone documents) have been submitted as part of the application. The Biodiversity chapter details the methodology of the ecological assessment, the relevant legislative requirements and the ecology of the site/surrounding area. The following four protected designated sites were considered to fall within the proposed development's zone of influence: - Dundalk Bay Special Area of Conservation (SAC), Dundalk Bay Special Protection Area (SPA), Dundalk Bay proposed Natural Heritage Area (pNHA) and the Dundalk Bay RAMSAR Site. As assessed in Section 8.2 above, the proposed development was considered in the context of any site designated under Directive 92/43/EEC or Directive 2009/147/EC.

A desktop study was carried out to collate and review available information, datasets and documentation sources pertaining to the site's natural environment. The desk study, completed in July 2023, included examining records and data from the National Parks and Wildlife Service (NPWS), National Biological Data Centre (NBDC), Geological Survey Ireland (GSI), and the Environmental Protection Agency (EPA), in addition to satellite imagery and mapping obtained from various sources and planning history in the vicinity of the site.

The following field surveys were also undertaken:

Field Survey	Survey Dates	Surveyors
Habitat/Flora	17 th February & 9 th May 2023	Enviroguide Ecologists
Invasive Flora	9 th May 2023	Enviroguide Ecologists
Mammal	17 th February & 9 th May 2023	Enviroguide Ecologists
Bat	17 th February, 25 th May, 30 th May, 13 th June and 21 st June 2023	Enviroguide Ecologists
Breeding Bird	17 th February, 20 th April, 8 th May and 29 th May 2023	Enviroguide Ecologists/Ornithologists
Wintering Birds	18 th October, 2 nd November, 7 th December (all of 2022), 24 th January, 13 th February, and 22 nd March (all of 2023)	Enviroguide Ornithologists

(I note the observations on the first party appeal received from Des McKeown and John & Aoife Henry raised concerns about the adequacy of consideration of/surveys carried out regarding migratory birds/bats and in the context of the EIAR. Having regard to the extent of surveys carried out and the dates set out above, as well as detailed description of surveys conducted provided, I am satisfied that the subject site/area has been appropriately surveyed and that field surveys of the site were undertaken within the appropriate seasonal timeframe for terrestrial fieldwork.)

Habitats within the site were coded and categorised as per Fossitt (2000). The primary habitat types located within the site of the proposed development (the agricultural fields) comprises dry meadows and grassy verges (GS2). The following habitats are also found throughout the site: - a small area of wet grassland (GS4) features in the north-west of the site; an area of marsh (GM1) features in the south-easternmost part of the subject site; a very small area of Wet Willow-alder-ash Woodland (WN6)

features in the north-eastern corner of the site; Scrub (WS1) is present in several forms throughout the site; a small section of Wet Willow-alder-ash Woodland (WN6) borders the eastern boundary of the site; a band of Immature Woodland (WS2) lies in the east of the site; sections of mixed broadleaf/conifer woodland (WD2) are present along parts of the eastern and north-eastern boundaries; a small area of recolonising bare ground features in the east of the site; and field boundaries comprise of Hedgerows (WL1), Treelines (WL2) and Stone Walls (BL1). These habitats are relatively common/widespread in the locality but are likely to be locally important to foraging, nesting, roosting and commuting species in the wider area such as birds and mammals.

Below is a synopsis of the findings of the various surveys:

- *Invasive Species*: No species of plant listed on the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations, 2011 were recorded at the site during surveys. One invasive plant was recorded proximate to the subject site; Cherry Laurel (*Prunus laurocerasus*), located along the west and northern boundaries in neighbouring properties.
- *Birds*: A total of 41 species were recorded over the course of the three breeding bird surveys conducted. All species recorded during the survey are outlined in Table 8.14 of the EIAR. Seven species observed on or over the site are on the Amber List of the Birds of Conservation Concern in Ireland; and five species are on the Red List, the Kestrel (*Falco tinnunculus*), Meadow Pipit (*Anthus pratensis*), Redwing (*Turdus iliacus*), Snipe (*Gallinago gallinago*) and Yellowhammer (*Emberiza citrinella*). One waterbird species, snipe (*Gallinago gallinago*), was recorded during the winter bird surveys. No birds of conservation importance were identified nesting on site and the proposed development site is not an important ex-situ site for qualifying interests of proximate SPA and is not associated with important flightlines of these species.
- *Non-volant Mammals*: Mammal trails were recorded along the various boundaries of the site, however some of these are likely the result of dogs and walkers, as dog prints were observed. No signs of protected species such as Badger (*Meles meles*), Otter (*Lutra lutra*), Irish Hare (*Lepus timidus hibernicus*), Hedgehog (*Erinaceus europaeus*) or pygmy shrew (*Sorex minutus*) were found on site,

although it supports suitable habitat for Badger and the latter three species in the scrub and grassland present at the Site, and otter foraging habitat in the marsh habitat in the east of the site. No evidence of herptiles e.g., Common Frog (*Rana temporaria*) or Common Lizard (*Lacerta vivipara*), were recorded, however some suitable habitat for these species does occur in the scrub, grassland and marshy areas of the site.

- *Bats*: The majority of the trees at the site were observed as having negligible roost potential. All trees/hedgerow sections marked for removal at the site supported negligible roost potential. Bat surveys recorded no bats using the two low roost potential structures on site (a small pumphouse in the west and container in the east) and recorded a total of 5 bat species/species groups; Common pipistrelle (*Pipistrellus pipistrellus*), Soprano pipistrelle (*Pipistrellus pygmaeus*), Leisler's Bat (*Nyctalus leisleri*), Brown Long-eared bat (*Plecotus auritus*) and unidentified *Myotis* bats species (*Myotis* spp.). Bat activity was associated with the vegetated boundaries of the site, with several hot spots recorded. Bats use the western and south-western field boundaries as a commuting foraging route, linking in with the adjoining lands. The south-eastern section of the site provides foraging and commuting habitat in the form of marsh, grassland and scrub, with good connectivity with the mature woodland along the site's eastern and north-eastern boundaries. Some limited activity was recorded along the central north-south hedgerow but activity along the northern boundary of the site was minimal.
- *Amphibians and Common Lizard*: No evidence of these species groups was found. The site provides limited potential Lizard habitat and is isolated between highly maintained golf course lands to the west, residential lands to the north and arable agricultural land to the south. The site itself was maintained under arable crop production until recently and therefore it is unlikely to support a significant population of lizard (reptiles will therefore be assessed further). There is suitable breeding habitat present for Common frog in the form of the marshy area to the south-east of the site (frogs will therefore be assessed further).

Likely and significant effects of the proposed development have been assessed in the context of Key Ecological Receptors (as listed in Table 8.16) only, as per the relevant guidelines. Potential impacts were identified and can be summarised as potential

construction phase impacts via habitat loss or damage, habitat fragmentation, increases in noise and dust emissions; direct mortality or disturbance of breeding birds, small mammals or herptiles during vegetation clearance; runoff of sediment or other water borne pollutants into surface waterbodies and designated sites located downstream, and light pollution impacts to nocturnal species e.g., bats. Proposed landscaping includes the retention of almost all the existing hedgerows/treelines/woodland bar the loss of small sections to allow for roads and paths. Operational phase impacts can be summarised as light pollution impacts to nocturnal species e.g., bats, water pollution downstream of the site and increased disturbance of waterbirds along the nearby coastline as a result of an increase in local population due to future residents.

The following mitigation measures have been set out in the context of the construction phase (in summary):

- A Construction Environmental Management Plan, based on the mitigation commitments presented in the various EIAR Chapters, will be prepared.
- A Pre-construction Ecology Walkover of the site to assess the occurrence of any changes in the status of flora/fauna since the previous surveys and advise if further mitigation measures are required.
- The construction programme for the proposed development will ensure that certain works will be conducted between May and September to ensure disturbance to wintering bird species within the bay is avoided, as well as taking account of the breeding bird season and the breeding season for Common Frog.
- The timing of vegetation clearance will be informed by the nesting bird season.
- Adoption of invasive species and biosecurity measures.
- Control of construction-related rubbish, covering of trenches/pits and suitable capping of any temporarily exposed open pipe system will be adopted to protect small mammals.
- Tree protection measures, including fencing, will be adopted.
- Adoption of a series of noise control measures.

The following mitigation measures have been set out in the context of the operational phase:

- Adoption of bat friendly lighting to minimise light-spill onto any hedgerows or treelines to be retained or planted.
- Provision of boundaries/barriers which are permeable for hedgehogs.
- The SUDS includes silt removal traps and Class 1 hydrocarbon separators within the drainage network.

Enhancement measures recommended for the site include features, such as bat boxes, bird boxes and log piles; to be located at suitable locations around the Site, as well as measures such as the adoption of a low-intervention hedgerow management plan for the site; which will maintain the outer boundary vegetation and central north-south hedgerow within the site in as wild a state as possible to maximise the biodiversity value provided by these features.

The following monitoring measures have been set out in the context of the construction phase (in summary):

- Dust control measures checked on a weekly basis, and more often during dry weather, to ensure they remain effective. The R172 and its grassy verge will be checked for any potential dust impacts, and the dust control measures reviewed if impacts are noted.
- Surface water and groundwater protection measures will be checked weekly to ensure they remain effective, and more often during moderate to heavy rainfall events as appropriate.
- Monitoring results will be available to Louth CoCo and any remedial measures that are required based on the results of same will be agreed with the same if required.

The following monitoring measures have been set out in the context of the operational phase (in summary):

- Standard maintenance checks of all SUDS measures and the wastewater pumping station to ensure correct operation.
- Preparation/implementation of a Biodiversity Monitoring Plan.
- Annual inspection (for a period of 3 years) of bird and bat boxes.

No cumulative effects are foreseen.

It is concluded that provided the mitigation measures proposed are carried out in full, there will no significant negative impact to any valued habitats, designated sites or individual or group of species. The proposed development is considered to result in an overall slight positive impact to the biodiversity via the landscaping plan, which proposes the retention and incorporation of the majority of existing treelines and hedgerows and a net increase in overall tree planting throughout the site.

I note that the Planning Authority's first refusal reason pertains to the adequacy of the information provided with the application/EIAR, including in relation to biodiversity (more specifically in the context of surface water discharge to the SPA/SAC and otters on site). Firstly, to the matter of surface water discharge to the adjacent SAC and SPA. The Planning Authority's concerns regarding this matter stem from the commentary provided by the Department of Housing, Local Government and Heritage and Louth County Council's Placemaking and Physical Development Section, both recommending further information be requested in this regard. The specifics of both sets of commentary, as well as details of discussion in/material submitted with the first party appeal in response to this commentary, was previously discussed in detail in Section 8.2.6. Further to this, in the specific context of the EIAR and the matter of biodiversity, the appeal is also accompanied by a statement on biodiversity and a compliance statement regarding the submitted EIAR (which states that the clarifications/revised plans submitted with the planning appeal do not result in change to the overall findings/conclusions of the EIAR submitted with the application), both prepared by Turley.

Upon review of the material submitted with the application and included with the appeal submission, I am satisfied that surface water resulting from the subject development during construction and operational phases has been appropriately considered in the context of biodiversity and that this project would warrant a refusal of permission on the grounds of environmental impacts on biodiversity.

Turning my attention to the matter of otters, it appears that the concerns raised by the Planning Authority stem from the commentary provided by the Department of Housing, Local Government and Heritage. The Department of Housing, Local Government and Heritage commentary recommended that an amended Biodiversity Chapter be requested, by way of a further information request, which included an assessment of otter usage of the swamp area to the east of the site and proposals for provision of an

otter underpass beneath the R172 Blackrock Road (near the proposed site entrance), if the survey reveals evidence of otter movement across the applicable section of road.

Otters are discussed in Sections 8.6.3.4 and 8.6.4 of the EIAR submitted with the application. More specifically, Section 8.6.3.4 notes that *'no signs of otter (Lutra lutra) were recorded within the site and there is limited suitable habitat for otter within the site itself. The marsh and wet woodland areas in the east of the site revealed no evidence of otter usage'*. Section 8.6.4 also noted that there were no signs of otters at the site. Further to this, the Statement on Biodiversity accompanying the first party appeal specifically responds to the matters raised regarding otters. It confirms that the otter survey, conducted in conjunction with the EIAR preparation, included the entirety of the subject site, as well as the grass verges along the R172 Blackrock Road to the east of the site and the area at the bend of the R172 Blackrock Road to the north-east of the subject site. No signs of otters were observed on site/in the grass verges along the R172 Blackrock Road to the east of the site. An otter sprain was recorded on the bank beside the culvert featuring in the area at the bend of the R172 Blackrock Road. The suggestion that an underpass be provided as part of the subject development was considered and found to be impracticable for following reasons:

- The site entrance is located c. 200 metres away from the bend of the R172 (which is considered the most appropriate crossing point due to the prominent break in the hedgerow boundary along the swamp at this location, the presence of mammal trails up from the channel at this location and the potential to modify the existing culvert featuring there to accommodate otter movement).
- For the suggested underpass to be useable, otters would need to be directed southwards along the edge of the R172 Blackrock Road (by way of fencing) towards the underpass.
- Otters are far more likely to cross at the bend of the R172 Blackrock Road where the existing swamp culvert features.
- There would be no direct connectivity between the subject site and the swamp to the north once the otter crosses at the new underpass. The culvert featuring to the immediate north of the subject site does not lead directly to the swamp but rather through private land initially.

I am satisfied that the EIAR has appropriately considered otters in the context of the proposed development. I am also compelled to agree with the appellants regarding the unsuitability of providing an otter underpass as part of the subject development.

Having regard to the present condition of the site, with no special concentrations of flora or fauna, I am satisfied that the development of the site and the proposed landscaping/planting provides greater benefits in terms of biodiversity. I draw the Boards attention to the Appropriate Assessment section of my report (Section 8.2) where the potential impact of the proposed development on designated European sites in the area is discussed in greater detail.

It is considered that, with the implementation of the mitigation measures set out in this EIAR, the construction and operation of the proposed development will not have a significant negative impact on biodiversity in the Zone of Influence.

Land, Soil, Water, Air and Climate

Land, Soils and Geology

Chapter 9 of the EIAR discusses the topic of land, soils and geology. The methodology for assessment is described. A detailed desk study, ground investigations, a site walkover survey and review of all relevant drawings and documents pertaining to the site and proposed development was carried out. The results of the assessment provided information on the baseline conditions at the site.

The construction phase will involve the following: - excavation to reduce levels to construct the building foundations (c. 1mbGL); excavation for construction of surface water and foul water drainage infrastructure (c. 4.95 mbGL) (125,000m³ of topsoil, subsoil and bedrock to be excavated to construct the proposed development suitable excavated material to be reused for landscaping and engineering use); concrete strip and pad foundations; temporary stockpiling of excavated material pending re-use onsite or export offsite; and importation of aggregates for the construction of roads and other infrastructures. There will be no excavation of soil or bedrock during the operational phase of the proposed development.

Potential impacts during the construction phase are as follows:

- Land Take and Land Use: - The land use will change from greenfield to residential. A land take of 18.54 hectare is required to facilitate development of

the ends for residential use and open space. The change of land use will result in a 'negative' 'significant' and 'permanent' impact.

- **Excavation and Removal of Soil, Subsoil and Bedrock:** - There will be an unavoidable loss of in-situ soils, subsoils, and bedrock to achieve the formation levels for the proposed development. Where possible, the excavated soil, subsoil and bedrock will be retained/re-used for engineering fill and landscaping, however it is anticipated that there will be surplus and unsuitable material to be removed offsite. As the soils underlying the proposed development are considered to be of 'medium' importance, there will be a 'negative', 'moderate' and 'permanent' impact.
- **Soil Quality and Contamination:** - ground investigation/ground sampling carried out identified potential for low quality made ground to be present and the presence of minor anthropogenic materials at one location. The excavation and re-use of soil onsite will be subject to control procedures. There is a potential risk associated with the use of cementitious materials during construction of subsurface structures on the underlying soil and geology. It is considered that this may result in a 'negative', 'moderate' and 'long-term' impact on existing quality of soil within a localised area underlying the proposed development. The potential accidental release of deleterious materials including fuels and other materials being used onsite, through the failure of secondary containment or a materials' handling accident on the proposed development could potentially result in a 'negative', 'moderate to significant', 'long-term' impact on the receiving soil and geology depending on the nature of the incident.
- **Geohazard Risk:** - Intense earthquakes are unlikely in the vicinity of the subject site, the immediately surrounding area is of 'Low' susceptibility to landslides and it is not in an area subject to identified risks associated with karst features. All aggregates imported will be subject to strict quality control procedures. Thus, the impacts of geohazard risks due to the proposed development is 'neutral' 'imperceptible' and 'permanent'.
- **Geoheritage Site:** - Part of the site is located within the Dundalk Bay geological heritage area. Surface water drainage within the existing road is proposed within this geological heritage area. Construction works will occur within the existing R172 road and not within the features which define the areas as a geoheritage

site. In the absence of avoidance and mitigation measure, in a worst-case scenario, there is a potential for fuel spill from the works flowing over the road surface and entering the Dundalk Bay geo-heritage site. In this unlikely scenario, there is a potential 'negative' 'slight' and 'medium- term' impact on the receiving geoheritage site. The impact is considered slight given the scale of the feature, and any impact would be localised.

- Soil Structure: - Soil/bedrock being excavated and re-used will be exposed to various elements including weather and construction traffic. Soils and bedrock pending reuse onsite will have a potential 'negative,' slight' and 'long term' impact' on the natural strength of the materials.
- Importation of Fill Materials: - Importation of aggregates is necessitated. The potential impacts may include loss of attribute and changes in the geological regime. It is anticipated that the required aggregates identified for importation onsite will be 'indirect' and have a 'indirect', 'neutral,' 'imperceptible' and 'permanent' impact on the source site taking account of the fact that the statutory consent process would have required the necessary environmental impacts to be assessed and mitigated as appropriate at the source site.

During the operational phase of the proposed development there is a limited potential for any direct adverse impact on the receiving land, soil and geological environment taking account of the proposed design measures. In a worse-case scenario, of a spill incident from a car engine and failure of containment (i.e. in the context of SuDS), there is a potential 'negative', 'moderate' and 'long-term' impact to the receiving environment.

Excavated soil/bedrock from the subject site could potentially be directed to the same receiving waste facilities for recovery/disposal as excavated soil and rock from other nearby development. As it will be removed off-site in accordance with the requirements of the Construction Management Plan and all statutory, it is considered that any cumulative impact on land, soils and geology associated with the proposed development will be 'neutral', 'imperceptible' and 'permanent'. There are no other cumulative impacts associated with land, soil and geology associated with the construction and operational phase of the proposed development.

With regards to mitigation measure during the construction phase, standard design measures, including appropriate radon membranes will be incorporated into the design of buildings, as per Building Regulation requirements. All aggregates imported to site will be subject to strict quality control procedures in accordance with design specification and relevant building regulations. A Construction Management Plan has been prepared/submitted with the application. It includes management actions relating to stockpiling of soil and pollution prevention. This will reduce construction effects, apart from land take and excavation of soil and subsoil, to non-significant (imperceptible or slight). The contractor will be required to produce a Construction & Demolition Waste Management Plan (informed by the measures outlined in the EIAR and Construction Management Plan) for approval by Louth County Council prior to any works commencing.

During the operational phase, there is no identified potential impact for any adverse impact on the receiving land, soil and geological environmental taking account of the SuDs measures proposed.

- During the construction phase of the proposed development the following monitoring measures will be considered:
- Routine monitoring and inspections during refuelling, concrete works.
- Regular inspection of the fuel, oil and chemical storage bund located on site. compound.
- Inspections of stockpiles with regular review of weather conditions.
- Inspections/monitoring during excavations and other groundworks to ensure that measure that are protective of water quality are fully implemented and effective.
- Materials management and waste audits carried out regularly.

Ongoing monitoring of the SuDs measure will be undertaken throughout the lifetime of the operational phase.

Following implementation of the proposed mitigation and monitoring measures, the predicted direct and indirect impacts associated with the proposed project with respect to land, soil and geology are considered to be imperceptible, with the exception of land-take and excavation of in-situ soil and rock which is considered to be unavoidable, significant and moderate and permanent during the operational phase.

Having regard to the foregoing, I am satisfied that impacts predicted to arise in relation to land, soils and geology would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation/monitoring measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative environmental impacts in terms of land, soils and geology.

Hydrology and Hydrogeology

Chapter 10 of the EIAR discusses the topic of hydrology and hydrogeology. The methodology for assessment is described. This chapter is informed by a detailed desk study, ground investigations, a site walkover survey and review of all relevant drawings and documents pertaining to the site. In terms of baseline conditions, the subject site is located within the Newry, Fane, Glyde and Dee Water Framework Directive (WFD) Catchment (Catchment I.D.: 06), the Castletown_SC_020 WFD Sub-catchment (Sub-Catchment ID 06_12) and the Haggardstown_010 WFD River Sub-basin (EU Code: IE_NB_06H080570) (EPA, 2023). The potential receptors within the receiving water environment associated with the site are: underlying Clontail Formation bedrock aquifer which is part of the Louth GWB, the two unnamed streams located at the eastern and northern boundaries of the subject site, the Upper Marshes Stream and downstream waterbodies including the Inner Dundalk Bay and Castletown Estuary transitional waterbodies and the Outer Dundalk Bay coastal waterbody, the Dundalk Bay SAC, Dundalk Bay SPA and Dundalk Bay pNHA.

The following potential impacts are outlined in the context of the proposed development. During the construction phase:

- Localised dewatering or sump pumping may be required on a temporary basis during excavations. Where water is pumped from the excavations, it is considered that there will be a temporary drawdown of local groundwater. However, the extent of the impact is considered to be 'negative' 'slight' and 'temporary'.
- During excavation, there is a risk to the underlying aquifer due to any accidental release of fuels or other contaminants to exposed granular subsoils or bedrock. In a worst case, un-mitigated scenario there is a 'negative' 'moderate to significant' and 'long-term' impact to the bedrock aquifer.

- During the construction of the entrance, there is a potential for release of suspended sediments entrained in surface runoff from groundworks or indirectly tracked on vehicles / machinery entering the unnamed stream. This may result in a 'negative' 'slight' and 'short-term' impact on the quality of the receiving surface water bodies including the unnamed stream east of the subject site and locally at the discharge point to the Inner Dundalk Bay transitional waterbody.
- There is a potential risk associated with the cementitious materials used during the construction of deeper infrastructure where groundwater may be encountered that could result in a 'negative', 'significant' and 'medium-term' impact on the underlying groundwater quality beneath the subject site.
- In the event of an accidental release of hazardous material including fuels, chemicals and materials being used onsite, through the failure of secondary containment or a materials handling accident at the subject site, it is considered that this could result in a 'negative' 'moderate to significant' and 'long-term' impact on the receiving hydrogeological and hydrological environment depending on the nature of the incident.

During the operational phase:

- The eastern portion of the subject site is located in Flood Zone A and B. The Site-Specific Flood Risk Assessment Report accompanying the application concludes that the proposed development is not expected to result in an adverse impact on the hydrological regime of the areas or increase flood risk elsewhere and is considered to comply with the requirements of the development management justification test. Therefore, it is considered that the potential flooding impacts associated with the proposed development are 'neutral', 'imperceptible' 'long-term'.
- Prior to surface water discharge to the two streams, all surface water runoff will pass through a two-stage treatment train including natural based SuDS and proprietary system SuDS. Therefore, it is considered that there will be a 'neutral', 'imperceptible', 'long-term' impact on to the quality of receiving hydrological receptors including the Inner Dundalk Bay transitional waterbody (which is part of the Dundalk Bay SAC, SPA and pNHA).

- Wastewater will drain northwards to the existing Coes Road WWPS prior to being pumped to the Dundalk WWTP. The UE CoF notes that upgrades to the Coes Road Pumping Station, which will be carried out by Uisce Eireann, are planned for 2027 at which point there will be capacity for the proposed development. Capacity in the existing Coes Road WWPS network catchment could alternatively be provided through the DCS funded surface water improvement works undertaken by LCC in advance of the IW Coes Road WWPS upgrade works in 2027. The foul drainage for the proposed development has been designed to prevent any potential leakage of foul effluent to ground and risk of infiltration into the underlying groundwater and bedrock aquifer. The increase discharge to the Dundalk WWTP, as a result of the proposed development, is considered to be insignificant in terms of the overall scale of the facility. The increased load does not have the capacity to alter the effluent released from the Dundalk WWTP to such an extent as to result in likely significant effects on its receiving waters. On the basis that the foul effluent from the proposed development will be appropriately treated, it is considered that there will be a 'neutral', 'imperceptible', 'long-term' impact on receiving water quality and WFD status associated with the discharge of foul water.

No cumulative impacts associated with the proposed development were anticipated in the context of the supply network/water resources or the receiving surface water environment in terms of water quality/flood risk associated with surface water runoff from the proposed development and considered offsite developments.

A Construction Management Plan accompanies the application which address construction waste, construction environmental management (including a surface water management plan) and construction traffic management. It outlines construction phase mitigation measures relevant to hydrology and hydrogeology regarding the control and management of water and surface runoff; handling of fuels and hazardous materials; concrete works; emergency procedures; stockpile management; welfare facilities; and wheelwash.

Ongoing regular operational monitoring and maintenance of drainage and the SuDS measures will be incorporated into the overall management strategy for the proposed development. This will ensure that there are no impacts on water quality and quantity

(flow regime) during the operational phase of the proposed development. Therefore, any potential flood risk associated with the proposed development will be “neutral”, “Imperceptible” and “long-term”. With regard to the proposed discharge of treated operational surface water from the proposed development to the two streams, the potential for surface water generated at the proposed development to cause significant effects to downstream sensitivities during the operational phase would be considered negligible due in part to the SuDS measures and petrol interceptor incorporated in the overall design.

In terms of monitoring measures, during the construction phase the following monitoring measures will be considered: - inspections during excavations/other groundworks to ensure that measures that are protective of water quality are fully implemented and effective; discharges to surface water / foul sewers will be monitored; and routine monitoring/inspections during refuelling and concrete works. Ongoing regular operational monitoring and maintenance of drainage and the SuDS measures will be undertaken throughout the lifetime of the operational phase of the proposed development.

The assessment concludes that there are no significant residual impacts on hydrology and hydrogeology anticipated in the context of the proposed development.

I note that the Planning Authority, upon review of this chapter/mitigation measures proposed, were not satisfied that significant adverse impacts on the receiving groundwater/surface water environment and designated EU sites of Dundalk Bay SAC and SPA will not occur. More specifically, the Planning Authority’s concerns relate to a lack of information in relation to the applicable watercourse along the eastern boundary/water flow rate calculations and appear to be informed by a submission received from neighbouring landowners regarding the ownership issues associated with the applicable watercourse; and commentary provided by the Department of Housing, Local Government and Heritage (regarding wastewater, surface water drainage and flow calculations) and the Placemaking and Physical Development Section (regarding surface water drainage and flow calculations). These particular aspects of concern raised by the neighbouring landowners, the Department of Housing, Local Government and Heritage and the Placemaking and Physical Development Section were previously the subject of comprehensive assessment in Sections 8.1.5 and 8.2.6 of this report, respectively. As outlined in these previous

sections of my report, I am generally satisfied with the waste and surface water drainage proposals and flood risk assessment, and I do not consider that this project would warrant a refusal of permission on the grounds of environmental impacts on hydrology and hydrogeology.

Air & Climate

Chapter 11 of the EIAR refers to Air Quality & Climate and considers the potential for the proposed development to impact upon air quality and climate within the immediate vicinity on local climate and on global climate in a wider context. The methodology and receiving environment are addressed therein. The baseline air quality of the site was examined using EPA monitoring data. The site of the proposed development lies within 'Zone C' of Ireland, which represents 'other cities and large towns comprising Limerick, Galway, Waterford, Drogheda, Dundalk, Bray, Navan, Ennis, Tralee, Kilkenny, Carlow, Naas, Sligo, Newbridge, Mullingar, Wexford, Letterkenny, Athlone, Celbridge, Clonmel, Balbriggan, Greystones, Leixlip and Portlaoise. It is expected that existing ambient air quality in the vicinity of the site is characteristic of a suburban location with the primary source of air emissions such as particulate matter, NO₂, and hydrocarbons likely to be of traffic, aviation, industrial activities, combustion and agriculture, and domestic fuel burning.

With regards to air quality, the primary sources of dust identified during construction phase include soil excavation works, demolition, bulk material transportation, loading and unloading, stockpiling materials, cutting and filling, and vehicular movements. In the context of construction activities, the proposed development is considered to be major in scale due to the site's size and construction duration activities. Therefore, there is potential for significant dust soiling effects on receptors within 100 metres of the site, of which there are a number. Construction vehicles and machinery will temporarily and intermittently generate exhaust fumes and consequently potential emissions of volatile organic compounds, nitrogen oxides, sulphur oxides, and particulate matter (dust). Construction traffic is not expected to result in a significant change in AADT flows near to sensitive receptors peak, therefore, a detailed air quality assessment has been scoped out of the EIA. With regards to climate, increased traffic flow associated with construction is likely to contribute to increases in greenhouse gas (GHG) emissions such as CO₂ and N₂O (Nitrous Oxide). However, these contributions are likely to be marginal in terms of overall national GHG emission

estimates and Ireland's obligations under the Paris Agreement, and therefore unlikely to have a likely significant adverse effect on climate.

The most likely potential effect on air quality during the Operational Phase of the Proposed Development is from traffic-related air emissions. Operational Phase traffic impact assessment involved air dispersion modelling which concluded that the proposed development is likely to result in a long-term increase in NO₂ concentrations on the surrounding roads. This impact on NO₂ concentrations is likely to be 'long-term', 'negative' and 'imperceptible'. However, the resultant increase in traffic has been determined to have an overall insignificant impact in terms of local air quality and marginal with regard to climatic impacts. Therefore, no residual significant impacts are anticipated from the proposed scheme in the context of air quality and climate. In the context of the climate, the proposed development is not expected to result in adverse impact to the hydrological regime of the area or increase flood risk elsewhere and is therefore considered to be appropriate from a flood risk perspective.

Mitigation measures are outlined in the Construction Management Plan accompanying the application which address potential air quality impacts. As part of the associated dust management measures, the Contractor will undertake dust monitoring during the construction phase. Negative climatic impacts associated with the construction phase are negligible, therefore no mitigation measures are considered necessary. Best practice measures will be implemented to minimise exhaust emissions from construction and operational vehicles and machinery by avoidance of engines running unnecessarily, as idle engines will not be permitted for excessive periods. It has been determined that the Operational Phase air quality and climate impacts are negligible and therefore no site-specific mitigation measures are proposed. With regards to climate, all proposals for development will however seek to achieve the greatest standards of sustainable construction and design and will have regard to sustainable building design criteria.

Following the implementation of the proposed mitigation and monitoring measures, the predicted direct and indirect impacts associated with the Proposed Development with respect to Air Quality and Climate are considered to be 'short-term', 'imperceptible' and 'negative' during the Construction Phase; and be long-term, 'negative' and 'imperceptible' during the Operational Phase.

I am satisfied that potential effects would be avoided, managed and mitigated by proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on Air and Climate.

Noise & Vibration

Chapter 12 of the EIAR evaluates Noise and Vibration associated with the construction and operational phases of the development. A baseline noise survey was completed to establish the receiving environment and to determine the impact from the noise generating activities associated with the proposed development at 6 no. locations across the development site. It was determined that the existing noise environment measured is typical of a rural location with relatively low baseline noise levels measured across the site. The nearest noise sensitive locations are residential properties which are located approximately 20 metres north of the site.

In the context of the Construction Phase, the range of activities with potential to generate noise and vibration emissions to off-site sensitive receptors was described. Based on a review of the guidance documents and the baseline noise environment, recommendations regarding daytime noise criteria and vibration criteria were outlined for the construction phase. In the context of the operational phase, it has been concluded that the likely noise impact of the development is not significant. Mitigation measures, including the inclusion of a solid construction site hoarding along noise sensitive boundaries, are detailed for construction, and it is considered that none are needed during operation.

Following the implementation of the proposed mitigation/monitoring measures contained in the Noise and Vibration Chapter and the wider EIAR, the predicted direct and indirect impacts associated with the Proposed Development with respect to Noise and Vibration are considered to be short-term, slight and negative during the Construction Phase; and be long-term, imperceptible and neutral during the Operational Phase. No likely cumulative impacts were predicted as a result of the subject development.

I am satisfied that the proposed mitigation measures and through suitable conditions impacts would be avoided, managed and mitigated. I am therefore satisfied that the

proposed development would not have any unacceptable direct, indirect or cumulative effects in terms of noise or vibration.

Material Assets, Cultural Heritage and the Landscape

Material Assets (Waste)

Chapter 13 of the EIAR considers the potential significant effects of the proposed development on waste management.

All waste materials generated during the construction and operational phases of the proposed development will be managed in accordance with a Construction Management Plan, an Operational Management Plan and a Construction Demolition Waste Management Plan. The application was accompanied by a Construction Management Plan (CMP) and an Operational Management Plan (OWMP), both prepared by Donnachadh O'Brien and Associates Consulting Engineers. The Construction Demolition Waste Management Plan (CDWMP) will be produced prior to Construction works commencing, as stated in the CMP. As previously discussed in this section, the Planning Authority has raised concerns about discrepancies featuring in the CMP and specificity of the mitigation measures contained therein. As previously discussed, I am satisfied that the Construction Management Plan submitted, and the mitigation/monitoring measures contained therein to be specific to the subject site/the proposed development.

During the construction phase, all waste generated will be segregated onsite to enable ease in re-use and recycling, wherever appropriate. The priority of the CDWMP shall be to promote recycling, reuse and recovery of waste and diversion from landfill wherever possible. It is expected that all of the excavated material is to be reused on site (pending environmental soil testing). The operational phase will consist of the normal day-to-day operations necessary for the management and maintenance of 502 no. dwellings and a crèche. During the operational phase, adherence to the OWMP will facilitate a high level of recycling, reuse, and recovery at the proposed development.

Construction and excavation related wastes will be created during the construction phase which has the potential to impact on the local waste management network. A member of the construction team will be appointed as the Waste Officer to ensure

commitment, operational efficiency and accountability. Disposal of excavation/construction generated wastes will be considered a last resort, once recycling or recovery options have been ruled out. Waste will be collected as appropriate by suitably qualified and permitted nominated waste management contractors. Generation of hazardous waste is not envisaged, however if generated, on site storage of the same will be kept to a minimum, with removal off-site organised on a regular basis and in accordance with the CMP, relevant waste management legislation and the OWMP. Waste will also be generated from construction workers/from site offices. Office and canteen waste, including food waste, will be stored in wheelie bins on site and it will be collected by an appropriately authorised waste collector. The potential impact from the construction phase on waste recovery and disposal is deemed likely to be negative, short-term and minor in nature.

Once operational, the proposed development will result in an increase in the production of municipal waste in the region and will increase demand on waste collectors and treatment facilities. The potential impact from the operational phase on municipal waste disposal is deemed likely to be long term, negligible and minor in nature.

Provided the mitigation measures detailed in the various waste management plans are implemented, national legislation is complied with and recycling and recovery is achieved, no significant residual impacts are anticipated during the construction and operational phases. Materials and waste generated during the construction phase will be carefully monitored by the Construction Environmental Site Manager, and/or an appointed Waste Officer, to ensure compliance with relevant local authority requirements and effective implementation of the CMP and the OWMP. No specific monitoring measures are recommended for the operational phase.

The assessment concluded that the likely cumulative impact of the proposed development with other developments in the area during both the construction and operational phases will be neutral and not significant on waste management facilities in the area in the long-term.

Having regard to the foregoing, I am satisfied that impacts predicted to arise in relation to material assets (waste) would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through

suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative environmental impacts in terms of material assets (waste).

Material Assets (Traffic & Transportation)

Chapter 14 of the EIAR details the traffic and transportation element of the development. The methodology/relevant legislation, policy and guidance and receiving environment are addressed therein. The Board is referred also to Section 8.1.6 of my report, where the likely significant traffic and transport impacts have been described and assessed. The application was accompanied by a Transport Assessment, prepared SYSTRA, which includes a Framework Construction Stage Traffic Management Plan (FCSTMP) and a Mobility Management Plan (MMP) as appendices. This assessment and the EIAR chapter were informed by 2 no. traffic surveys conducted in the context of traffic flow, in 2018 and 2023, which assessed 8 no. junctions in the surrounding area.

The construction phase will result in the generation of traffic associated with construction workers (cars), generally in advance of site working hours/post site closure, and construction materials (HGVs/LGVs), at regular intervals during working hours. It is proposed to restrict HGV deliveries to the most suitable roads, to minimise the impact to the local community, subject to agreement with Louth County Council. The construction phase will last approximately 36 months. The effect of construction traffic is considered to be a minor magnitude of change. Assuming that the construction routes are of medium sensitivity, the overall effect is assessed to be temporary, and of moderate / minor significance, and therefore not significant.

A person trip generation exercise (utilising the TRICS database V7.9.4) was undertaken as part of the Transport Assessment for the proposed dwellings, in the context of the operational phase. Creche travel demand is expected to come from within the site, so it was excluded from the calculations. 2016 Census modal split data was applied to the person trip generation in order to determine the vehicle trip generation. The development contribution to future year link flows on the wider local road network was calculated at 25 locations, with the results indicating that the proposed development would not cause an increase in total traffic above 30% on any link in the study area. 3 no. (Links 5 and 6 (Between Site Access and Sandy Lane)

and Link 12 (Rock Road between R172 and Sandy Lane) of the 25 no. links assessed were considered sensitive receptors due to their location in Blackrock, and therefore required further detailed assessment. assessed. The increase in traffic flow on Links 5, 6 and 12 was found to be 'Not Significant' for all criteria assessed.

With regard to cumulative impacts, during the construction phase, the FCSTMP will ensure coordination with other nearby construction sites to ensure that the impact of the construction traffic will be minimised and can be expected to be negative, slight and short-term. In the context of the operational phase, planning applications listed as granted, or with a decision pending from within the last five years, were assessed for their potential to act in-combination to cause significant effects on traffic/transportation receptors. The TA and EIAR conclude that the cumulative impact of the proposed development, and the committed developments above can be accommodated on the local road network.

In terms of mitigation measures, a FCSTMP has been prepared which forms part of the wider Construction Management Plan. This sets out the principles by which construction traffic will be planned for, managed, and monitored, to ensure that any impacts on local communities, vulnerable users and road users, will be minimised as far as possible. A number of mitigation measures to alleviate the operational phase impact have been incorporated into the design of the development and a Mobility Management Plan (MMP) accompanies the planning application, the aim of which is to further reduce the proportion of car trips by promoting sustainable travel by future residents of the development. In terms of monitoring, once operational, a Mobility Manager will be appointed to ensure the implementation of the MMP. They will also be responsible for the undertaking of post occupation travel surveys and act as a point of contact for all mobility and access related issues.

This assessment concludes that the proposed development will not have a significant effect on the local road network during either the construction or operational phases.

Having regard to the foregoing, I am satisfied that impacts predicted to arise in relation to traffic and transportation would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation/monitoring measures, and through suitable conditions. I am, therefore, satisfied that the proposed

development would not have any unacceptable direct, indirect, or cumulative environmental impacts in terms of traffic and transportation.

Material Assets (Site Services)

Chapter 15 of the EIAR evaluates the impacts on the existing utility services in the vicinity of the development. Foul and stormwater drainage, watermains, electric, telecommunications and natural gas were considered. The baseline situation on site and in the surrounding area is outlined.

The subject proposal adopts the following approach in the context of site services:

- **Surface Water:** - Surface Water run-off from the existing undeveloped greenfield site flows over-land towards the Irish Sea or soaks into the existing ground. SuDS measures shall achieve a 2-stage treatment process which will intercept surface water run-off and treat the water by a minimum of two stages of filtration and treatment through Nature Based SuDS (NBS) measures and conveying this water to storage facilities. The proposed discharges are limited to the permitted equivalent greenfield run-off rates. The impacts on Surface Water discharge from the site are considered to be neutral, imperceptible and permanent.
- **Wastewater:** - Uisce Éireann Confirmation of Feasibility confirms that a connection is feasible subject to upgrades (including upgrades to the pumping station scheduled for 2027) or removing surface water from combined sewer catchment at Glenmore Park. Uisce Éireann have provided a Statement of Design Acceptance in respect to the proposed wastewater layout/design. Therefore, impacts on the existing wastewater network are considered to be neutral, imperceptible and permanent.
- **Water Supply:** - Uisce Éireann have advised that connection can be facilitated via an upgraded 150mm dia. watermain on the R172 Blackrock Road due for completion in Q1 2024. Uisce Éireann have provided a Statement of Design Acceptance in respect to the proposed water supply layout/design. It is considered that impacts on the existing water supply network are be neutral, not significant and permanent.
- **Electricity:** - The proposed development will increase the demand on the electricity supply system but that infrastructural requirements for future

development will be accommodated by ESB Networks. Therefore, the impact on the electricity supply network is neutral, not significant and permanent.

- Telecommunications: - The resultant demand on the telecommunications systems may potentially lead to a reduction in the level of service to existing customers. Infrastructural requirements for future development will be accommodated by utility service providers. In the absence of mitigation measures, these potential impacts are considered to be adverse, slight and permanent.
- Gas: - There is no gas infrastructure on-site and it is not proposed to provide gas as a utility. Therefore, it is considered the impact on the existing gas network are neutral, imperceptible and permanent.

The following construction phase mitigation measures are outlined:

- Surface Water Drainage: - A Construction Phase Surface Water Management Plan shall be prepared/implemented. Surface water storage in excavations shall be directed to on-site settlement ponds, where silt removal will be facilitated prior to discharge off site at a controlled and agreed rate in accordance with the greenfield runoff rates. To reduce/minimise risk from material spillages, all oils, solvents and paints will be stored within temporary bunded areas or chemical storage containers.
- Wastewater Drainage: - Construction phase discharge to the existing 600mm wastewater sewer shall comply with the conditions of Uisce Éireann's Discharge Licence. All new sewers shall be pressure tested/CCTV surveyed to identify potential defects and any such defects shall be repaired pre-connection.
- Water Supply: - The watermains shall be tested prior to connection.
- Electricity: - ESB shall install all of the new incoming supplies. The ESB shall also liaise with/inform residents and existing customers of any brief outages required due to the diversion and undergrounding of the existing overhead lines or connections. Construction works on site shall adhere to the relevant ESB Code of Practice. This is a positive, short-term and brief effect.

- Telecommunications: - The utility provider shall install the new incoming supplies and liaise with existing customers to advise of possible outages. Disruption to surrounding areas will be minimised. This is a positive, short-term and brief effect.

The following operational phase mitigation measures are outlined:

- Surface Water Drainage: - Surface Water runoff from the proposed development will be managed in accordance with the requirements of the Greater Dublin Strategic Drainage Study, CIRIA SuDS and the requirements of the Louth County Council Water Services Department. The Surface Water management proposals will reduce the overall impact on the existing environment. This is a positive, imperceptible and permanent.
- Wastewater Drainage: - Uisce Éireann shall implement an operational inspection and maintenance regime to ensure the system keeps operating within the design specifications. This is a positive, significant and permanent.
- Water Supply: - The water supply system shall be commissioned and subject to an operational inspection and maintenance regime to ensure it is operating within the design specifications. This is positive, significant and permanent.
- Electricity & Telecommunications: - The electricity supply and telecommunications systems shall be commissioned and subject to a regular operational inspection and maintenance regime, to ensure the system keeps operating within the design specifications. This is a neutral, moderate and long-term effect.

Construction stage monitoring measures outlined are as follows:

- Surface Water Drainage - The system shall be inspected/monitored for compliance with the design and relevant standards in accordance with the Preliminary Inspection Plan. All sewer installations will be air/pressure tested and all manholes will be subject to exfiltration testing. The connection to the existing open water course will not be made until all the works are complete within each Phase and temporary surface water management will remain in place until this time to ensure only clean uncontaminated surface water is discharged to the existing open water course.
- Wastewater Drainage: The system shall be inspected, tested and monitored in accordance with Uisce Éireann requirements. The connection to the existing

Wastewater network will not be made until all the works are complete within each Phase and temporary Wastewater management will remain in place until this time.

- Water Supply: - The system shall be inspected, tested and monitored in accordance with Uisce Éireann requirements. The connection to the existing water supply network will not be made until all the works are complete within each Phase and temporary water connection will remain in place until this time.
- Electricity: - ESB shall monitor the existing/proposed networks during the diversion/undergrounding of the existing over-head powerlines and carry out ongoing testing/commissioning of the installed infrastructure during construction.
- Telecommunications: - The incoming telecommunications provider shall monitor the existing/proposed networks during installation and carry out ongoing testing/commissioning of the installed infrastructure.

Monitoring measures outlined in the context of the operational phase are as follows:

- Surface Water Drainage: - Post-construction, pressure tests to assess the potential for leaks and periodic testing of the Surface Water discharge to ensure compliance with requirements shall be carried out by the contractor. Following drainage system completion, a short-term flow and rainfall survey shall be carried out to identify misconnections and any potential leakages. Following commissioning of the proposed Surface Water network, the local authority shall implement a maintenance regime.
- Wastewater Drainage: Post-construction, pressure tests shall be carried out to assess potential leaks in the newly laid sewers. Following completion of the proposed drainage systems, a short-term flow and rainfall survey shall be carried out to identify misconnections and any potential leakages.
- Water Supply: Post-construction, pressure tests will be carried out to assess the potential for leaks in the newly laid watermains. Water meters will be incorporated which facilitate ongoing monitoring of demand and potential leak assessment.
- Electricity: - ESB shall test and commission all of the work they carry out and shall monitor/maintain each of the ESB sub-stations and network cabling post installation. Metering will allow the new loads on the network to be monitored in use.

- Telecommunications: - The telecommunications supply providers will test and commission all of their cabling/work and will monitor/maintain their network cabling post installation.

Following implementation of the proposed mitigation and monitoring measures, the predicted direct and indirect impacts associated with the proposed project are considered to be as follows:

- Surface Water - positive, imperceptible and permanent.
- Wastewater & Water supply - positive, significant, and permanent.
- Electricity - neutral, moderate and long-term.
- Telecommunications - neutral, moderate and short-term.
- Gas - neutral, imperceptible and permanent.

Archaeology, Architecture and Cultural Heritage

Archaeology, Architecture and Cultural Heritage is considered in Chapter 16 of the EIAR. The methodology for assessment is described and the receiving environment is described. Both a paper survey of all available archaeological, architectural, historical, and cartographic sources and a field inspection of the site were undertaken. There is one recorded monument (a souterrain (LH007-080), which was subject to archaeological excavation in 1980 and is no longer preserved as a site below the current ground level although it remains on the historic record) partially within the redline boundary for the proposed development area, where it extends along the existing Hardys Lane. Within a 500m study area of the proposed development area, there are 10 no. recorded archaeological sites (the majority of which have been subject to preservation by record as part of ongoing development over the past 50 years) and there are 7 no. structures included on the RPS and NIAH (the closest being located c. 416m south of the proposed development area). No Architectural Conservation Areas or NIAH Garden Survey landscapes are located within the study area. Mountain View House, which retains some cultural heritage value but is not a protected structure, nor listed in the NIAH.

Geophysical survey and archaeological testing on site in 2018 confirmed that there are no large-scale archaeological complexes located within the proposed development area. It remains possible that small-scale or isolated archaeological

features may survive within the site, outside of the footprint of the excavated test trenches. During the construction phase, groundworks associated with the development may have a direct, permanent, negative effect on these remains. Effects may range from moderate to very significant, depending on the nature, extent, and significance of the archaeological remains that may be present. There are no predicted impacts upon the architectural or cultural heritage resource during the construction phase. Similarly, no impacts are predicted upon the archaeological, architectural or cultural heritage resource during the operation phase.

In terms of mitigation measures, a programme of archaeological testing, which will assess the proposed development area, including the route of the access road, will be carried out prior to the commencement of construction. Dependant on the results of the assessment, further mitigation may be required, such as preservation by record or in situ and/or archaeological monitoring. Following implementation of mitigation measures, no significant negative effects are predicted upon the archaeological resource. Once operational, no mitigation is required in the context of archaeology. No mitigation is required in the context of architectural or cultural heritage during the construction or operational phases.

In the context of archaeology, the correspondence received from the Department of Housing, Local Government and Heritage concurred with the recommendations included in the Archaeological, Architectural and Cultural Heritage Chapter of the EIAR and didn't specify any further archaeological requirements in respect of the proposed development.

From an environmental viewpoint, I am satisfied that archaeology, architecture and cultural heritage have been appropriately addressed in terms of the application and that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts on the same. Having regard to the EIAR, I am satisfied that impacts predicted to arise in relation to archaeology would be avoided, managed, and mitigated by the proposed mitigation measures and through suitable conditions.

Landscape and Visual Impact

Chapter 17 of the EIAR addresses landscape and visual impact. The EIAR sets out the methodology and examines the policy context and existing visual character. The applicant has submitted photomontages (Verified Views and CGI) of the development

from various viewpoints (10 no. in total). A dedicated Landscape design is included as part of the proposed development. The potential impacts in both landscape and visual terms are assessed, including cumulative impacts.

The existing site comprises an area of grass pastureland with field boundaries enclosed by a mix of mature trees, hedgerows and fencing. The mature vegetation bounding the site provides enclosure both physically and visually from, and to, the surrounding areas. The subject site is located centrally within the Landscape Character Area (LCA) classified as 'Dundalk Bay Coast' in Louth County Council's 'Landscape Character Assessment', published in 2002. The subject site is not a protected landscape within any local landscape policy. The junction of Bóthar Maol and the Blackrock Road, which takes in the north-eastern corner of the subject site, features a tree group designated as being of special amenity value (TWSAV94).

During the construction phase, potential landscape and visual effects will result as the site changes from an area of agricultural land to a construction site. Construction is an inherently unsightly process and there is limited potential for mitigation of the negative landscape and visual effects – apart from site hoarding to screen ground level activity, and best practice site management. However, significant effects upon landscape character are expected to be restricted to the immediate vicinity of the site during construction due to the enclosing nature of the landscape elements surrounding the site. Measuring the magnitude of change against the sensitivity of the receptors, the landscape and visual effects during construction would be of moderate significance and negative in the immediate environs of the site, reducing in significance with distance from the site.

With regards to landscape effects during the operational phase, taking account of the existing landscape character and relevant policy, the sensitivity of the receiving environment to landscape change can be classified as medium. Measuring the magnitude of landscape/visual change against the sensitivity of the receiving environment, the potential landscape effects can be classified 'moderate'. The proposed development would have positive effects on all the main elements of the landscape/determinants of landscape character, including (a) the land use, (b) the urban grain and movement patterns, (c) the network of public and communal open spaces, (d) green infrastructure, and (e) the overall perception of quality and liveliness of the landscape. The landscape effects of the proposed development in the

operational phase are predicted to be 'moderate and positive'. These effects would be long term to permanent.

With regards to visual effects, having regard to the predicted effects on 10 no. representative viewpoints in the receiving environment, the proposed development is predicted to have not significant or neutral townscape and visual effects and can be considered an appropriate intervention in the landscape. In terms of landscape and visual, no potential has been identified for significant cumulative impacts to arise from the proposed development in combination with any permitted or proposed development identified within the surrounding area.

During the construction phase, no landscape and visual impact mitigation measures are recommended other than standard best practice construction site management. No mitigation measures are required in the context of the operational phase as the potential landscape and visual effects of the proposal in the operational phase have been classified as neutral and positive. The open space/planting proposed as part of the development contribute positively in terms of landscape and visual impact by avoiding a uniform spread of built development across the entire site and responding to the wider landscape. The proposed planting will be carefully monitored to ensure the successful implementation of the soft landscaping elements of the overall development on the receiving environment. Open space area would be monitored through the Landscape Management and Maintenance Plan which may be controlled by planning condition should permission be forthcoming.

Considering the landscape/open space proposals included in the subject development proposal and the zoning of these lands, effects upon the landscape and visual amenity are deemed to be acceptable and in line with the sustainable development of the area. With regard to the above assessment, I am satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of the landscape and visual impact.

Interaction between the Factors

A matrix and summary overview of anticipated interactions is presented in Chapter 18 identifying/summarising the potential interactions of effects between the various aspects of the environment previously assessed in the various chapters of the EIAR.

Where the potential for impacts have been identified as a result of interactions with other environmental factors, these have been addressed within the corresponding specialist EIAR chapter, and relevant mitigation/monitoring measures have been outlined, where required. Overall, the interactions between the proposed development and the various environmental factors are generally considered to be not significant or negative.

Cumulative Impacts

Chapter 19 of the EIAR reviews the potential for cumulative impacts associated with the proposed development and other relevant projects. Relevant projects which have the potential for cumulative / in-combination effects were identified using the Louth County Council planning portal and weekly lists of applications received; An Bord Pleanála's website; Department of Housing, Local Government and Heritage EIA Portal; and the Louth County Council Development Plan 2021–2027. Table 19.1 provides a list of 12 no. projects that are considered to be of relevance to the subject site and the proposed development.

No significant negative cumulative impacts are anticipated to occur during the construction, or operational phases of the proposed development, having regard to the mitigation and monitoring measures outlined in this EIAR, including their proper implementation. I am satisfied with the conclusion reached in this regard.

Mitigation Measures

Chapter 20 of the EIAR outlines a collective list of all the construction and operational mitigation and monitoring measures that apply to each individual chapter. I am satisfied that this accurately and adequately represents the mitigation measures associated with the proposed development.

As previously discussed, the Planning Authority contends that the Construction Management Plan, prepared by Donnachadh O'Brien and Associates, which informs much of the mitigation strategy, has a no. of discrepancies and in light of this are not satisfied that the mitigation measures proposed are specific to this site. Upon review of the Construction Management Plans accompanying the subject application, I found no such discrepancies. Further to this, I noted the inclusion of information very specific to the subject site and proposed development and mitigation/monitoring measures specific to certain aspects of the proposed development. Contrary to the view of the

Planning Authority, I am satisfied that the Construction Management Plan submitted, and the mitigation/monitoring measures contained therein to be specific to the subject site/the proposed development.

8.3.5. Reasoned Conclusion

Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the applicant, as well as the submissions received in the course of the application and appeal, I am satisfied that the potential effects of the proposed development have been adequately identified, described and assessed, and I am satisfied that there will be no other likely significant environmental effects arising from the proposed development. I consider that the main significant direct and indirect effects of the proposed development on the environment, including mitigation and monitoring measures, are as follows:

- Positive socioeconomic effects on population and human health associated with increased employment and demand for services during the construction phase, the availability of additional housing when complete and the provision of a public open space area.
- The potential for significant negative population and human health effects associated with nuisance/disturbance during the construction phase will be addressed through construction management mitigation measures and will not result in any unacceptable residual effects.
- A significant direct effect on land by the change in the use and appearance of a relatively large area of greenfield site to residential use. Given the location of the site, on the periphery of the built-up area, and the public need for housing in the region, this effect would not have a significant negative impact on the landscape character and surrounding environment.
- Potential significant effects on soil during construction, which will be mitigated by the re-use of material on the site and the removal of potentially hazardous material from the site, and the implementation of measures to control emissions of sediment to water and dust to air during construction.
- The potential for significant effects on biodiversity and landscape which will be satisfactorily mitigated through the retention of existing vegetation and the

completion of additional landscaping and surface water features and will not result in any unacceptable residual effects.

- There is potential for significant contamination effects on groundwater and surface water as a result of construction activities and the discharge of surface water on/from the site, along with the potential for interactions with biodiversity, land/soil/geology, hydrology/hydrogeology and existing utility services. This will be satisfactorily mitigated through best practice construction management measures and the implementation of an appropriately design Sustainable Urban Drainage System and will not result in any unacceptable residual effects.
- Potential indirect effects on water which will be mitigated during the occupation of the development by the proposed system for surface water management and attenuation with respect to stormwater runoff and the drainage of foul effluent to the public foul sewerage system.
- Potential effects arising from noise and vibration during construction which will be mitigated by appropriate management measures.
- Potential effects on air during construction which will be mitigated by a dust management plan, including a monitoring programme.
- Potential effects on waste management during construction and operation will be mitigated by a Construction and Environmental Management Plan, a Construction Demolition Waste Management Plan and an Operational Management Plan.
- Potential for moderate short-term negative impacts in terms of construction traffic will be mitigated as part of a Construction and Environmental Management Plan. There will be no significant negative impact on traffic junctions in the immediate area in the operational phase and any potential impact will be mitigated by way of design and implementation of a Mobility Management Strategy for the development.
- Archaeology and Architectural Heritage would be mitigated by landscaping and design and given the result of pre-construction testing and the location of the site adjacent to an urban area no significant adverse direct, indirect or cumulative effects are likely to arise.

This EIA has considered that the main significant direct and indirect effects of the

proposed development on the environment would be primarily mitigated by environmental management measures, as appropriate.

The assessments provided in the individual EIAR chapters are satisfactory to enable the likely significant environmental effects arising as a consequence of the proposed development to be satisfactorily identified, described and assessed. The environmental impacts identified are not significant and would not justify refusing permission for the proposed development or require substantial amendments to it.

9.0 Recommendation

9.1. Having considered the contents of the application, the provision of the Development Plan, the grounds of appeal and the observations thereon/responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **GRANTED** for the following reason and considerations and subject to the conditions outlined below.

10.0 Reasons and Considerations

10.1. Having regard to the following:

- i) The site's location proximate to the established urban area of Dundalk with a land-use zoning objective for 'A2 - New Residential Phase 1', 'A1 – Existing Residential' and 'H1 - Open Space' in the Louth County Development Plan 2021-2027;
- ii) The policies and objectives in the Louth County Development Plan 2021-2027;
- iii) The nature, scale and design of the proposed development and the availability in the area of infrastructure;
- iv) The pattern of existing and emerging development in the area;
- v) The provisions of Housing for All – A New Housing Plan for Ireland, 2021;
- vi) The provisions of Project Ireland 2040 - National Planning Framework, which identifies the importance of compact growth;
- vii) Sustainable Urban Housing: Design Standards for New Apartments, 2023;
- viii) The Urban Development and Building Heights Guidelines for Planning Authorities 2018;

- ix) The provisions of the Sustainable Residential Development and Compact Settlements - Guidelines for Planning Authorities (2024);
- x) The provisions of the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of Environment, Community and Local Government in 2019;
- xi) The provisions of the Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices) issued by the Department of Environment, Heritage and Local Government in 2009;
- xii) The provisions of the Climate Action Plan 2023;
- xiii) The policies and objectives set out in the National Planning Framework;
- xiv) The policies and objectives of the Regional and Spatial Economic Strategy for the Eastern and Midland Regional Assembly;
- xv) The EIAR and NIS submitted with the application;
- xvi) The grounds of appeal received; and
- xvii) Submissions and observations received;

it is considered that, subject to compliance with the conditions set out below, the proposed development constitute an acceptable quantum, scale and density of residential development in this location, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not cause serious injury to biodiversity and the natural environment, and would be acceptable in terms pedestrian, cyclist and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Recommended Order

Appeal by Marina Quarter Limited, C/O Turley 4 Pembroke Street Upper Dublin 2, against the decision made on 23rd January 2024 by Louth County Council to refuse permission to Marina Quarter Limited for 3 no. reasons.

Proposed Development

10-year planning permission was sought for a Large Scale Residential Development on a c. 18.54Ha site at Haggardstown, Dundalk, Co. Louth, consisting of: - (1) 502 no.

residential units, ranging in height from 1-3 storeys, comprising of 26 no. 4-bedroom semi-detached houses; 209 no. 3-bedroom terraced and semi-detached houses; 1 no. 3-bedroom bungalow; 214 no. 2-bedroom houses and 52 no. 1-bedroom maisonettes; (2) a 570.7sqm 2-storey creche with associated external play area; (3) public open space (totalling c. 4.69ha of which c. 3.09ha comprises strategic amenity space); (4) vehicular, cyclist and pedestrian access/egress and associated circulation routes (including the construction of new dedicated entrance to the R172 Blackrock Road with a southbound right hand turning lane and a new northbound bus stop, 2 no. new pedestrian access points routes to Bóthar Maol and 1 no. new pedestrian and cycle path access point along the north eastern boundary to Bóthar Maol); (5) 762 no. car parking spaces (including 738 no. residential spaces, 4 no. accessible visitor spaces and 20. no spaces serving the proposed creche); (6) Electric vehicle charging infrastructure; (7) 660 no. bicycle parking spaces (502. no residential spaces; 120 no. visitor spaces; 6 no. long-term spaces for the creche; 16 no. visitor spaces for the creche and 16 no. shared spaces serving the proposed strategic amenity/public open space); (8) Bicycle storage; (9) Bin storage; (10) Photovoltaic roof panels; (11) 6 no. ESB sub-stations; (12) Undergrounding and diversion of existing 10kV and 20kV overhead power lines; (13) Provision of public lighting; (14) Boundary treatments; (15) Equipped play areas; (16) Public art and wayfinding; (17) All hard and soft landscaping; (18) Provision of Sustainable Urban Drainage Systems; (19) 1 no. Type 3 wastewater pumping station and associated 24 hour underground emergency storage tank; and (20) All other site excavation, infrastructure and development works above and below ground.

An Environmental Impact Assessment (EIAR) and Natura Impact Statement (NIS) have been prepared in respect of the proposed development.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

In coming to its decision, the Board had regard to the following:

- a) The site's location proximate to the established urban area of Dundalk with a land-use zoning objective for 'A2 - New Residential Phase 1', 'A1 – Existing Residential' and 'H1 - Open Space' in the Louth County Development Plan 2021-2027;
- b) The policies and objectives in the Louth County Development Plan 2021-2027;
- c) The nature, scale and design of the proposed development and the availability in the area of infrastructure;
- d) The pattern of existing and emerging development in the area;
- e) The provisions of Housing for All – A New Housing Plan for Ireland, 2021;
- f) The provisions of Project Ireland 2040 - National Planning Framework, which identifies the importance of compact growth;
- g) Sustainable Urban Housing: Design Standards for New Apartments, 2023;
- h) The Urban Development and Building Heights Guidelines for Planning Authorities 2018;
- i) The provisions of the Sustainable Residential Development and Compact Settlements - Guidelines for Planning Authorities (2024);
- j) The provisions of the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of Environment, Community and Local Government in 2019;
- k) The provisions of the Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices) issued by the Department of Environment, Heritage and Local Government in 2009;
- l) The provisions of the Climate Action Plan 2023;
- m) The policies and objectives set out in the National Planning Framework;

- n) The policies and objectives of the Regional and Spatial Economic Strategy for the Eastern and Midland Regional Assembly;
- o) The EIAR and NIS submitted with the application;
- p) The grounds of appeal received;
- q) Submissions and observations received; and
- r) The Inspectors Report.

It is considered that, subject to compliance with the conditions set out below, the proposed development constitute an acceptable quantum, scale and density of residential development in this location, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not cause serious injury to biodiversity and the natural environment, and would be acceptable in terms pedestrian, cyclist and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment (AA):

The Board agreed with the screening assessment and conclusion carried out in the Inspector's Report that the Dundalk Bay SAC (000455) and Dundalk Bay SPA (004026) were the only European sites in respect of which the proposed development has the potential to have significant effects.

The Board considered the Natura Impact Statement and associated documentation submitted with the application for approval and submitted with the appeal for consideration, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment.

The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely the Dundalk Bay SAC (000455) and Dundalk Bay SPA (004026), in view of the sites' conservation objectives.

The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- i) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii) the mitigation measures which are included as part of the current proposal, and

iii) the conservation objectives for the European Sites.

In completing the appropriate assessment, the Board accepted and adopted the screening and the appropriate assessment carried out in the Inspector's Report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the sites' conservation objectives.

Environmental Impact Assessment (EIA):

The Board completed an environmental impact assessment of the proposed development, taking into account:

- a) the nature, scale, location and extent of the proposed development,
- b) the environmental impact assessment report and associated documentation submitted with the application;
- c) the submissions from the Planning Authority, the observers and the prescribed bodies in the course of the application, and,
- d) the Inspector's Report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed development, and adequately identifies and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board completed an Environmental Impact Assessment in relation to the proposed development and, in doing so, agreed with the examination, set out in the Inspector's Report, of the information contained in the Environmental Impact Assessment Report, associated documentation submitted by the applicant, and submissions made in the course of the planning application, and adopted the Inspector's assessment in this regard.

Reasoned Conclusions on the Significant Effects

The Board considered and agreed with the Inspector's reasoned conclusions that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- a) Positive socioeconomic effects on population and human health associated with increased employment and demand for services during the construction phase, the availability of additional housing when complete and the provision of a public open space area.
- b) The potential for significant negative population and human health effects associated with nuisance/disturbance during the construction phase will be addressed through construction management mitigation measures and will not result in any unacceptable residual effects.
- c) A significant direct effect on land by the change in the use and appearance of a relatively large area of greenfield site to residential use. Given the location of the site, on the periphery of the built-up area, and the public need for housing in the region, this effect would not have a significant negative impact on the landscape character and surrounding environment.
- d) Potential significant effects on soil during construction, which will be mitigated by the re-use of material on the site and the removal of potentially hazardous material from the site, and the implementation of measures to control emissions of sediment to water and dust to air during construction.
- e) The potential for significant effects on biodiversity and landscape which will be satisfactorily mitigated through the retention of existing vegetation and the completion of additional landscaping and surface water features and will not result in any unacceptable residual effects.
- f) There is potential for significant contamination effects on groundwater and surface water as a result of construction activities and the discharge of surface water on/from the site, along with the potential for interactions with biodiversity, land/soil/geology, hydrology/hydrogeology and existing utility services. This will be satisfactorily mitigated through best practice construction management measures and the implementation of an appropriately design Sustainable Urban Drainage System and will not result in any unacceptable residual effects.
- g) Potential indirect effects on water which will be mitigated during the occupation of the development by the proposed system for surface water management and attenuation with respect to stormwater runoff and the drainage of foul effluent to the public foul sewerage system.

- h) Potential effects arising from noise and vibration during construction which will be mitigated by appropriate management measures.
- i) Potential effects on air during construction which will be mitigated by a dust management plan, including a monitoring programme.
- j) Potential effects on waste management during construction and operation will be mitigated by a Construction and Environmental Management Plan, a Construction Demolition Waste Management Plan and an Operational Management Plan.
- k) Potential for moderate short-term negative impacts in terms of construction traffic will be mitigated as part of a Construction and Environmental Management Plan. There will be no significant negative impact on traffic junctions in the immediate area in the operational phase and any potential impact will be mitigated by way of design and implementation of a Mobility Management Strategy for the development.
- l) Archaeology and Architectural Heritage would be mitigated by landscaping and design and given the result of pre-construction testing and the location of the site adjacent to an urban area no significant adverse direct, indirect or cumulative effects are likely to arise.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that, subject to the conditions outlined, the proposed development is compliant with the provisions of the Louth County Development Plan 2021–2027 and would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 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 information plans and particulars submitted to the planning authority on the 21 st November 2023, and by the further plans and particulars received by An Bord Pleanála on the 19 th February 2024, 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
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	<p>to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The period during which the proposed development hereby permitted may be constructed shall be ten years from the date of this Order.</p> <p>Reason: In the interest of clarity.</p>
3.	<p>Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report and Natura Impact Assessment submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.</p> <p>Reason: In the interest of protecting the environment, European sites and public health.</p>
4.	<p>The proposed development shall be amended as follows:</p> <ul style="list-style-type: none"> a) Drawing No. HGG-CR-ZZ-JFA-AR-P4002 shall be updated to accurately reflect the external door leading from Room 5 detailed on the corresponding ground floor plan. b) House Types B, C and F shall incorporate the layout included the revised architectural drawings accompanying the appeal submission. c) An additional 20 no. visitor car parking spaces shall be provided throughout the development. d) The architectural drawings shall be updated to reflect the headwall location/details as shown on the engineering drawings. e) The proposed bus stop will be constructed in accordance with the Option B layout included on Engineering Drawing No. 2268-DOB-XX-SI-DR-C-0590 accompanying the appeal submission. <p>Revised drawings showing compliance with this requirement shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of clarity and residential amenity.</p>
5.	<p>Development of the proposed dwellings/creche shall not commence until the upgrading works at the Coes Road Wastewater Treatment Plant to facilitate the development are completed, and the developer has obtained a</p>

	<p>Connection Agreement from Irish Water to connect into the upgraded Wastewater Treatment Plant.</p> <p>Reason: In the interest of public health and to ensure there are no adverse effects on the integrity of the Dundalk Bay SPA/SAC and the environment.</p>
6.	<p>Access/egress via the access point off Bothar Maol, featuring in the north/eastern corner of the site, shall be limited to pedestrians/cyclists save for instances where access is required for emergency vehicles and during extreme flood events where access via the R172 Blackrock Road is unavailable.</p> <p>Reason: In the interest of pedestrian and road safety.</p>
7.	<p>The development shall be carried out in accordance with the phasing set out in Drawing No. HGG-00-XX-DR-JFA-AR-P1014 unless otherwise agreed in writing with, the Planning Authority. No dwelling shall be erected on the second or subsequent phase until the written agreement of the planning authority has been given. No dwelling shall be occupied anywhere in the permitted scheme until all necessary services have been provided for it to the satisfaction of the planning authority.</p> <p>Reason: To ensure the timely provision of amenities and infrastructure for future residents and to protect residential amenity.</p>
8.	<p>Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of visual amenity.</p>
9.	<p>Details of the proposed public art installation shall be submitted to and agreed in writing with the Planning Authority.</p> <p>Reason: To satisfy the requirements of Section 13.8.20 of the Louth County Development Plan 2021-2027.</p>
10.	<p>Prior to the occupation of the proposed childcare facility, finalised service details, as well as details of any proposed signage to be applied to the elevations of the respective buildings, including details of the glazing,</p>

	<p>materials, colour, lettering and depth of the signage, shall first be submitted to and agreed in writing with the Planning Authority.</p> <p>Reason: In the interest of clarity and the visual amenity of the area.</p>
11.	<p>The permitted development shall be landscaped and boundary treatments provided in accordance with the detailed comprehensive scheme of landscaping and boundary treatments, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interest of residential and visual amenity.</p>
12.	<p>a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.</p> <p>b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.</p> <p>c) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of retained trees as submitted with the application, shall be carried out under the supervision</p>

	<p>of a specialist arborist, in a manner that will ensure that all major roots are protected, and all branches are retained.</p> <p>d) No trench, embankment or pipe run shall be located within three metres of any trees/hedging which are to be retained on the site.</p> <p>Reason: To protect trees/hedgerow and planting during the construction period in the interest of visual amenity.</p>
13.	<p>a) All areas not intended to be taken in charge by the local authority, shall be maintained by a legally-constituted management company.</p> <p>b) A map delineating those areas to be taken in charge by the Local Authority and details of the legally-constituted management company contract, and drawings/particulars describing the parts of the development for which the legally-constituted management company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential or commercial units are made available for occupation. The management scheme shall provide adequate measures for the future maintenance of public open spaces, roads and communal areas.</p> <p>Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
14.	<p>The areas of public open space shown on the lodged plans shall be reserved for such use and shall be soiled, seeded, and landscaped in accordance with the landscape scheme agreed with the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority or management company.</p> <p>Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.</p>
15.	<p>Public lighting shall be provided in accordance with a scheme, which shall include lighting for the public open spaces, communal spaces and parking / servicing areas, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The design of the lighting scheme shall take into account the existing and</p>

	<p>permitted public lighting in the surrounding area. Such lighting shall be provided prior to the making available for occupation of any unit.</p> <p>Reason: In the interests of amenity and public safety.</p>
16.	<p>Proposals for an estate/street 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 and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed names 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).</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.</p>
17.	<p>Prior to the occupation of the residential units, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.</p> <p>Reason: In the interest of encouraging the use of sustainable modes of transport.</p>
18.	<p>The construction of the development shall be managed in accordance with a 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:</p> <ul style="list-style-type: none"> a) Provision for mitigation measures described in the approved NIS and EIAR. b) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse; c) Location of areas for construction site offices and staff facilities;

	<p>d) Details of site security fencing and hoardings;</p> <p>e) Details of on-site car parking facilities for site workers during the course of construction;</p> <p>f) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;</p> <p>g) Measures to obviate queuing of construction traffic on the adjoining road network;</p> <p>h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;</p> <p>i) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;</p> <p>j) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;</p> <p>k) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.</p> <p>A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.</p> <p>Reason: In the interest of amenities, public health and safety.</p>
19.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays and between 0800 and 1400 on Saturdays, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
20.	<p>A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste, and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment and non-residential unit shall be submitted to, and agreed in writing with, the planning</p>

	<p>authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.</p>
21.	<p>Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.</p> <p>Reason: In the interest of sustainable waste management.</p>
22.	<p>The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of amenity and of traffic and pedestrian safety.</p>
23.	<p>A minimum of 10% of all car parking spaces should be provided with functioning electric-vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric-vehicle charging points or stations at a later date. Where proposals relating to the installation of electric-vehicle ducting and charging stations or points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.</p>

	Reason: To provide for and/or future proof the development such as would facilitate the use of electric vehicles.
24.	<p>All service cables associated with the proposed development, such as electrical, telecommunications and communal television, shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interests of visual and residential amenity.</p>
25.	<p>Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.</p> <p>Reason: In the interest of public health and surface water management.</p>
26.	<p>Prior to commencement of development, the developer shall enter into water and wastewater connection agreement(s) with Uisce Éireann.</p> <p>Reason: In the interest of public health.</p>
27.	<p>The road network serving the proposed development, including turning bays, junction with the public road, parking areas, footpaths and kerbs, access road to service areas shall be in accordance with the detailed construction standards of the Planning Authority for such works. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of amenity and of traffic and pedestrian safety.</p>
28.	<p>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.</p>

	<p>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.</p>
29.	<p>Prior to the commencement of any house or duplex unit in 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 house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses and duplex 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.</p> <p>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.</p>
30.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act, 2000 (as amended), that a condition requiring a contribution in accordance with the Development Contribution Scheme made under Section 48 of the Act be applied to the permission.</p>

31.	<p>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.</p> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>
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Note: The applicants are advised to note section 34(13) of the Planning and Development Act, 2000 (as amended) which states that a person shall not be entitled solely by reason of a permission to carry out any development.

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.

Margaret Commane
Planning Inspector

14th May 2024