



An
Bord
Pleanála

Inspector's Report ABP-319208-24

Development	Construction of 6 houses and all associated site works including demolition of dwelling.
Location	Mill Road, Dundalk, Co. Louth.
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	23481
Applicant(s)	Talitha, Rafael, and Gabriella Matthews
Type of Application	First Party v Decision
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Talitha, Rafael, and Gabriella Matthews
Observer(s)	None
Date of Site Inspection	13 February 2025
Inspector	D. Aspell

1.0 Site Location and Description

- 1.1. The site is referred to as 'River Cottage', Mill Road, Dundalk. It generally comprises a bungalow and a large garden to the side. The development area and application red line area include a section of a watercourse sometimes referred to as the Castletown river or a tributary thereof. The site measures c.0.27ha.
- 1.2. To the east there are bungalows located between the site and Mill Road. To the south and west are agricultural lands. To the north is Dundalk Rugby Club. Mill Road is characterised predominantly by one-off bungalow and dormer dwellings along either side of the road, however I note 2- and 3-storey dwellings in the wider area.
- 1.3. The topography of the area generally slopes down south-west to north across the site toward the watercourse.

2.0 Proposed Development

- 2.1. The development description references demolition of the existing dwelling and construction of six houses. I note however the application also indicates an access road measuring c.60m long, parking, landscaping, and works along the watercourse including construction of a pedestrian bridge over it.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Louth County Council issued a notification to refuse permission as follows:
 - Reason 1: Proposal would be overdevelopment and out of character in the context of Policy Objective HOU 33;
 - Reason 2: Applicant failed to demonstrate surface water disposal arrangements comply with development plan Policy Objective IU19 regarding the requirement to provide a comprehensive sustainable urban drainage systems assessment;
 - Reason 3: Applicant provided inadequate soil infiltration tests, topographical surveys & construction environment management to ensure the development

can be adequately mitigated or screened out regarding European Sites, and is contrary to Policy Objective NBG3;

- Reason 4: Applicant has not adequately demonstrated feasibility of connection to public wastewater infrastructure.

3.2. Planning Authority Reports

3.2.1. Planning report: The planning authority report recommended refusal as follows:

- Residential amenity: Proposed houses would look into the rear amenity spaces of existing houses on Mill Road. Alongside the group parking adjacent these houses, this would contravene the zoning objective;
- Separation distances: Report stated that whilst the separation distances of 16-19m may be acceptable, the proposed dwellings face into the rear of the existing houses. This and the existing narrow amenity spaces, limited privacy, and proximity of proposed parking would impact residential amenity and conflict with zoning objective. Report stated land transfers had taken place which impacted the rear amenity areas of 2 adjacent properties on Mill Road;
- Parking: Siting is inappropriate and will conflict with residential amenities;
- Landscaping: No landscaping indicated. Proposal is deficient in design details;
- Residential standards: The proposed dwellings generally exceed requirements;
- Design and layout: No finished floor levels provided. A basic topographical survey is provided. The layout will not make a positive contribution to the streetscape and character of the area;
- Flood risk: Site is in an area subject to fluvial flooding. The submitted flood risk report demonstrates a portion of the northeast corner of the site is subject to pluvial flooding. Site levels have been raised on the site following a flood event in the past. No analysis of this has been provided in the flood risk assessment. Finished floor levels indicate there is sufficient freeboard above the highest recorded flood risk level. All of the houses are located outside the affected part of the site as are the access and driveways;

- Surface water: Report noted the planning authority Placemaking & Physical Development Section recommended further information;
- Appropriate Assessment: The submitted AA screening report is generic and refers to a different development. Given proximity of the stream measures such as a buffer zone, a construction methodology and environmental waste operational plan would be expected to rule out pollution entering the stream. The stream is potentially a hydrological link to Dundalk Bay SAC & SPA. Based on the submitted information it is not possible to state the proposal would not have an adverse impact on the relevant conservation objectives individually or in combination with other plans or projects;
- Housing: An exemption certificate was not provided. Planning authority Housing Section recommended further information;
- Construction: Planning authority Environment Section requested a Construction Environment Waste Management Plan.

Other Technical Reports

3.2.2. The following planning authority reports were attached to the planner report:

3.2.3. Place Making & Physical Development: Report recommended further information on a number of issues, summarised as follows:

- Details of proposed rainwater harvesting units, soakaway, soil permeability tests, consideration of surface water runoff flow paths, pollution prevention, management train, source control, site control & exceedances; storm water management devices including cross-sectional & longitudinal details, discharge point, pipe diameters/gradients, cover/invert levels; verified digital topographical survey; longitudinal section of surface water sewer; and finished floor levels & driveway sections showing footpath & floor level.
- Details of a turning bay; construction details of access road and footpath; revised site layout with swept path analyses for larger vehicles; public lighting and written proof necessary right / permissions from third parties have been obtained for provision of sightlines, a map and legal agreements regarding the extent of lands affected outside the site boundary, and details of the works required to comply with the visibility splay.

3.2.4. Housing: No objection subject to confirmation of valuation & ownership details.

3.3. **Third Party Observations**

3.3.1. None.

3.4. **Prescribed Bodies**

Uisce Eireann / Irish Water: The submission on file from Uisce Eireann recommends further information in the form of a Pre-Connection Enquiry to assess feasibility of connection to public water and wastewater infrastructure.

4.0 **Planning History**

4.1. Subject site

No recent relevant planning history. I note two older applications (2007-2010) recorded by the planning authority.

4.2. Nearby sites:

None.

5.0 **Policy Context**

5.1. **Development Plan**

The site is zoned '*A1 Existing Residential*' in the Louth County Development Plan 2021 – 2027, where the land use zoning objective is: "*To protect and enhance the amenity and character of existing residential communities*". Residential development is stated as a generally permitted use.

Section 2.14.8 'Strategic Settlement Strategy Policy Objectives for Dundalk' Policy Objective SS21 seeks: "*To support sustainable high density development, particularly in centrally located areas and along public transport corridors and require a minimum density of 50 units/ha in these locations.*"

Regarding density, Section 3.11 'Densities' includes the following:

- *“When identifying the potential density of a site, consideration must be given to the surrounding context and how the development would relate to the existing built form and character of its location”*
- *“... Whilst all developments should strive to achieve the recommended densities, it is acknowledged that there will be cases where there are specific constraints (such as topography) that will restrict the scale of development that can be delivered. In such cases a lower density than that prescribed may be considered acceptable.”*

Section 3.16.1 ‘Infill, Corner and Backland Sites’ is relevant, including Policy Objective HOU32 which seeks: *“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”* and HOU33 which seeks to: *“To promote the use of contemporary and innovative design solutions subject to the design respecting the character and architectural heritage of the area”*.

Table 3.2 ‘Recommended Densities in Higher Tier Settlements’ indicates a recommended minimum density per hectare in ‘Edge of Settlement’ locations in Dundalk as 35 dpha.

Policy Objective IU19 *“To require the use of Sustainable Drainage Systems to minimise and limit the extent of hard surfacing and paving and require the use of SuDS measures be incorporated in all new development (including extensions to existing developments). All development proposals shall be accompanied by a comprehensive SuDS assessment including run-off quantity, run off quality and impacts on habitat and water quality.”*

Policy Objective NBG3: *“To protect and conserve Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) designated under the EU Habitats and Birds Directives”*

Policy Objective NBG57: *“To ensure that no development, including clearing or storage of materials, takes place within a minimum distance of 10m measured from each bank of any river, stream or watercourse”* and Policy Objective IU25 which seeks: *“To ensure that no development including clearing or storage of materials takes place within a minimum distance of 10m measured from each bank of any river, stream or watercourse”*.

Section 10.2.6 'Riparian Corridor'.

Policy Objective ENV15: "...*Proposed plans, programmes and projects shall not have an unacceptable impact on the water environment, including surface waters, groundwater quality and quantity, river corridors and associated woodlands ...*"

Policy Objective ENV18: "*To protect fisheries in all rivers in the County, where appropriate, including relevant species as contained in Annex II of the Habitats Directive*".

5.2. National guidelines and strategies

Sustainable Residential Development & Compact Settlements 2024.

Design Manual for Urban Roads & Streets (DMURS) 2019, incl. Sections 4.4.4-4.4.6.

Planning System & Flood Risk Management Guidelines 2009.

National Biodiversity Action Plan 2023, including its Objectives and Targets.

5.3. Natural Heritage Designations

5.3.1. Dundalk Bay SAC and Dundalk Bay SPA are c.2.1km to the east.

5.4. Environmental Impact Assessment screening

5.4.1. Having regard to the nature and scale of the proposed development of 6 no. dwellings, the location in a serviced urban area, and to the criteria set out in Schedule 7 of the Planning & Development Regulations 2001, as amended, I consider that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. (See Form 1 & 2 Appendix 1).

6.0 The Appeal

6.1. Grounds of First-Party Appeal

6.1.1. A first-party appeal was received, summarised as follows:

- Rationale: Application is made due to incoming Vacant Site Levy, the housing crisis, and financial viability matters. Site is unused. The existing dwelling is to be demolished to make way for more modern housing. 50% of the development is to be affordable housing;
- Precedent: A vacant site has already been granted permission on Mill Road (Ref. 18195) and further information is requested on another (Ref. 23/60502);
- Land transfers: As part of the development it is intended to transfer land to adjoining dwellings to the east to increase their rear gardens and amenity;
- Neighbour amenity: Proposal will not have substantial or detrimental impacts on residential amenities by overlooking, loss of privacy, overbearance, overshadowing or loss of ambient light. The nearest dwelling is 22m away;
- Boundaries: Majority of the site boundaries comprise trees & hedges which are to be retained;
- Density: Proposal is below development plan minimum, but in the context of surrounding development is considered appropriate. Precedent set by Ref. 18/985 and Ref. 23/60502 with permitted densities of 29 and 30dpha;
- Open space: 15% of the site is to be open space;
- Proposed dwellings: Proposal exceeds required standards and provides appropriate residential amenity including amenity space, light, and parking;
- Services: The site is served by public water supply, foul drainage and storm drainage systems, and by bus;
- Policy and Guidelines: Proposal meets the requirements of relevant local policies and national guidelines;
- Refusal reasons: The reasons can be addressed by further information;
- Refusal reason 1: Regarding overdevelopment, site is in the Dundalk regional growth centre. Proposal is less than half the minimum density required by the development plan. The design takes cues from the existing area whilst maintaining a distinct vernacular of its own;
- Refusal reason 2: Appeal refutes any failure to demonstrate surface water disposal arrangements. Surface water disposal is by means of rainwater

harvesting tanks in the rear gardens, with the road, driveways and footpaths attenuated by tanks in the northeast of the site. Appeal states the proposal does not intend to have runoff quantity or quality and therefore would have no impacts on habitat or water quality so IU19 is not applicable. Appeal sets out 4 design options;

- Refusal reason 3: Appeal states the disposal of surface water through soakaways and soil infiltration, and ascertaining runoff quantity & quality is not the only design option and these issues have been addressed by the options set out in above in response to refusal reason 2. An adequate survey was completed. A CEMP is required by condition. Appeal states the Environment Section concerns outweigh those of the Planning Section as they are more specialised & qualified;
- Refusal reason 4: A pre-connection enquiry is now submitted. There are errors and confusion in the planning authority assessment. Further information could have resolved this matter.
- The appeal sets out detailed points regarding the wording of the planning authority planner reports; Part V compliance letter; photographs of the area, marked extracts from the development plan, and drawings which appear to be as per the application.

6.2. Planning Authority Response

6.2.1. Response to appeal dated 26th March 2024 requesting the Board uphold the decision to refuse. The response reiterated points made in the planning authority planner report and made the following additional points:

- Site is suitable for a suitably designed residential scheme;
- The primary concern is the layout in this location remote from the town centre;
- A more limited form of development that does not impinge the residential amenities of dwellings to the east would be more appropriate;
- The transfers of land are now understood to be proposed and have not taken place. This will enhance the neighbouring dwellings and is welcomed;

- Further information would have required significant alteration of the proposal and refusal was considered more appropriate.

Attached to the response was a letter from the planning authority Environment Section dated 2nd January 2024 which stated the section had no objection subject to standard conditions including for a Construction & Demolition Resource Waste Management Plan and construction management conditions.

6.3. **Observations**

6.3.1. None.

7.0 **Assessment**

7.1. Having regard to the foregoing; having examined the application, appeal and planning authority reports; having inspected the area within and around the site; and having regard to relevant adopted development plan policies and objectives, I consider the main issues in this appeal are the reasons for refusal and related matters raised in the course of the appeal.

Refusal reason 1

7.2. Regarding the principle of development, the site is zoned 'A1' and located in a residential area. I am satisfied residential development is acceptable in principle.

7.3. Regarding the point that the proposal would result in overdevelopment, the proposed density is c.22.2 dwellings per hectare. This is below the development plan recommended minimum of 35dpha. The development plan provides flexibility for lower densities having regard to factors including the surrounding context, existing built form and character of the location, and the quality of residential environment created, and site constraints. Given the backland nature of the site to the rear of existing dwellings; the short rear gardens of those dwelling and their form as bungalows; the irregular shape of the site and its location adjacent a watercourse, I consider the proposed density is acceptable. In this regard I note that whilst the density would be lower than the development plan guideline minimum it would be considerably higher than the prevailing density in the area.

- 7.4. Regarding the refusal reason reference to the proposal being out of character, given the design proposed I am generally satisfied that subject to conditions for the agreement of materials and finishes, the proposal would broadly align with Policies HOU32 and HOU33 of the development plan and would utilise contemporary and innovative design solutions and would not conflict unduly with the character of the area. Regarding height, whilst I note one neighbouring dwelling incorporates 2-storey elements, I accept that dwellings along Mill Road are predominantly one-off bungalows and dormer dwellings positioned along the road and finished in render and slate. I note too that whilst dwellings along Mill Road, Castletown Road, and Mount Avenue are predominantly bungalow and dormer dwellings, there are also large numbers of 2- and 3-storey modern dwellings in the area (eg. Saltown & Fatima c.300m to the east) are 2. The proposed dwellings would be semi-detached 2-storey dwellings, finished predominantly in render and concrete tile, with some brick elements to the front elevation. The dwellings would be to the rear of the existing dwellings along Mill Road and largely screened from the road. The site is not in a conservation area. In this context I am satisfied with the proposal in this regard subject to conditions in relation to materials and finishes.
- 7.5. Regarding impacts on neighbour residential amenity, I note significant commentary in the planning authority planner report in this regard. Given the layout and distances involved to existing neighbouring dwellings, I am satisfied there would be no significant impacts in terms of overbearance or natural light. Noting the layout and location behind the existing buildings, and the relative orientation and height of the proposed 2-storey dwellings to the bungalows to the east, given the intervening distances (c.21m at closest) I am satisfied any overlooking and privacy impacts would be acceptable. Regarding the planning authority planner report points of overlooking of neighbouring rear amenity spaces, whilst I note the relatively shallow depth of those rear spaces, the proposal seeks to increase the depth of all but one of them which would increase their amenity. I note the lack of detail in relation to proposed boundary treatments but the hedges there. Given the foregoing, I consider that on balance the proposal would not have an undue negative impact on neighbouring residential amenity, subject to a condition for appropriate supplementary boundary treatments to protect existing residential amenities.

- 7.6. Regarding points in the planning authority planner report relating to impacts on existing residential amenity arising from the proposed access and parking, the internal access road and 6 no. parking spaces are proposed adjacent the rear of the existing dwellings to the east. I note there is already a parking and turning area in this general location on the site. The proposal would see land ceded to 3 no. of the existing dwellings, which would improve their amenity. The remaining dwelling would have no land ceded to it and would have all of the proposed parking located adjacent its rear boundary. I accept that car movements to the rear of these dwellings would impact existing residential amenity, however I am satisfied the numbers of movements would be relatively low, and that the dwellings themselves would be a good distance away. I consider however that for the remaining dwelling adjacent which the parking is proposed, further supplementary screening along the party boundary is required in addition to that outlined above, to ensure the reasonable protection of the residential amenity. I consider this can be achieved by condition.
- 7.7. Regarding demolition of the existing dwelling on site, despite its age I do not consider it is of particular heritage or vernacular value, and is not protected or in a conservation area. Given the proposal is to construct 6 dwellings I am satisfied demolition is acceptable.

Refusal reason 2:

- 7.8. The planning authority Place Making & Physical Development Section report recommended further information in relation to a number of items. These included the absence of a soil permeability test; demonstration the surface water drainage design considered surface water runoff flow paths; details of pollution intervention; details regarding exceedances; an absence of a verified digital topographical survey; and a number of details including in relation finished levels.
- 7.9. The application proposed domestic rainwater harvesting tanks to the rear of each of the proposed dwellings. The closest of these tanks is c.3.5m from the watercourse that runs through the site. A rainwater harvesting tank is also proposed adjacent the end of the proposed road, with an outfall shown to the adjacent stream. That tank would be c.4m from the watercourse. A surface water disposal report from the applicant's engineer is submitted with the application. It states that at present 30% of the site is impermeable and surface water is disposed of to a soakaway on site and

to Mill Road. The report states the watercourse along the northern portion of the site leads to the Castletown River. The report states surface water will be attenuated on site and released at a controlled rate to the watercourse. Limited details of surface water treatment are provided. The report states the site was deemed unsuitable for a communal soakaway to the rear of the dwellings and one within the open space due to its proximity to the existing watercourse, and as such surface water disposal was split into sections. Storage design calculations are provided. I note longitudinal sections of the proposed foul sewer and watermain are provided.

- 7.10. As stated by the planning authority Place Making & Physical Development section report, no soil permeability test or verified digital topographical survey of the site and layout plan is submitted. Very little detail regarding proposals to cater for any overspill from the rain harvesting units is provided, however I note information on tank capacity is submitted. Limited information on surface water runoff flow paths, pollution prevention, or exceedances is provided. I note that whilst some information on storm water management devices, longitudinal details, discharge point, pipe diameters and gradients, cover/invert levels are provided, limited details in terms of cross-sections are provided, with very limited information on house finished site level, floor levels or driveway sections showing footpaths and floor levels provided.
- 7.11. Whilst I consider the applicant has set out proposals for sustainable drainage and some of the surface water engineering information required by the planning authority Place Making & Physical Development section, I do not consider sufficient information on the management of surface water have been provided. On the basis of the information submitted I do not consider permission should be granted. This is primarily on account of the absence of basic survey and testing information as well as insufficient details for surface water management in particular in relation to surface water treatment, pollution prevention, exceedances, runoff flow paths and levels across the site. This is of particular importance given the proximity of the development to the adjacent watercourse and the potential detrimental impacts in that regard. As such I consider the proposed surface water drainage proposals have not demonstrated due regard to the requirements of development plan Policy Objectives IU19 and ENV15 particularly in relation to potential impacts on habitat and water quality in relation to the watercourse running through the site.

Refusal Reason 3:

- 7.12. I have reviewed the information on file in this regard, including the Appropriate Assessment screening determination of the planning authority and the submitted Appropriate Assessment screening report prepared by the applicant's engineer.
- 7.13. The watercourse running through the site flows partly above and below ground, however based on available EPA mapping and my site visit I am satisfied this watercourse is part of the Castletown river system. The Castletown flows into Dundalk Bay. Dundalk Bay SAC and Dundalk Bay SPA are c.2.1km to the east.
- 7.14. Regarding the proposed development, some of the proposed dwellings are within c.1m of the bank of the watercourse. Elements of the proposed surface water drainage system are within c.4m of the watercourse. Regarding the information submitted, I consider there is a lack of clarity as to the extent and nature of the works proposed, including in terms of level changes, landscape works along the watercourse, and the proposed bridge. There is also an absence of basic survey and testing information as well as insufficient details for surface water management, in particular in relation to surface water treatment, pollution prevention, exceedances, runoff flow paths and levels across the site. Minimal information on construction management is submitted.
- 7.15. Regarding the submitted Appropriate Assessment screening report, the report does not include all of the elements of the development identified in the submitted drawings including the proposed pedestrian bridge and landscaping works along the watercourse through the site. In relation to whether there are other projects that, together with the project being assessed, could affect the site the report states that "there are no additional proposed works directly connected with this site". The report states it is evident the proposed development is not likely to cause any significant effects on the integrity of the identified European Sites. It states that best practice construction measures will be employed however no construction management proposals are included. The report concludes the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on any SAC/SPA or any other European Sites.
- 7.16. I have assessed the proposed development in relation to Appropriate Assessment in Section 8 of this report below. Based on the information submitted I do not consider it possible to come to a finding of no significant effects in relation to Appropriate

Assessment screening and impact on European Sites. I conclude below that the proposed development could result in significant effect on Dundalk Bay SAC and Dundalk Bay SPA (See Section 8.0 and Appendix 2 of this report).

- 7.17. Having regard to the foregoing, including to my Appropriate Assessment screening of the proposed development as set out below, I concur with the planning authority that insufficient information has been provided to screen out the development for the purposes of Appropriate Assessment and to state that the proposed complies with Policy Objective NBG3 of the development plan. I consider the proposed development gives rise to potential significant detrimental impacts to the watercourse running through the site, and has not demonstrated due regard to or compliance with development plan Policy Objective NBG3, and has not demonstrated that the proposed development would protect and conserve Special Areas of Conservation and Special Protection Areas designated under the EU Habitats and Birds Directives. As such I consider the proposed development should be refused in this regard.

Reason 4:

- 7.18. The appeal sets out background information in this regard and includes a confirmation of feasibility letter from Irish Water dated January 2024. It relates to water and wastewater connections for a development of 6 no. dwellings on the site. It indicates water and wastewater connections are feasible without infrastructure upgrade by Irish Water. I am satisfied the information submitted deals satisfactorily with this refusal reason and that refusal of permission in this regard is not warranted, subject to standard conditions.

Related matters raised in the course of the appeal

Access & Transportation – New Issue

- 7.19. Regarding access, a significant number of points of further information were recommended by the Place Making & Physical Development Section of the planning authority. These related to details of the proposed access road and footpaths, including levels, and for a turning bay to be included including swept path analysis. The proposed development was not refused on these grounds.

- 7.20. Having reviewed the development as proposed, I am satisfied that the items of further information raised by the Place Making & Physical Development Section of the planning authority in this regard could in general be addressed by condition.
- 7.21. Further information was also requested in relation to sightlines, including the provision of proof that all necessary permissions were received from third parties for the works required to provide the necessary sightlines; and identification of the lands affected outside the site boundary.
- 7.22. The site is in a 50kmh zone. Bus services operate along Mill Road. The required forward visibility is 49sqm. The applicant layout shows the appropriate visibility splay from 2.4m within the site. I note the northern arm of the splay cuts slightly across the neighbouring property to the north, which at that point comprises a low pillar with hedging behind. Given the nature of the road, the layout of the neighbouring property, and the provisions within DMURS for a shorter observation from the roadside I am generally happy that this matter can be dealt with by condition.
- 7.23. In relation to public lighting, the planning authority Place Making & Physical Development Section sought details in this regard. Minimal if any information on public lighting was provided by the applicant. I note there is significant tree growth on and adjacent the site along the banks of the watercourse which runs through the site. Minimal information on species and habitats within and adjacent the site is provided. However, given the relatively small size of the development, the existing residential use of the site, its urban/suburban location, and the likely nature of public lighting required I am satisfied this matter can be appropriately dealt with by condition.
- 7.24. Regarding the proposed boundary changes between the site and neighbouring dwellings, whilst parts of the site would be transferred from the applicant to 3 no. of adjacent landowners are indicated in the application, the application also indicates that land belonging to two adjacent landowners is required either side of the existing access to facilitate the proposed access arrangement. No correspondence in this regard from these adjoining landowners is submitted. No submissions from these landowners are recorded on the file. The applicant indicates these lands are required to facilitate access to the development, and in the absence of the necessary authorisations I am not satisfied the appellant has demonstrated appropriate access

proposals for the development to progress. As such I consider the proposal should be refused in this regard.

- 7.25. This matter was not raised in the course of the appeal, and as such the Board may wish to seek submissions from interested parties, however given the other issues raised above I do not consider this is warranted.

Flood risk – New Issue

- 7.26. The planning authority planner report stated the site is in an area subject to fluvial flooding but raised no objection. The application was not refused in this regard. No comment in this regard was raised by the appellant.
- 7.27. The development plan ('Dundalk Zoning and Flood Zones' Map No. 1.2) indicates small areas of the site along the watercourse are in Flood Zone B. I note available OPW flood maps indicate an additional area of the site at the northern end also has a low flood probability (that is, 0.1% annual exceedance probability).
- 7.28. Having reviewed the information on file, I consider the site is partly within Flood Zone B and that the northernmost dwelling appears to be located immediately adjacent Flood Zone B. Having regard to the provisions of the Planning System & Flood Risk Management Guidelines a Justification Test is required. The applicant submitted a site-specific flood risk assessment. In summary the assessment stated all of the proposed houses, accesses, driveways and parking are located outside the affected part of the site, and that the proposed finished floor levels have sufficient freeboard above the highest recorded flood risk level. The overall conclusion was the development would not be susceptible to any unacceptable flood risk and would not cause or exacerbate flooding.
- 7.29. I am satisfied the assessment meets the requirements of the Guidelines, however I note a number of detailed points for consideration:
- The report states areas below the +9.5m contour on the site may be susceptible to fluvial flooding under extreme flood conditions. However the assessment also states the identified fluvial flood area cuts through the +9.5m and +10.0m contour lines. The proposed site layout indicates the nearest rear garden to the watercourse would have a level of +10m and would be c.1m from the watercourse. Whilst the report states the rainwater harvesting tanks to the west

are located outside the identified flood area, the report does not reference the proposed ground level of the garden nearest the watercourse;

- The assessment states existing ground levels shall be retained within the identified flood area to ensure no loss of floodplain or potential displacement of flood waters. However, there is no existing site layout drawing or site survey on the file. I note Figure 1.4 of the submitted flood risk assessment shows some topographical information, but it is not fully legible;
- The assessment also states the lands were raised in 2018 after a flood event in 2005 caused by human error. Limited details are provided. The assessment states no portion of the site flooded at any other time, however the report goes on to reference a recent flooding event.

7.30. Noting the tolerances proposed by the applicant I consider there is a lack of detail in relation to the existing and proposed ground levels and a lack of detail on the related works required. In this regard I note in particular the proximity of some of the proposed finished levels to mapped flood risk zones and to the watercourse as a known flood risk source. As such I consider there are aspects of the submitted proposals which required further detailed consideration. However, I am satisfied sufficient justification has been provided for the purposes of granting planning permission, and that residual risks could be resolved with further detailed design by a prior to commencement condition. In this regard I am satisfied major alterations or flood related structural work or significant relocation of development would not be required, but instead that detailed design of ground levels and detailed flood mitigation measures to reduce residual risk further would be sufficient.

7.31. This matter was not raised in the course of the appeal, and as such the Board may wish to seek submissions from interested parties, however given the other issues raised above I do not consider this is warranted.

Adjacent watercourse – *New Issue*

7.32. Development plan Policy Objective NBG57 seeks to ensure no development, including clearing or storage of materials, takes place within a minimum distance of 10m measured from each bank of any river, stream or watercourse. The wording of Policy Objective IU25 is comparable. I note the related provisions of Policy Objectives ENV15 and ENV18.

- 7.33. Development plan Table 3 'Main Rivers of County Louth' identifies the Castletown River. Based on my site visit and available EPA mapping I am satisfied this watercourse forms part of or feeds into the Castletown river.
- 7.34. The submitted plans show two of the proposed dwellings, parts of the access road, and other works are within 10m of the adjacent watercourse. This includes residential development within c.1m of the watercourse; landscaping and associated structures along both banks of the watercourse; as well as a pedestrian bridge over the watercourse. Whilst the appellant accepts that construction management plan / construction environment management plan is required, minimal if any information as to the impact of the proposed works on the watercourse running through the site are provided, including in terms of ground levels, landscaping, works along the bank, or the proposed bridge. As such I am not satisfied the applicant has had due regard to the riparian environment through the site or the above relevant policy objectives of the development plan. I consider the proposal should be refused in this regard.
- 7.35. This matter was not previously raised in the course of the application or appeal, and as such the Board may wish to seek submissions from interested parties, however given the other issues raised above I do not consider this is warranted.

Construction

- 7.36. No construction management proposal are submitted. Given the lack of information on works to along the bank of the watercourse I do not consider these and the related construction matters above can be appropriately addressed by condition.

8.0 Appropriate Assessment - screening

- 8.1. In accordance with Section 177U of the Planning and Development Act 2000 (As amended) and on the basis of objective information provided by the applicant, I conclude that the proposed development could result in significant effect on the Dundalk Bay SAC and Dundalk Bay SPA in view of the conservation objectives of a number of qualifying interest features of those sites. It is therefore determined that it is not possible to come to a finding of no significant effects and therefore further detailed assessment through Appropriate Assessment (Stage 2) under Section 177V of the Planning and Development Act 2000 is required.

9.0 Recommendation

9.1. I recommend permission be **Refused** for the reasons and considerations below.

10.0 Reasons and Considerations

1. Having regard to the design and layout of the proposed access, and the lands outside the applicant's control indicated as being required in this regard; it is considered that the applicant has not satisfactorily demonstrated the feasibility of providing the required access to facilitate the proposed development. The development would, therefore, not be in accordance with the property planning and sustainable development of the area.
2. Having regard to the submitted surface water management proposals, including the lack of survey and testing information or details in relation to surface water treatment and ground levels across the site; and having regard to the proximity of the proposed development to the Castletown river system within the site, and the potential for significant detrimental impacts in that regard; it is considered that provision of appropriate surface water drainage systems have not been clearly demonstrated having regard to the requirements of Policy Objectives IU19 and ENV15 of the Louth County Development Plan 2021-2027.
3. Having regard to the nature and extent of development proposed within 10 metres of the Castletown river system within the site, and the lack of information provided including in relation to works proposed along and over the watercourse, it is considered that the proposed development has not demonstrated due regard to the riparian environment within the site or to Policy Objectives NBG57 and IU25 of the Louth County Development Plan 2021-2027.
4. Having regard to the nature and proximity of development along and over the Castletown river system within the site, and the lack of details submitted in relation to the proposed works, including details of surface water management, ground level changes, and construction management; and having regard to the nature and content of the submitted Appropriate Assessment screening report, and to the findings of the Appropriate Assessment screening of the proposed development undertaken by the Board, it is considered that the application has not demonstrated

that the proposed development would protect and conserve areas designated under the EU Habitats and Birds Directives in relation to Dundalk Bay Special Area of Conservation and Dundalk Bay Special Protection Area and as such has not demonstrated due regard to or compliance with Policy Objective NBG3 of the Louth County Development Plan 2021-2027. On the basis of the information on file, the Board is not satisfied that the proposed development, either individually or in combination with other projects, would not be likely to have a significant effect on the European Sites Dundalk Bay Special Area of Conservation and Dundalk Bay Special Protection Area. In such circumstances, the Board is precluded from granting permission for the proposed 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.-

D. Aspell
Inspector
28th February 2025

APPENDIX 1

Form 1

EIA Pre-Screening [EIAR not submitted]

An Bord Pleanála Case Reference		ABP-319208-24	
Proposed Development Summary		Construction of 6 houses and all associated site works including demolition of dwelling.	
Development Address		Mill Road, Dundalk, Co. Louth.	
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No			No EIAR or Preliminary Examination required
Yes	X	Part 2, Class 10(b)(i)	Proceed to Q.4
4. Has Schedule 7A information been submitted?			
No	X		Preliminary Examination required
Yes			Screening Determination required

Inspector: _____

Date: __ 27/02/2025__

Form 2 - EIA Preliminary Examination

An Bord Pleanála Case Reference Number	ABP-319208-24	
Proposed Development Summary	Construction of 6 houses and all associated site works including demolition of dwelling.	
Development Address	Mill Road, Dundalk, Co. Louth.	
The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations. This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.		
Characteristics of proposed development	Proposed development comprises 6 no. existing dwellings, an short access road, parking and landscaping. The proposed development has a modest footprint, comes forward as a standalone project, requires demolition of a small bungalow, does not require the use of substantial natural resources, or give rise to production of significant waste, significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, human health or is vulnerable to climate change.	
Location of development	The development is located on the edge of an urban area with an existing dwelling on site. Whilst there is a watercourse running through the site, the site has not been identified as being environmentally sensitive and includes no sensitive natural habitats, designated sites and landscapes of identified significance in the County Development Plan. The site is not of historic or cultural significance and given the scale and nature of development there will be no significant environmental effects arising.	
Types and characteristics of potential impacts	Having regard to the characteristics and modest nature of the proposed development, the sensitivity of its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.	
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No

Inspector: _____ Date: 27/02/2025

DP/ADP: _____ Date: _____
(only where Schedule 7A information or EIAR required)

APPENDIX 2

Appropriate Assessment screening (Stage 1)

- 10.2. I have considered the proposed development of 6 no. dwellings and associated works in light of the requirements of S177U of the Planning and Development Act 2000 as amended.
- 10.3. An Appropriate Assessment Screening Report prepared by the applicant's engineer was submitted with the application. It provides a description of the project, identifies and provides a brief description of the European Sites within a 15km zone of influence of the development, and an assessment of potential impacts arising from the development. It states the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on an SAC or SPA or any other European Sites.
- 10.4. The planning authority screened the project for Appropriate Assessment and found that it was not possible at that stage to state that the proposal would not have an adverse impact upon the listed conservation objectives of the protected sites individually or in combination with other plans or projects.
- 10.5. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European Sites designated Special Conservation Area (SAC) and Special Protection Area (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

Location and description of development

- 10.6. A description of the development is set out in Section 2 of this report. The proposed development comprises 6 no. dwellings, an access road measuring c.60m long, parking, landscaping, and works along the watercourse including construction of a pedestrian bridge over the watercourse. The proposed development will be connected to the local water supply and foul networks, subject to connection agreements with *Uisce Eireann*. The proposed construction access route during the construction phase is intended to be directly from the adjacent local road. No flora or

fauna species for which Natura 2000 sites have been designated were recorded on the application site.

- 10.7. The site is located at 'River Cottage', Mill Road, Dundalk. The watercourse flowing through the site is sometimes referred to as the Castletown river or a tributary thereof. The Castletown River flows into Dundalk Bay c.2.1km east of the site.

European Sites

- 10.8. The Appropriate Assessment Screening Report submitted with the application provides a description of the European Sites within 15km of the subject site. The proposed development is not located within or immediately adjacent any designated European Site. The report identifies 3 no. European Sites within a 15km radius of the site. The European Sites potentially within a zone of influence of the proposed development site (see Table 1 below) identified in the report are as follows:

- Dundalk Bay SAC
- Dundalk Bay SPA
- Stabannon & Braganstown SPA

- 10.9. A summary of these European Sites is presented in the table below. Given the site given the intervening distances, the topography of the area, and the absence of direct hydrological connection, I concur with the appellant that no other viable receptor pathways are identified between the appeal site and other Sites. Other European Sites are therefore screened out at preliminary stage..

European Site	List of Qualifying Interests and Special Conservation Interests	Distance	Connections
Dundalk Bay SAC (000455)	1130 Estuaries 1140 Mudflats and sandflats not covered by seawater at low tide 1220 Perennial vegetation of stony banks 1310 <i>Salicornia</i> and other annuals colonizing mud and sand 1330 Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>)	c.2.1km	Yes. Indirect hydrological connection via Castletown river and its tributaries which flow into Dundalk Bay. Surface and construction runoff could potentially impact the qualifying

	1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>)		special conservation interest species.
Dundalk Bay SPA (004026)	A005 Great Crested Grebe <i>Podiceps cristatus</i> wintering A043 Greylag Goose (<i>Anser anser</i>) A046 Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) A048 Shelduck (<i>Tadorna tadorna</i>) A052 Teal (<i>Anas crecca</i>) A053 Mallard (<i>Anas platyrhynchos</i>) A054 Pintail (<i>Anas acuta</i>) A065 Common Scoter (<i>Melanitta nigra</i>) A069 Red-breasted Merganser (<i>Mergus serrator</i>) A130 Oystercatcher (<i>Haematopus ostralegus</i>) A137 Ringed Plover (<i>Charadrius hiaticula</i>) A140 Golden Plover (<i>Pluvialis apricaria</i>) A141 Grey Plover (<i>Pluvialis squatarola</i>) A142 Lapwing (<i>Vanellus vanellus</i>) A143 Knot (<i>Calidris canutus</i>) A149 Dunlin (<i>Calidris alpina</i>) A156 Black-tailed Godwit (<i>Limosa limosa</i>) A157 Bar-tailed Godwit (<i>Limosa lapponica</i>) A160 Curlew (<i>Numenius Arquata</i>) A162 Redshank (<i>Tringa tetanus</i>) A179 Black-headed Gull (<i>Chroicocephalus ridibundus</i>) A182 Common Gull (<i>Larus canus</i>) A184 Herring Gull (<i>Larus argentatus</i>) A999 Wetlands & Waterbirds	c.2.1km	Yes. Indirect hydrological connection via Castletown river and its tributaries which flow into Dundalk Bay. Surface runoff could potentially impact the qualifying special conservation interest species.
Stabannan & Braganstown	A043 Greylag Goose (<i>Anser anser</i>)	14.1km	No.

SPA (004091)			
-----------------	--	--	--

- 10.59. I note the applicant included another European Site (Stabannon-Braganstown SPA) in their initial screening consideration as a site within 15km of the development site. Given the distance (c.14.1km), and that there are no feasible direct or indirect physical, hydrological, ecological linkages connecting the site to that SPA, I have only included those Sites with any possible ecological connection or pathway in this screening determination.
- 10.60. As the Castletown river or a tributary of the Castletown river flows through the site, therefore there is an indirect hydrological link connecting the subject site to the above SAC and SPA which is relevant to the habitats and vegetation on these Site. This is examined further hereunder.
- 10.61. Likely impacts of the project alone or in combination with other plans and projects
- 10.62. The application site is not located fully or partly within or adjacent a European Site, therefore there will be no direct impacts on any European Site, or other direct effects or risk in terms of habitat loss, fragmentation, or any other direct impact. The site does not contain any habitats of related conservation value and does not contain any habitat that supports a European Site.
- 10.63. The site is urban/suburban in nature and located on the edge of Dundalk. The size and nature of the proposed development is reasonably typical for the urban area of the town, including at both construction and operational phases. Due to the nature of the site, the nature and scale of the development relative to the distance between the site and the identified European Sites at Dundalk Bay, I consider the project would not generate impacts beyond the immediate area of the development site, and would have a very limited potential zone of influence on ecological receptors, including European Sites.
- 10.64. With regard to indirect impacts, due to the scale and nature of the development and its proximity and relationship to the Castletown river or its tributary, potential indirect impacts require consideration. The applicant has applied the source-pathway-receptor model in determining possible impacts and effects of the proposed solar farm development.

10.65. I consider that potential indirect impacts on the identified European Sites could occur during the construction and operational phases.

Construction phase

10.66. During the site clearance and construction phase it is possible that silt and sediment could be carried into the Castletown river. This could arise from ground level changes, landscaping works, and works to the bank of the watercourse. Runoff from the construction site during heavy rainfall and in unmanaged conditions could carry construction related pollutants into the Castletown river, including construction related compounds such as silt and hydrocarbons. This could arise from the construction activity including construction of landscape features, seating, and construction of the proposed pedestrian bridge. In this regard I note that the garden wall of the proposed dwelling closest to the banks of the watercourse is c.1m away. The Castletown river could provide a potential indirect hydrological pathway to the identified European Sites.

10.67. In this regard no proposals for the management of construction including management of the impact on the environment were included as part of the proposed development.

10.68. I do not consider there is any other feasible impact mechanisms in relation to construction including noise or dust due to the distances involved, making it highly unlikely that the proposed development could generate impacts of a magnitude that could affect European Sites in these regards.

Operational phase

10.69. During the operational phase, the project proposes that all surface water run off would be attenuated within the appeal site, with overflow to the Castletown river. However given the proximity of some hardsurface areas to the watercourse (c.1m) and the lack of detail on ground levels with the development, the surface water pathway could create the potential for an interrupted and distant hydrological connection between the proposed development in times of heavy rainfall or in respect of a flood event. Whilst the proposed SUDS attenuation measures may have a positive impact on drainage from the subject site, the significant lack of detail provided does not provide a sufficient degree of certainty.

10.70. It is reasonable to assume that given the size and winding nature of the watercourse as far as Dundalk Bay that there would be some dilution, attenuation, and settlement of runoff prior to reaching Dundalk Bay, however given the nearest flow distance to the identified European Sites with which there is indirect hydrological connectivity, by way of the Castletown river at distances of c.2.1 km to the nearest identified European Site I consider that an interrupted and distant hydrological connection between the proposed site and the European Sites in Dundalk Bay could remain.

10.71. Likely significant effects on the European site(s) in view of the conservation objectives

10.72. The conservation objectives of the SAC and SPA are to maintain the favourable conservation condition of the qualifying interests including the estuaries, mudflats, wetland habitats, and perennial vegetation, annuals and salt meadows in Dundalk Bay. This in part relies on conservation in a natural condition of subtidal fine sand community complex and muddy fine sand community, and also maintaining the natural circulation of sediment and organic matter in Dundalk Bay.

10.73. The primary pathway to the Dundalk Bay SAC and SPA is via the Castletown river its tributary which runs through the development area and discharges directly into Dundalk Bay. Given the proximity of proposed works to the watercourse and the relatively short distance to Dundalk Bay for the processes of dilution of any pollutants or settlement of sediment to occur before reaching the Bay, I consider the above receptors are therefore at possible risk via the pathways identified, particularly during the construction phase. Based on the information provided in the screening report, site visit, review of the conservation objectives and supporting documents, I consider the development as has the potential to result in the degradation of ecological functions or features necessary for qualifying interests from the release of silt and sediment and inadvertent spillages of hydrocarbons and/or other chemicals during construction phase, and the release of surface water pollutants during the operational phase into the Castletown river which could undermine the conservation in a natural condition of subtidal fine sand community complex and muddy fine sand community, and also maintaining the natural circulation of sediment and organic matter in Dundalk Bay, and in turn undermine the Sites' conservation objectives in relation to and perennial vegetation, annuals and salt meadows in Dundalk Bay.

- 10.74. In combination effects are examined within the applicant Appropriate Assessment Screening report. The report concludes the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on any SAC/SPA or any other European. In relation to in combination effects the report states only that “there are no additional proposed works directly connected with this site”. I consider this information to be insufficient and as such I am not satisfied that in combination effects have been appropriately considered, specifically in relation to other plans or projects.
- 10.75. I consider that such impacts could be significant in terms of the stated conservation objectives of the European Sites in Dundalk Bay when considered on their own or in combination with other projects and plans in relation to pollution related pressures, degradation of qualifying interest habitats.
- 10.76. I concur with the planning authority’s findings that such impacts could be significant in terms of the stated conservation objectives of the SAC and SPA when considered on their own and in combination with other projects and plans in relation to pollution related pressures and disturbance on qualifying interest habitats and species. In the absence of mitigation, the proposed development has the potential to result in negative impacts on the Dundalk Bay SAC and Dundalk Bay SPA.
- 10.77. In the absence of further detailed information / analysis it is not possible to come to a finding of no significant effects and therefore further detailed assessment is required i.e. appropriate assessment.

Overall Conclusion

- 10.78. In accordance with Section 177U of the Planning and Development Act 2000 (As amended) and on the basis of objective information provided by the applicant, I conclude that the proposed development could result in significant effect on the Dundalk Bay SAC and Dundalk Bay SPA in view of the conservation objectives of a number of qualifying interest features of those sites. It is therefore determined that it is not possible to come to a finding of no significant effects and therefore further detailed assessment through Appropriate Assessment (stage 2) under Section 177V of the Planning and Development Act 2000 is required.