



An
Bord
Pleanála

Inspector's Report ABP-319738-24

Development	Proposed housing development of 44 no. Houses on a 1.5ha site in the townland of Point, at Lower Point Road, Dundalk, Co. Louth
Location	Lower Point Road, Dundalk, Co. Louth
Local Authority	Louth County Council
Type of Application	Application for approval made under Section 177(AE) of the Planning and Development Act, 2000 (local authority development requiring appropriate assessment).
Prescribed Bodies	An Taisce Transport Infrastructure Ireland Department of Housing Local Government and Housing (Development Applications Unit)
Observer(s)	Emer Nolan Goldenridge Residents Councillor Marianne Butler Sean & Theresa Byrne Waterview and Wilton Green Residents Association

Date of Site Inspection

17th September 2024

Inspector

Aoife McCarthy

1.0 Introduction

- 1.1. Louth County Council is seeking approval from An Bord Pleanála for the development of 44 no. houses in the townland of Point, Lower Point Road, Dundalk, Co. Louth. The site is in close proximity to Dundalk Bay SAC and Dundalk Bay SPA, designated European sites. A Natura Impact Statement (NIS) and application under Section 177AE was lodged by the Local Authority on the basis of the proposed development's likely significant effect on a European site.
- 1.2. Section 177AE of the Planning and Development Act 2000 (as amended) requires that where an appropriate assessment is required in respect of development by a local authority, the authority shall prepare an NIS and the development shall not be carried out unless the Board has approved the development with or without modifications. Furthermore, Section 177V of the Planning and Development Act 2000 (as amended) requires that the appropriate assessment shall include a determination by the Board as to whether or not the proposed development would adversely affect the integrity of a European site and the appropriate assessment shall be carried out by the Board before consent is given for the proposed development.

2.0 Proposed Development

- 2.1. The proposed development consists of:
- 44 no. houses comprising:
 - 3 no. two storey 4 bed;
 - 10 no. two storey 3 bed;
 - 21 no. two storey 2 bed; and
 - 10 no single storey 2 beds.
 - The construction of a new access road onto Waterview residential estate to the east;
 - 47 no. car parking spaces including both in-curtilage and on-street parking, cycle parking, hard and soft landscaping including public open spaces, and

private gardens, boundary treatments, ESB substation, laying of underground sewers, watermains and pipes, attenuation.

- the importation of approximately 30,000m³ of material for engineering and landscaping purposes within the development and all associated works.

Accompanying documents:

The application was accompanied by the following documents:

- Planning Report and Statement of Consistency
- Cover Letter
- Public notices (Newspaper, Site)
- Landscape Design Statement
- Natura Impact Statement (NIS) and Appropriate Assessment (AA) Screening reports
- Social Infrastructure Audit Report
- Tree Survey Report and associated Drawings
- Ecological Impact Assessment (EclA)
- Environmental Impact Assessment Screening Report
- Site Specific Flood Risk Assessment (SSFRA)
- Invasive Alien Species Report
- Engineering Assessment Report
- Traffic and Transport Assessment (TTA)
- DMURS Statement Of Consistency
- Preliminary Construction Management Plan (CMP)
- Stage 1 Road Safety Audit and DMURS Quality Audit
- Drawings, Schedule of Accommodation
- Civil and Structural Engineering drawings
- Energy Statement Report

- Public Lighting Layout (drawing)
- Outdoor lighting report

3.0 Site and Location

- 3.1. The subject site has a stated area of 1.5 ha and is located to the south of Lower Point Road, Dundalk, Co. Louth. The site is located within an established residential area, c.2.5km to the east of Dundalk town.
- 3.2. The site is bound by the rear of residential properties accessed from Point Road and Lower Point Road to the north, by the rear of residential properties within Wilton Green residential estate to the west; by Waterview estate to the east and by agricultural lands to the south.
- 3.3. The southern boundary of the site includes the Ramparts, a man-made drainage channel, which connects to Dundalk Bay to the east of the site. The Blackwater River, running in an east-west alignment, is located to the south of the site.
- 3.4. The proposed development includes a new vehicular access from Waterview estate, accessed from Lower Point Road.
- 3.5. The site is characterised as greenfield with residential and agricultural uses in the wider environs of the site. Dundalk Wastewater Treatment Plant is located on Lower Point Road to the north of the subject site. The lands slope gently from north to south, with ground levels of between 1m and 3m OD Malin Head. Overhead powerlines extend diagonally from the southwest to northeast across the site.

4.0 Planning History

4.1. Subject Site

None.

4.2. Surrounding Area

There are numerous planning applications around the site for residential development relating to the established context of this site. These are noted and considered in the assessment below.

5.0 Legislative and Policy Context

- 5.1. **The EU Habitats Directive (92/43/EEC):** This Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) and 6(4) require an appropriate assessment of the likely significant effects of a proposed development on its own and in combination with other plans and projects which may have an effect on a European Site (SAC or SPA).
- 5.2. **European Communities (Birds and Natural Habitats) Regulations 2011:** These Regulations consolidate the European Communities (Natural Habitats) Regulations 1997 to 2005 and the European Communities (Birds and Natural Habitats) (Control of Recreational Activities) Regulations 2010, as well as addressing transposition failures identified in CJEU judgements. The Regulations in particular require in Reg 42(21) that where an appropriate assessment has already been carried out by a 'first' public authority for the same project (under a separate code of legislation) then a 'second' public authority considering that project for appropriate assessment under its own code of legislation is required to take account of the appropriate assessment of the first authority.
- 5.3. **National nature conservation designations:** The Department of Culture, Heritage and the Gaeltacht and the National Parks and Wildlife Service are responsible for the designation of conservation sites throughout the country. The three main types of designation are Natural Heritage Areas (NHA), Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) and the latter two form part of the European Natura 2000 Network.
- 5.4. European sites located in proximity to the subject site include:

Site Name	Distance to Site
Dundalk Bay SAC (000455)	175 m
Dundalk Bay SPA (004026)	175 m
Carlingford Mountain (SAC 00453)	4.2 km
Stabannan-Braganstown SPA (004091)	13.6 km
Carlingford Lough SPA (004078)	12.9 km
Carlingford Shore SAC (002306)	13.1 km

The NIS as submitted with this application included 2 no. sites located within Northern Ireland as follows:

- Rostrevor Wood SAC: located within 14.2km of the site.
- Derryleckagh SAC: located 17.1km to site.

5.5. Planning and Development Acts 2000 (as amended): Part XAB of the Planning and Development Acts 2000-2017 sets out the requirements for the appropriate assessment of developments which could have an effect on a European site or its conservation objectives.

- 177(AE) sets out the requirements for the appropriate assessment of developments carried out by or on behalf of local authorities.
- Section 177(AE) (1) requires a local authority to prepare, or cause to be prepared, a Natura impact statement in respect of the proposed development.
- Section 177(AE) (2) states that a proposed development in respect of which an appropriate assessment is required shall not be carried out unless the Board has approved it with or without modifications.
- Section 177(AE) (3) states that where a Natura impact assessment has been prepared pursuant to subsection (1), the local authority shall apply to the Board for approval and the provisions of Part XAB shall apply to the carrying out of the appropriate assessment.
- Section 177(V) (3) states that a competent authority shall give consent for a proposed development only after having determined that the proposed development shall not adversely affect the integrity of a European site.
- Section 177AE (6) (a) states that before making a decision in respect of a proposed development the Board shall consider the NIS, any submissions or observations received and any other information relating to:
 - The likely effects on the environment.
 - The likely consequences for the proper planning and sustainable development of the area.
 - The likely significant effects on a European site.

5.6. **Project Ireland 2040 National Planning Framework (NPF), 2018**

The NPF includes the following relevant guidance.

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

NPO 3c: Deliver at least 30% of all new homes that are targeted in settlements other than the five Cities and their suburbs, within their existing built-up footprints.

NPO 28: Plan for a more diverse and socially inclusive society that targets equality of opportunity and a better quality of life for all citizens, through improved integration and greater accessibility in the delivery of sustainable communities and the provision of associated services.

5.7. **Eastern and Midland Regional Spatial & Economic Strategy (RSES), 2019-2031**

The RSES supports the implementation of a programme for change as set out in the National Planning Framework and National Development Plan. Under the RSES, Dundalk is identified as a Regional Growth Centre supporting significant population, to serve as economic drivers for the Region and implementing effective regional development.

The following key policies are noted:

Housing **RPO 9.3:** Support local authorities, approved housing bodies and other sectoral agencies in the provision of a greater diversity of housing type and tenure, including social and affordable housing and exploring new models of low cost rental and affordable homeownership.

5.8. **Sustainable Residential and Compact Settlement Guidelines for Planning Authorities, 2024**

These Guidelines set out national planning policy and guidance in relation to the creation of settlements that are compact, attractive, liveable and well designed.

There is a focus on the renewal of settlements and on the interaction between residential density, housing standards and placemaking to support the sustainable and compact growth of settlements.

For suburban and edge of centre locations of Regional Growth Centres, it is a policy and objective of these Guidelines that residential densities in the range of 40

dwellings per hectare (dph) to 80 dph (net) and up to 100 dph (net) shall be open for consideration at 'accessible' suburban/urban locations.

Development standards for housing are set out in Chapter 5, including SPPR 1 in relation to separation distances (16 m between opposing windows serving habitable rooms above ground floor level), SPPR 2 in relation to private open space (2-bed 30 m²; 3-bed 40 m²; 4+bed 50 m²), SPPR 3 in relation to car parking (1.5 spaces per dwelling in accessible locations) and SPPR 4 in relation to cycle parking and storage.

Policy and Objective 5.1 relates to public open space provision and requires development plans to make provision for not less than 10% of the net site area and not more than a min. of 15% of the net site area save in exceptional circumstances.

5.9. Section 28 Guidance

The following Section 28 Ministerial Guidelines have also considered to be of relevance to the proposed development.

- Guidelines for Planning Authorities on Childcare Facilities, 2001.
- Delivering Homes, Sustaining Communities and accompanying best Practice Guidelines – Quality Housing for Sustainable Communities, 2007.
- Design Manual for Urban Roads and Streets, 2019 (DMURS).
- The Planning System and Flood Risk Management, Guidelines for Planning Authorities, 2009 (Flood Risk Guidelines).
- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009, the accompanying Urban Design Manual: A Best Practice Guide, 2009 (Sustainable Residential Development Guidelines).
- Design Manual for Housing (2022), prepared by the Department of Housing, Local Government and Heritage (DHLGH).

5.10. Consolidated Louth County Development Plan 2021-2027

5.10.1. Land Use Zoning

The site is subject to 'A1' 'Existing Residential', which seeks 'To protect and enhance the amenity and character of existing residential communities' under the Louth

County Development Plan 2021-2027 (LCDP). Residential use is a Generally Permitted use under this zoning objective.

5.10.2. **Development Plan – Strategic Objectives**

SO 2 Support and promote the role of Drogheda and Dundalk as key designated Regional Growth Centres with high levels of self-sustaining employment and services, to act as regional economic drivers, playing a significant role for a wide catchment area and to help achieve a more coordinated and sustainable settlement and travel pattern across the region.

5.10.3. **Development Plan – Housing Policies**

The Plan includes the following relevant housing policies.

HOU 2: To support the delivery of social housing in Louth in accordance with the Council's Social Housing Delivery Programme and Government Policy as set out in Rebuilding Ireland: Action Plan for Housing and Homelessness.

HOU 15: To promote development that facilitates a higher, sustainable density that supports compact growth and the consolidation of urban areas, which will be appropriate to the local context and enhance the local environment in which it is located.

Table 3.2 of the Development includes a recommended density of 35 units / ha, applicable to Dundalk Regional Growth Centre (RGC) and this Edge of Settlement location, as defined in the Development Plan.

HOU 17 To promote and facilitate the sustainable development of a high quality built environment where there is a distinctive sense of place in attractive streets, spaces, and neighbourhoods that are accessible and safe places for all members of the community to meet and socialise.

HOU 18 To develop sustainable and successful neighbourhoods through the consolidation and redevelopment of built-up areas and promote new compact mixed-use urban and rural villages served by public transport and green infrastructure.

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 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 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 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 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 of for Excellence in Universal Design.

HOU 30 To encourage building design and layout that maximises daylight and natural ventilation and incorporates energy efficiency and conservation measures that will improve the environmental performance of buildings in line with best practice.

5.10.4. **Development Plan –Community, Social and Cultural Infrastructure Audit**

SC 11 To require that all new residential development applications on lands greater than 1ha or for 100 units or more are accompanied by a Community, Social and Cultural Infrastructure Audit to determine if community facilities in the area are sufficient to provide for all future residents. Where deficiencies are identified proposals will be required to accompany the planning application to address the deficiency, either through direct provision on site or such other means, and in a manner acceptable to the Council.

5.10.5. **Development Plan - Development Management Guidelines**

Section 13.7 of the Plan includes development management guidance for residential development. Whilst not always prescriptive, it includes guidance on:

- Construction management plan

- Design with respect to Multi-Unit Residential Developments
- Layout/Design
- Design Statements
- Open Space

5.10.6. **Development Plan - Flood Risk**

IU 26 To reduce the risk of new development being affected by possible future flooding by:

- Avoiding development in areas at risk of flooding and
- Where development in floodplains cannot be avoided, taking a sequential approach to flood risk management based on avoidance, reduction and adaptation to the risk.

In addition, Policy Objectives **IU 27-35**, all relevant, relating to flood risk.

5.10.7. **Development Plan - Biodiversity**

NBG 3 To protect and conserve Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) designated under the EU Habitats and Birds Directives.

6.0 **Consultations**

6.1. The application was circulated to the following bodies:

- Department of Housing Local Government and Housing (DHLGH)
(Development Applications Unit (DAU))
- Inland Fisheries Ireland
- National Parks and Wildlife Service
- Gas Networks Ireland
- National Broadband Ireland
- The Heritage Council
- An Comhairle Ealaíon

- An Taisce
- Transport Infrastructure Ireland

6.2. Responses were received from the following:

- **Department of Housing Local Government and Housing (DHLGH)
Development Applications Unit (DAU)**
 - The submission notes the site to be large in scale potentially impacting on sub-surface archaeology, and recommends the attaching 3 conditions of permission:
 - requiring an Archaeological Impact Assessment as per Framework & Principles for the Protection of Archaeological Heritage (1999).
 - Archaeologist to carry out any relevant documentary research and inspect the development site. As part of the assessment a programme of test excavation to be carried out having consulted the site drawings and the Department.
 - Having completed the work, the archaeologist shall submit a written report stating their recommendations to the Planning Authority and to the Department. Where archaeological material/features are shown to be present, preservation in situ, or monitoring may be required.
 - Reason: To ensure the continued preservation [either in situ or by record] of places, caves, sites, features or other objects of archaeological interest.
- **An Taisce**
 - The site and access road located within a floodplain (as per CFRAM map), contain an undesirable level of risk, failing to properly anticipate climate change.
 - Recommend the use of the most up to date projections with respect to climate change in undertaking flood risk assessment.
 - Refers to Policy Objectives IU 26 to 35 of the Louth CDP with respect to flood risk assessment.

- Notes that the site is a bird roosting ground, used in extreme high tides when other areas are not available. This includes by kingfishers, due to the sighting of same during summer months.
- Notes that Castletown Estuary River as well as adjacent drainage ditch have been known to contain otters.
- **Transport Infrastructure Ireland**
 - No observation on this application.

6.3. Public Submissions

4 no. third party submissions are on file, as noted below.

- **Sean & Therea Byrne**
 - The observers object on the basis of flood risk, noting the site to be within Flood Zone A under the CDP.
 - The observation notes that historically, the Blackwater River has played an historic role in flood defences of the town, flowing west to east to the Irish Sea.
 - The Blackwater River and Ramparts drainage channel (located on the southern boundary of the site) have been poorly maintained, contributing to flood events in November 2023.
- **Goldenridge Residents**
 - The site at a remote location, removed from public transport services (noting the closest bus stop to be approximately 1.4km from the subject site).
 - Inappropriate location for ageing population and/or those with disabilities.
 - No cycle lanes on Lower Point Road.
 - Lower Point Road is excessively narrow to facilitate any future widening.
 - Queries the use of open space within Wilton Green in context of the relevant parent permission.
 - The proposal would have a detrimental effect on open space and amenity within Waterview.
 - Devaluation of properties.

- The application should be refused as the site is within Flood Zone A, at a high risk of flooding, noting existing residents' inability to get flood insurance.
- Queries future taking in charge of Wilton Green by the Council.
- The application should be refused on the basis that the levels will be raised to +4.2m OD, querying the source and transportation of materials on site.
- Queries the validity of the SSFRA.
- **Waterview and Wilton Green Residents (Prepared by BPS Planning & Development Consultants)**
 - The site is in Flood Risk Zone A and cannot be developed as a result.
 - The site is at a remote location with respect to social infrastructure and public transport services.
 - Proposed access is premature pending the determination of a road layout by the Council.
 - Deficiencies in TTA excluding reference to importation of soil on site.
 - Insufficient car parking, and concerns with respect to the layout.
 - The proposal is contrary to the A1 zoning objective, with significant injurious impacts to the residential and visual amenities of adjoining properties in Wilton Green and Waterview.
 - The proposed surface water connection, within Waterview is outside the red line boundary, with no consent provided by the Third Party.
 - Tree and landscaping concerns.
 - The proposal has not been assessed with respect to River Basin District Management (ENV15) and to Groundwater Protection Scheme (ENV17 refers).
 - An EIAR should have been submitted with the application, under No.11(b) Part 2 of Schedule 5, of the Planning and Development Regulations, 2001, as amended.
 - Concerns with respect to impact on Dundalk Bay SAC and Dundalk Bay SPA.

- AA and NIS incomplete including inconsistent mitigation measures, and lack of reference to proposed infill of soil on site.
- Ecology and biodiversity concerns.
- Queries whether the applicant has a Right of Way into Waterview.
- Architectural drawings as submitted are inaccurate.
- Refers to Planning Precedent in the environs of site with respect to flood risk.
- Adverse visual and residential amenities concerns.
- Construction phase works are not acceptable.
- **Emer Nolan**
 - Objects on the grounds that the proposal is located within a floodplain and associated flood risk to adjoining neighbouring properties.
 - Objects on grounds of proximity to Dundalk Bay, and other planning precedent within the county.
 - Notes that bats are present and roosting in the area.
- **Councillor Marianne Butler**
 - Supports the principle of social housing in Dundalk, however, objects to the provision of social housing at this site, having regard to the location of the site on lands located within Flood Zone A, and proximity to Dundalk Bay SAC, SPA, and pNHA.
 - Includes reference to a series of other sites including those in the ownership of the Land Development Agency which are considered sequentially, more appropriate than the subject site.
 - Considers density should have been calculated at 21 units/ha, significantly below recommended density of 35 units/ha at this Edge of Settlement location as prescribed in the LCDP.
 - Insufficient car parking provision.
 - The proposed increase in road levels will increase flood risk of houses to the north of the site.

- Notes concern as to how future tenants will cope in the event of a flood event.
- Seeks to ensure proposal is assessed against a range of policies, including NBG 3 (as detailed above) with respect to specifically over-wintering birds.

7.0 EIA Screening

The application is accompanied by a report entitled 'EIA Screening Report', which, in my opinion, comprises information as prescribed under Schedule 7. A Preliminary Examination has therefore been carried out. (Please refer to Appendix 1, Forms 1 and 2.)

In this context, I note commentary from BPS Consulting who consider that an EIAR is required, on the basis that the development falls under Class 11 (b) 'Installations for the disposal of waste with an annual intake of greater than 25,000 tonnes not included in Part 1 of this Schedule'.

This is, in my view, an entirely inaccurate interpretation of the proposed development which does not constitute a waste facility, but includes a one-off importation of soil/material, as works which are ancillary to the proposed residential development.

I also refer to the provisions of s.34(10) of the Planning and Development Act, 2000 (as amended) noting that in the event that an element of this importation requires licencing, that this will be subject to a separate process.

8.0 Assessment

8.1. Section 177AE (6) of the PDA requires that the Board, before making a decision, shall (inter alia) consider:

- the likely effects on the environment,
- the likely consequences for the proper planning and sustainable development in the area, and
- the likely significant effects of the proposed development upon a European Site.

The structure of the assessment follows these headings.

8.2. Likely Effects on the Environment

8.2.1. Introduction

Having examined the application details and all other documentation on file, including submission, having inspected the site and having regard to the relevant local and national policies and guidance, I consider that the substantive issues with respect to the likely effects on the environment are as follows:

- Flood Risk
- Biodiversity

These are discussed below.

8.2.2. Flood Risk

At the outset, a number of the third parties note flood risk to be a concern with respect to the subject proposal, and these comments have been considered in the assessment below.

The application is accompanied by a Site Specific Flood Risk Assessment (SSFRA) which confirms that the site is primarily within Strategic Flood Zone A, with a portion to the north and northwest within Strategic Flood Zone B of the LCDP 2021-2027.

The SSFRA notes the primary risk to the subject site can be attributed to an extreme coastal/tidal flood event and /or a fluvial flood event in the Blackwater River, discharging to Dundalk Bay, within 450m to the east of the site.

The site falls within a predictive present-day scenario (defined as 0.5% AEP (1 in 200 year) coastal/tidal within Flood Zone A and a 0.1% AEP (1 in 1,000 year) coastal within Flood Zone B.

In order to mitigate against potential coastal/tidal flood risk, it is proposed to infill and raise the levels across the site to be within the predictive 0.5% AEP + Climate Change (CC) (1 in 200 Year + CC) peak coastal /tidal flood level to +4.2m OD, i.e. to+ 4.7m OD.

An hydraulic modelling exercise has been undertaken, confirming the proposal will not result in increased fluvial flood to adjacent lands, properties or elsewhere. The proposal inclusive of the proposed infill is expected to have no adverse impact to the hydrological regime of the area or increase fluvial flood risk elsewhere. The report concludes that the flood risk to and from the development, inclusive of raised levels as referenced above, is considered to be low.

In this context, the Preliminary CMP confirms that the proposed development will require 30,000m³ of fill material to raise the levels on site to the predictive levels as referenced above. From the drawings as submitted this equates to increasing the site level by 3.424m to primarily 4m across the site (Cut and Fill Drawings refer). In this context, I note commentary made on behalf of Wilton and Waterview residents with respect to the inadequacy in the quality of the application drawings; however, I consider that I have a sufficient understanding to assess the subject proposal.

In conclusion, having reviewed this documentation, I consider this assessment to be robust; consistent with the proposed works, providing a suitable solution to address flood risk, facilitating the proposed development at the subject site.

In this context, I also however, consider the extent of intervention to mitigate flood risk to have potentially significant effects with respect to series of planning considerations (as examined in the Planning and Sustainable Development section of this Report.)

This assessment confirms that the proposed increase in site levels across the site, will be acceptable with respect to potential impact to residential/visual amenities of the proposed residential units and those adjoining the site. I therefore conclude that, the design measures including raising the levels of the site and all associated works, in order to mitigate flood risk to be acceptable.

8.2.3. Biodiversity

The application is accompanied by an Ecological Impact Assessment (EclA). This was informed by field surveys under-taken in July 2023 and January 2024, in addition to desk top study.

In this context, the EclA concludes that there will be minor localised residual impacts on habitats as well as localised impacts on the diversity of flora during the construction and operational phases, will be slight, negative at a local level only. The EclA notes that the loss of scrub and grassy verge habitats is not significant given the abundance of this habitat locally.

The EclA sets out that no impacts are predicted to mammalian species, bar loss of foraging/commuting habitat, due to there being no records of mammals on site during the survey.

The EclA notes that impacts of minor adverse significance are predicted on bird species. This is due to the potential increase in noise and anthropogenic disturbance to Special Conservation Interest (SCI) birds from Dundalk Bay SPA (including Black-headed gull, Herring gull, Oystercatcher, Lapwing and Curlew) utilising adjacent fields for feeding and foraging. (Please also refer to NIS section of this report).

There will also be a loss of some feeding and foraging areas arising from the removal of areas of grassy verge and scrub, located within the subject site. However, it is noted that these will affect not species associated with Dundalk Bay SPA, only passerine bird species.

Residual impacts on breeding, bird nesting and foraging habitats following the implementation of mitigation and compensatory measures exist, however, through the prevention of the destruction and disturbance of birds' nests, construction phase impacts are reduced to levels not deemed significant.

A survey of bat habitat found no potential for bat roosting habitat areas. Mitigation measures nonetheless include native species in landscaping to expand habitat corridors on site. Specifications with respect to lighting are also considered to be acceptable. (Section 8.2 of the EclA refer).

The report includes a series of measures to mitigate any impacts on commuting and foraging bat populations during the construction period. These include specifications with respect to lighting and landscaping. I note that these recommendations are consistent with the Landscape Plan, submitted under separate cover with the application.

The application includes an Invasive Alien Species Survey which confirms that no third schedule invasive species were found within or surrounding the survey site. In conclusion, I concur with the assessment of the Planning Authority, concluding that the extent of minor localised residual impacts on habitats and fauna to be acceptable.

8.2.4. Conclusion

Subject to mitigation, the proposed development would be in accordance with the proper planning and sustainable development of the area.

8.3. The likely consequences for the proper planning and sustainable development of the area

I consider the following to be the substantive issues relating to the proper planning and sustainable development of the area:

- Principle of Development
- Access and Transportation
- General Design
- Heights / Levels
- Social and Community Audit

8.3.1. Principle of Development

The site is subject to A1 Existing Residential zoning objective under the Development Plan, under which residential use is permitted in principle, subject to compliance with the policies and objectives as set out in the Louth County Development Plan (LCDP).

The documentation refers to the fact that the proposal will constitute a 'social residential development', with the intention that the properties would be tenanted from Louth County Council's Housing List.

There are a range of policies at national, regional and local level as referenced above, supporting the development of a greenfield site within an established suburban location, as part of the compact growth of an urban centre.

Notably, the proposal will also support the compact growth of Dundalk as a Regional Growth Centre, as identified within the RSES (RPO 3.2).

Having regard to the zoning objective for the site and specific policy objectives at national, regional and local level, it is considered that the principle of development is acceptable.

8.3.2. General Design

- **Design and Layout**

From a review of the inputs, I consider the proposed development accord with the relevant provisions of the Sustainable Residential Development Guidelines and accompanying Design Manual, (as well as Section 13.8.7 of the Development Plan)

providing a well-designed design solution for this relatively small, rectangular shaped infill site.

The scheme includes a series of terraces of single and two storey houses, in my opinion, integrating positively with the established pattern of development to the north, east and west of the site. Single storey houses (10 no.) are located at the western and north-western end of the site; with 2 storey houses within the remainder (34 no.) of the scheme. In my opinion, these measures ensure the protection of the residential and visual amenities of the established residential properties adjoining the site.

The layout also takes account of the Blackwater River channel and associated lands to the south, which are open in character, enhancing the residential amenity of the proposed development.

- **Public Open Space**

The proposed development accords with the Guidelines with respect to the provision of public open space, providing 15% of the net site area. Both areas of public open space are passively supervised by adjoining residential units within the scheme.

The overall landscaping proposal includes a series of surface water drainage components including swales, wet meadows, and planting to support a retention tank, as part of Sustainable Urban Drainage System measures on site (as referenced below).

In this context, I consider the extent of open space within the subject site to be acceptable.

- **Private Open Space Provision**

The proposed development accords with the Sustainable Compact Community Guidelines for Planning Authorities, 2024 with respect the provision of private open space in the form of rear gardens. These are generally aligned on an east or west or south facing rear gardens or backing rear gardens for properties off Point Road to the north of the site, and side gardens to the west within Wilton Green.

I also note that minimum separation distances of 16m for back-to-back housing is also achieved (section 13.8.7 of the Development Plan refers.)

In this context, I consider the provision of private open space to be acceptable.

- **Unit Size and Mix**

The proposed development includes 5 no. different house types at a mix of sizes, and including 31 no. 1 beds, 10 no. 2 beds and 3 no. 4 bed houses in a mix of 1 and 2 storey units.

The house types are also noted to accord with the minimum house standards as set out in the Design Manual for Housing (2022), prepared by the Department of Housing, Local Government and Heritage (DHLGH).

The scheme includes 13 no. Universal Design units (30%), meeting the requirements of the Development Plan (HOU29), whilst also providing adaptable housing to suit the changing needs of prospective residents of this scheme.

In this context, I consider the subject housing mix and design to be acceptable, providing a suitable mix of tenure within the subject development proposal, to a high architectural design standard.

- **Density**

The proposed development is at a gross density of 29 units/ha, marginally below the minimum density requirements of 35 units/ha, as set out in the NPF, Sustainable 2024 Guidelines and the Louth CP (Table 3.2 and Section 13.8.4 of the CDP refer). This equates to a net density of 31 units/ha, taking account of open space to the south of the site.

The applicant considers that reduced density is appropriate, having regard to development constraints associated with this site.

Notwithstanding the above, in my opinion, the density of development is acceptable, having regard to, the size of site, scale and form of development, which in my opinion, successfully integrates adjoining established pattern of development to the north, east, and west of the site, and Blackwater River channel to the south, as noted above.

- **Car Parking/Bicycle Parking**

The proposed includes 47 no. car parking spaces, in accordance with the Sustainable 2024 Guidelines, inclusive of 4 accessible spaces. From a review of Site Layout Plan, it is considered that the layout and position of car parking spaces within the development is acceptable.

- **Services**

Surface Water Drainage

Surface water on site will be managed through a series of measures including swales adjacent to the road to treat and store surface water running off the road; raingardens, as well as attenuation within the open space. These measures are aimed to restrict the flow of water to greenfield run-off rates before discharging into the Blackwater River to the south of the site.

Water Supply

Water supply will be provided via a new connection to the existing watermain in Waterview estate to the east of the site.

Wastewater Management

It is proposed to connect to an existing sewer in Wilton Green to the south-west of the proposed development.

A request for Pre-Connection enquiry has been received from Úisce Éireann, confirming the availability of capacity for wastewater and water supply to this site.

I note commentary from a number of the observers that there is no legal position in place to connect to the gravity sewer within Waterview. Again, I refer the Board to S.34 (10) of the Planning and Development Act 2000 (as amended), as referenced above.

In summary, I consider the proposed service arrangement for the proposed residential development to be acceptable.

8.3.3. Access and Transportation

The scheme includes a new vehicular access route, extending from Waterview at the eastern of the site. The route extends west through the site, terminating in a cul-de sac within the site, with a future route shown to Wilton Green to the west.

The future opening up of the site to Wilton Green, will, in my view, significantly improve the permeability of the subject proposal, as well as within the wider Point environs, albeit remaining at low and therefore acceptable levels of through traffic.

Notwithstanding, I consider the layout in its current format to be acceptable.

In this context, I note commentary of the third party with respect to Wilton Green estate being taken in charge, I refer the Board again, to section 34 (13) of the

Planning and Development Act, 2000 (as amended) confirming, that, 'A person shall not be entitled solely by reason of a permission under this section.'

A TTA has been completed in this context which confirms that the projected traffic impact is considered to be negligible to extremely low. (To note, this document refers to development consisting of 43 no. units on a site of 2.15 ha.)

Having regard to the location of the proposed access from within Waterville estate, and the absence of any through traffic, projected traffic movements will be very low. Projected traffic movements at the junction of Lower Point Road and Waterview are also very low. Overall, projected traffic impact is considered to be negligible to extremely low.

The closest public bus stops to the site are located at a distance of 1.6km and 1.9km from the site providing services from Bus Station, at a 30-minute frequency (Bus Eireann Route 174B). The site is within 5km from Dundalk Clarke Station, providing public rail services along the east coast (between Belfast and Rosslare). A number of submissions consider that the subject bus stops are excessively removed from the subject site. However, in my opinion, the distances and walk-times (22 and 26 minute respectively) to these stops as well as frequency of service in this instance is acceptable. I note that there is no objection from TII with respect to this application.

In my opinion, this access route and traffic impacts arising is acceptable.

- **Construction Phase**

Traffic figures associated with importation of 30,000m³ of material, will result in 50 truck movements (in and out) per day, over a 100 day/5-month period. The Preliminary CMP (Section 10.2) includes a series of mitigation measures, relating to these works, including the provision of designated wash out areas, and scheduling of deliveries.

I consider that the mitigation measures as referenced above to be acceptable, providing for careful co-ordination, in the interests of protection of European sites traffic safety and residential amenity.

8.3.4. **Heights/Levels**

I note the concerns with respect to proposed development and potential impact on the residential and visual amenities of adjoining properties within Wilton Green (No.

3., 4, and 5) and properties to the north (off Point Road). From a detailed review of the drawings, I note that the westernmost unit within the subject site to have an overall height of +RL9.12m OD (inclusive of the increase in levels across the site to +4.7m AOD); marginally lower than the closest property within Wilton Green, at +10.74m OD.

Building heights within the remainder of the proposed scheme are consistent or lower than adjoining properties to the north and northeast of the site. The closest property to the development within Waterview (No.2), is also considered to be sufficiently set back from the proposed development. The development includes 2m high spine block wall to the north and east of the site, further enhancing the privacy of rear gardens of adjoining and prospective residences.

In conclusion, I am satisfied that the heights of the proposed housing units will not result in negative impacts on the residential amenity of prospective or adjoining residents of the subject scheme.

8.3.5. Social /Community Audit

The application is accompanied by a Social Housing Community Audit prepared by Stephen Ward Planning Consultants, pursuant to SC11 of the Development Plan. The Report concludes there are no significant gaps in the network of social/community infrastructure in the town and that the development in itself will not place any significant demand on existing facilities.

The Report identifies that the report notes that it may be appropriate to extend existing bus services to include the Lower Point Road, to improve public transport services closer to the subject site.

I also note that notwithstanding, guidance on the provision of childcare facilities is ultimately informed by the Guidelines for Planning Authorities on Childcare Facilities, 1999, which require the provision of 1 no. childcare facility per 75 family units, and therefore not applicable to the subject proposal, comprising 44 no. family units.

Having regard to the above, I concur with the assessment within this report, that there is no additional need for the provision of social or community facilities as part of the subject proposal.

8.3.6. **Conclusion**

Subject to mitigation, the proposed development would be in accordance with the proper planning and sustainable development of the area.

8.4. **The likely significant effects on a European site:** The areas addressed in this section are as follows:

- Compliance with Articles 6(3) of the EU Habitats Directive
- The Natura Impact Statement
- Appropriate Assessment

8.5. **Compliance with Articles 6(3) of the EU Habitats Directive:** 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.

8.6. **The Natura Impact Statement:** The application was accompanied by an NIS which includes an assessment of potential impacts, mitigation measures and a conclusion. The NIS contained a Stage 1 Screening Assessment which concluded that a Stage 2 Appropriate Assessment was required.

The Stage 1 Screening Assessment described the proposed development, the project site and the surrounding area, European sites within the zone of influence, an assessment of potential impacts, in-combination impacts and a conclusion. This information was expanded on significantly within the EclA submitted with the application, but notably, the bird survey information is not included within the NIS and AA Screening documents submitted with the application.

8.7. The Stage 1 Screening Assessment was informed by the following:

- A desk top study, including available literature on the site and environs.
- Field surveys (dated July 2023 and January 2024) of the proposal site and environs. The surveys undertaken in January 2024 include a wintering bird survey of the site and wider environs, as noted detailed within the EclA (Section 5.2.2).

- An examination of NPWS, National Biodiversity Data Centre, IFI and EPA databases.

- 8.8. The NIS outlined the methodology used for assessing potential impacts on the habitats and species within two European Sites (Dundalk Bay SAC and Dundalk Bay SPA) that have the potential to be affected by the proposed development. It predicted the potential impacts for these sites, with suggested mitigation measures, an assessment of in-combination effects with other plans and projects and it identified any residual effects on the European sites and their conservation objectives.
- 8.9. The NIS report concluded that, subject to the implementation of best practice, avoidance and the recommended mitigation measures, the proposed development would not adversely affect the integrity of any European site.
- 8.10. As noted above, the site is within 175m of both Dundalk Bay SAC and SPA located to the east of the site. Having reviewed the NIS and the supporting documentation (including the EclA), I am satisfied that it provides adequate information in respect of the baseline conditions, does clearly identify the potential impacts, and does use best scientific information and knowledge. Details of mitigation measures are provided, and they are summarised in Section 3 of the NIS, Section 14 of the Preliminary CMP and 8 of the EclA.

8.11. Appropriate Assessment

I consider the proposed development is not directly connected with or necessary to the management of any European site.

Having regard to the information and submissions available, nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the source pathway receptor principle and sensitivities of the ecological receptors, the following European Sites are considered relevant to include for the purposes of initial screening for the requirement for Stage 2 appropriate assessment on the basis of likely significant effects.

Table 1.1 European sites considered for Stage 1 screening:

European site (SAC/SPA)	Qualifying Interests	Distance
Carlingford Mountain SAC (00453)	<p>4010 Northern Atlantic wet heaths with <i>Erica tetralix</i></p> <p>4030 European dry heaths</p> <p>4060 Alpine and Boreal heaths</p> <p>6230 Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe)</p> <p>7130 Blanket bogs (* if active bog)</p> <p>7140 Transition mires and quaking bogs</p> <p>7230 Alkaline fens</p> <p>8110 Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>)</p> <p>8210 Calcareous rocky slopes with chasmophytic vegetation</p> <p>8220 Siliceous rocky slopes with chasmophytic vegetation</p>	4.2km to the north-east of the site.
Carlingford Shore SAC (002306)	<p>1210 Annual vegetation of drift lines</p> <p>1220 Perennial vegetation of stony banks</p>	4.2km to the north-east of the site.
Dundalk Bay SAC (000455)	<p>1130 Estuaries</p> <p>1140 Mudflats and sandflats not covered by seawater at low tide</p> <p>1220 Perennial vegetation of stony banks</p> <p>1310 <i>Salicornia</i> and other annuals colonising mud and sand</p> <p>1330 Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>)</p>	175m to the east of the site.

European site (SAC/SPA)	Qualifying Interests	Distance
	1410 Mediterranean salt meadows (Juncetalia maritimi)	
Carlingford Lough SPA (004078)	A046 Light-bellied Brent Goose (Branta bernicla hrota) A999 Wetland and Waterbirds	12.9km
Dundalk Bay SPA (004026)	A005 Great Crested Grebe Podiceps cristatus A043 Greylag Goose Anser anser A046 Light-bellied Brent Goose Branta bernicla hrota A048 Shelduck Tadorna tadorna A052 Teal Anas crecca A053 Mallard Anas platyrhynchos A054 Pintail Anas acuta A065 Common Scoter Melanitta nigra A069 Red-breasted Merganser Mergus serrator A130 Oystercatcher Haematopus ostralegus A137 Ringed Plover Charadrius hiaticula A140 Golden Plover Pluvialis apricaria A141 Grey Plover Pluvialis squatarola A142 Lapwing Vanellus vanellus A143 Knot Calidris canutus A149 Dunlin Calidris alpina	175m to the east of the site.

European site (SAC/SPA)	Qualifying Interests	Distance
	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 totanus</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 & Waterbird	
Stabannan-Braganstown SPA (004091)	A043 Greylag Goose (<i>Anser anser</i>)	13.7km

Based on my examination of the AA Screening and NIS reports, all supporting information, including Preliminary Construction Management Plan, EIA Screening Report, EcIA, SSFRA, the NPWS website, aerial and satellite imagery, the scale of the proposed development and likely effects, separation distance and functional relationship between the proposed works and the European sites, their conservation objectives and taken in conjunction with my assessment of the subject site and the surrounding area, I conclude that a Stage 2 Appropriate Assessment is required for **Dundalk Bay SAC** and **Dundalk Bay SPA** European sites only.

The remaining Carlingford Mountain SAC, Carlingford Shore SAC, Carlingford Lough SPA, Stabannan-Braganstown SPA, Rostrevor Wood SAC, Derrylackagh Wood SAC sites can be screened out from further assessment having regard to scale of proposed works, the nature of the Conservation Objectives, Qualifying and Special Conservation Interests, the separation distances and the lack of any direct or indirect hydrological links or other source pathway receptors between the proposed works

and the European sites. It is therefore reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No(s) 00453, 004091, 004078, 002306, UK0016620, UK0030268) in view of the sites conservation objectives and a Stage 2 Appropriate Assessment is not therefore required for these sites.

8.12. Relevant European sites: Site descriptions and Conservation Objectives including any relevant attributes and targets for these sites, are set out below.

The subject site is located within 175m of Dundalk Bay SAC (Side Code 000455) and Dundalk Bay SPA (Site Code 004026), to the east of the subject site. The boundaries of these European sites overlap.

8.12.1. Dundalk Bay SAC (000455)

Dundalk Bay, Co. Louth, is a very large open, shallow sea bay with extensive saltmarshes and intertidal sand/mudflats, extending some 16 km from Castletown River on the Cooley Peninsula in the north, to Annagassan/Salterstown in the south. The bay encompasses the mouths and estuaries of the Rivers Dee, Glyde, Fane, Castletown and Flurry.

Saltmarsh vegetation occurs in four main areas: at Lurgangreen, Marsh South, Dundalk Harbour and Bellurgan. Two types are represented – Atlantic and Mediterranean salt meadows. The Atlantic salt meadows are commonest and are characterised by Sea-purslane (*Halimione portulacoides*) (often as a dominant band), along with Common Saltmarsh-grass (*Puccinellia maritima*), Thrift (*Armeria maritima*), Red Fescue (*Festuca rubra*), Common Scurvygrass (*Cochlearia officinalis*), Sea Plantain (*Plantago maritima*) and Sea Rush (*Juncus gerardi*). Common Cord-grass (*Spartina anglica*) is frequent and often dominant over substantial areas. Glassworts (*Salicornia* spp.) occur on the lower zones of the saltmarshes, and in places extend out onto the sandflats. Mediterranean salt meadows are mostly confined to the upper levels of the saltmarshes or along stream sides where they merge with grassland habitats (though the transitional zone is now absent in many places). The habitat contains Sea Rush (*Juncus maritimus*), Sea

Arrowgrass (*Triglochin maritima*) and Sea Aster (*Aster tripolium*). The saltmarshes at Lurgangreen and Marsh South are partially fenced and grazed by sheep.

Shingle beaches are particularly well represented in Dundalk Bay, occurring more or less continuously from Salterstown to Lurgan White House in the south bay, and from Jenkinstown to east of Giles Quay in the north bay. The shingle is mostly stable, occurring on post-glacial raised beaches. The shingle often occurs in association with intertidal shingle, saltmarsh and or shingle-based grassland. The shingle supports species such as Spear-leaved Orache (*Atriplex prostrata*), Sea Mayweed (*Matricaria maritima*), Sea Beet (*Beta vulgaris* subsp. *maritima*), Sea Rocket (*Cakile maritima*), Wild Carrot (*Daucus carota*), Sea-holly (*Eryngium maritimum*), Sea Sandwort (*Honkenya peploides*) and Sea Radish (*Raphanus raphanistrum* subsp. *maritimus*). Yellow Hornedpoppy (*Glaucium flavum*) and Lyme-grass (*Leymus arenarius*) occur here at their most northern locality on the east coast, while the Red Data Book species Sea-kale (*Crambe maritima*) has recently been recorded.

The extensive sandflats and mudflats (over 4,000 ha) occur and are comprised of ecological communities such as muddy fine sand communities and fine sand community complexes. In the centre of Dundalk Bay there is a gravel community dominated by polychaetes. These habitats host a rich fauna of bivalves molluscs, marine worms and crustaceans and are the main food resource of the tens of thousands of waterfowl (including waders and gulls) which feed in the intertidal area of Dundalk Bay. The saltmarshes are used as high-tide roosts by all of these species, while the grazing birds (notably Brent Goose and Wigeon) feed on the saltmarsh grasses, areas of *Zostera* and other grassland vegetation. Brent Goose also feed on the mats of green algae on the mudflats. At night the wintering Greylag and Greenland White-fronted Goose, and Whooper Swans, from Stabannan/Braganstown (inland from Castlebellingham) roost in Dundalk Bay.

The site is internationally important for waterfowl because it regularly holds over 20,000 birds (up to 57,000 have been recorded) and supports over 1% of the North-West European/East Atlantic Flyway populations of Brent Goose (366), Bartailed Godwit (2,312) and Knot (11,948). Additionally, it is nationally important for Golden Plover (4,266), Great Crested Grebe (193), Greylag Goose (312), Shelduck (463), Mallard (657), Pintail (100), Red-breasted Merganser (148), Oystercatcher (6,940),

Grey Plover (218), Ringed Plover (133), Wigeon (565), Dunlin (9,112), Blacktailed Godwit (754), Curlew (1,593), Lapwing (4,822), Greenshank (20) and Redshank (1,455). Both Golden Plover and Bar-tailed Godwit are Annex I species.

This is a site of significant conservation value because it supports good examples of a range of coastal habitats listed on Annex I of the E.U. Habitats Directive, as well as large numbers of bird species, some of which are listed in the Birds Directive.

Conservation Objectives

The Conservation Objective for Dundalk Bay SAC seeks to maintain the favourable conservation status of habitats and species.

- To maintain the favourable conservation condition of Estuaries;
- To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide;
- To maintain the favourable conservation condition of Perennial vegetation of stony banks;
- To restore the favourable conservation condition of Salicornia and other annuals colonizing mud and;
- To restore the favourable conservation condition of Salicornia and other annuals colonizing mud and sand;
- To maintain the favourable conservation condition of Atlantic salt meadows.

8.12.2. Dundalk Bay SPA (Site Code 004026)

The extensive sand flats and mud flats have a rich fauna of bivalves, molluscs, marine worms and crustaceans which provides the food resource for most of the wintering waterfowl. The outer part of the bay provides excellent shallow-water habitat for divers, grebes and sea duck. In summer, it is thought to be a major feeding area for auks from the Dublin breeding colonies. The bay is used at night for roosting by wintering flocks of Greylag Goose, Greenland White-fronted Goose and Whooper Swan from Stabannan/Braganstown (inland of Castlebelligham) and other inland sites.

The site is of international importance because it regularly supports an assemblage of over 20,000 wintering waterbirds. The site also supports nationally important

populations of three wintering gull species - Black-headed Gull (6,643), Common Gull (551) and Herring Gull (754).

In spring and autumn, the site attracts a range of passage migrants, including Little Stint, Curlew Sandpiper and Ruff. Dundalk Bay SPA is one of the most important wintering waterfowl sites in the country and one of the few that regularly supports more than 20,000 waterbirds. Four species occur in numbers of international importance and a further 19 species in numbers of national importance. The regular occurrence of Golden Plover, Bar-tailed Godwit, Red-throated Diver, Great Northern Diver and Little Egret is of particular note as these species are listed on Annex I of the E.U. Birds Directive. Dundalk Bay is a Ramsar Convention site and parts of Dundalk Bay SPA are designated as Wildfowl Sanctuaries.

Conservation Objectives

The overarching Conservation Objective for Dundalk Bay SPA is to ensure that waterbird populations and their wetland habitats are maintained at, or restored to, favourable conservation condition.

This includes, as an integral part, the need to avoid deterioration of habitats and significant disturbance; thereby ensuring the persistence of site integrity. The site should contribute to the maintenance and improvement where necessary, of the overall favourable status of the national resource of waterbird species, and continuation of their long-term survival across their natural range.

Conservation Objectives for Dundalk Bay SPA, based on the principles of favourable conservation status.

Objective 1: To maintain the favourable conservation condition of the waterbird Special Conservation Interest species listed for Dundalk Bay SPA.

Objective 2: To maintain the favourable conservation condition of the wetland habitat at Dundalk Bay SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.

8.12.3. Consideration of Potential Effects

The proposed development would not be located within either Dundalk Bay SAC and SPA, and it is not relevant to the maintenance of any of the sites.

- **Potential direct effects**

There are no significant potential direct effects on the SAC and SPA during the construction and operational phases as the proposed development would not be located within either of the European sites.

- **Potential indirect effects**

Dundalk Bay SAC

As noted above, the southern boundary of the site, includes the Ramparts drainage channel, a water body with hydrological link to Dundalk Bay, located within 175m of the subject site. In addition, the site lies within Flood Zone A and considered within the NIS to be at risk of coastal flooding.

In this context, I concur with the assessment within the applicant's NIS, that, in the event that the site is inundated due to heavy rain or flood event, during the construction phase, polluting material, including silts, hydrocarbons, mud, litter could be carried into the SAC as flood waters recede, potentially affecting the water quality of the SAC.

The reduction in water quality, could potentially lead to Likely Significant Effects (LSE) to Annex 1 Habitats (Mudflats and sandflats not covered by seawater at low tide, Estuaries, Mediterranean salt meadows (*Juncetalia maritimi*) and Atlantic salt meadows (*Glauco-Puccinellietalia maritime*) identified within 200m of the subject site. Impacts on these habitats could lead to a reduction in habitat quality for several bird species associated with the Dundalk Bay SPA.

Following the implementation of NIS / EclA / Preliminary CMP mitigation, as referenced below, including water quality protection measures to the Ramparts drainage channel, in combination with the use of best construction practices, I am satisfied that there would be no resultant adverse impacts on the specified QI habitats or Conservation Objectives for Dundalk Bay SAC, during the construction phase.

Potential in-combination effects

Potential indirect in-combination effects relate to damage to the QI habitat due to potential accidental spillages and sediment run-off during the works, or, as noted above, a flood event during the construction phase, potentially resulting in the Ramparts channel becoming inundated with potential discharge to the SAC. It is

considered that this could give rise to pollution, with resultant impacts to water quality, in the absence of mitigation.

Having completed a review of the planning history on the files of Louth County Council and An Bord Pleanála, I concur with the statement within the submitted EclA / NIS which notes that permissions in the environs of the site relate to primarily residential and agricultural uses to the south of Point Road.

Having regard to the range of mitigation measures, best practice construction practices, it can be concluded that there would be no in-combination effect on the European sites or their qualifying interests.

Dundalk Bay SPA

The wintering birds survey as completed by the applicant confirms that areas surrounding the site of the proposed development are used as ex-situ feeding habitats for waders and gulls, concluding that there is therefore potential for development to impact feeding for including Black-headed gull, Herring gull, Oystercatcher, Lapwing and Curlew, which are SCI species for Dundalk SPA. The report notes that none of these species were observed within the footprint of the proposed development and would be unlikely to use the site given its overgrown condition.

Potential indirect effects in this context relate to a potential increase in noise and anthropogenic activity on the subject site during both construction and operational phases. Potential indirect impacts relate to possible pollution within storm water drains during construction phase.

During the operational phase, the volume of suspended solids and other polluting material that could be mobilised is considered to be minimal. The inclusion of SuDS measures will be installed to manage surface water drainage runoff from the site.

As above, following the implementation of NIS / EclA / Preliminary CMP mitigation measures, as referenced below, including the installation of SUDS measures, water quality protection measures to the Ramparts drainage channel, in combination with the use of best construction practices including noise reduction measures, I am satisfied that there would be no resultant adverse impacts on the SCI bird species or Conservation Objectives for Dundalk Bay SPA.

Potential in-combination effects (Dundalk Bay SPA)

Having completed a review of the planning history on the files of Louth County Council and An Bord Pleanála, I concur with the statement within the submitted EclA / NIS which notes that permissions in the environs of the site relate to primarily residential and agricultural uses to the south of Point Road.

As above, potential indirect in-combination effects relate to indirect impacts to water quality within the SAC; potential reduction in use of the site and environs as an-ex-situ habitats for SCI bird species for Dundalk Bay SPA during both construction and operational phases, in the absence of mitigation.

Having regard to the range of mitigation measures, best practice construction practices, it can be concluded that there would be no in-combination effect on the European sites or their SCI bird species or Conservation Objectives for Dundalk Bay SPA.

8.12.4. Mitigation measures

Mitigation measures to be employed during the construction phase are set out in Section 3 of the applicant's NIS, Section 14.1 of the Preliminary CMP and Section 8 of the EclA, including the following:

General Measures

- Site set up.
- The preparation of a CEMP.
- Suspension of construction activities during severe weather events and in the event of a coastal flood event warning.
- Protection of water quality through including through:
 - installation of silt fencing and a 5m vegetative buffer along the length of the Ramparts drainage channel. Specific design, installation/removal parameters and management parameters are set with respect to this silt fence.
 - Installation of a solid fence along the site's southern, eastern and western boundaries to block any possible hydrological losses of materials as suspended solids including in solution.
 - These works to be supervised by an ECoW.

- Control and spill prevention measures.
- Measures to ensuring protection of the watercourse from water washout to local drainage network. If required a dedicated lined and bunded storage area should be provided, located at least 20m from the Ramparts Drain.
- Breeding Birds (EcIA)
 - Vegetative clearance.
 - For other breeding birds, the loss of nesting habitat should be compensated by the installation of bird boxes on the retained trees.
 - Native species for landscaping.
- Wintering Birds (EcIA) – reflecting mitigation measures as set out with respect to Noise Impacts within the NIS as noted below:
 - Increases in disturbance levels as a direct result of human activity during the construction phase can have a range of impacts on local sensitive ecological receptors. Measures to protect include:
 - Completion of noise control audits.
 - installation of solid hoarding (2.4m high) around the southern, eastern and western boundaries of the site, prior to any significant ground works or construction activities commencing on site.
 - Generators to be enclosed and located away from the south of the site.
 - Best practice measures including with respect to truck movement / engine revving.

8.12.5. Residual effects

I concur with the assessment of the applicant, that if the general and project specific measures that are listed above are employed during the proposed works, there will be no residual impacts on the habitats or species referenced within the NIS.

NIS Omissions

- The NIS and AA Screening Report appear to have not taken account of the SSFRA submitted with the application.

- The EclA contains key documents, including the wintering bird survey, which is not contained within the NIS/AA Screening Report. As above, having reviewed the documents in full, I consider them to be sufficient in order to assess the subject application.

8.12.6. Conclusion

I am satisfied that the proposed development individually or in combination with other plans or projects would not adversely affect the integrity of European site No.00455 or 004026 in light of its conservation objectives, subject to the implementation of mitigation measures outlined above.

8.13. Appropriate Assessment Conclusions

Having regard to the foregoing and taking account of the scale and nature of the proposed development and on the information on file, I consider it is reasonable to conclude on the basis of best scientific knowledge, therefore, that the proposed development, individually or in combination with other plans and projects would / would not adversely affect the integrity of the European site No. 000455 and European site No. 004026 or any other European site, in view of the sites' Conservation Objectives.

9.0 Recommendation

On the basis of the above assessment, I recommend that the Board approve the proposed development subject to the reasons and considerations below and subject to conditions including requiring compliance with the submitted details and with the mitigation measures as set out in the NIS.

Reasons and Considerations

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

- (a) the EU Habitats Directive (92/43/EEC),
- (b) the European Union (Birds and Natural Habitats) Regulations 2011-2015,
- (c) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on a European Site,
- (d) the conservation objectives, qualifying interests and special conservation interests for the Dundalk Bay SAC (site code: 000455) and Dundalk Bay SPA (site code: 004026),
- (e) the policies and objectives of the Louth County Development Plan, 2021-2027,
- (f) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, and the accompanying Urban Design Manual - Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009,
- (g) the Sustainable Residential Development and Compact Settlement Guidelines for Planning Community Guidelines 2024;
- (h) the Design Manual for Housing (2022), prepared by the Department of Housing, Local Government and Heritage (DHLGH);
- (i) the nature and extent of the proposed works as set out in the application for approval,

- (j) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement, Appropriate Assessment Report and Ecological Impact Assessment;
- (k) the submissions and observations received in relation to the proposed development, and
- (l) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter.

Appropriate Assessment

The Board agreed with and adopted the screening assessment, Appropriate Assessment and conclusions as carried out in the inspector's report that the European sites No. 000455 and 00040026 are the European sites for which there is a likelihood of significant effects.

The Board considered the Natura Impact Statement and Ecological Impact Assessment and all other relevant submissions and carried out an appropriate assessment of the implications of the proposal for Dundalk Bay SAC (Site Code 000455) and Dundalk Bay SPA (Site Code 004026) in view of the Sites' Conservation Objectives.

In completing the assessment, the Board considered, in particular, the

- i. Likely direct and indirect impacts arising from the proposal both individually or in combination with other plans or projects, specifically upon Dundalk Bay SAC (000455) and Dundalk Bay SPA (Code 004026),
- ii. Mitigation measures which are included as part of the current proposal,
- iii. Conservation Objective for these European Sites.

In completing the AA, the Board accepted and adopted the Appropriate Assessment carried out in the inspector's report in respect of the potential effects of the proposal on the integrity of 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 site's conservation objectives.

Proper Planning and Sustainable Development and Likely Effects on the Environment:

It is considered that, subject to compliance with the conditions set out below, the proposed development would not have significant negative effects on the environment in the vicinity, would not give rise to a risk of pollution, would not be detrimental to the visual amenities of the area, would not seriously injure the amenities of property in the vicinity, would not adversely impact on the archaeological heritage of the area, would not interfere with the existing land uses in the area and would not interfere with traffic and pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the environment.

2. The mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be implemented.

Reason: In the interest of protecting the environment and European Sites and in the interest of public health.

3. Prior to the commencement of development, the local authority, or any agent acting on its behalf, shall prepare in consultation with the relevant statutory agencies, a Construction Environmental Management Plan (CEMP), incorporating all mitigation measures indicated in the Natura Impact Statement and Ecological Impact Assessment and demonstration of proposals to adhere to best practice and protocols. The CEMP shall include a Traffic Management Plan and Waste Management Plan which shall adhere to best, practice, standards and protocols.

Reason: In the interest of protecting European sites, biodiversity traffic safety and waste management.

- 4 Drainage arrangements, including the attenuation and disposal of surface water and water supply shall comply with the requirements of Irish Water and the planning authority for such works and services as appropriate.

Reason: In the interest of the public health and to ensure a proper standard of development.

- 5 The following nature conservation requirements shall be complied with.

(a) No vegetation removal shall take place during the period 1st March to 31st August (inclusive).

Reason: In the interest of biodiversity and nature conservation.

6. The County Council and any agent acting on its behalf shall ensure that all plant and machinery used during the works should be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

Reason: In the interest of the proper planning and sustainable development of the area and to ensure the protection of the European sites.

7. A suitably qualified Ecological Clerk of Works (ECoW) shall be retained by the local authority to oversee pre-commencement surveys, the site clearance, site set up and construction of the proposed development. The ECoW shall have full access to the site as required and shall oversee the implementation of mitigation measures. Upon completion of works, an ecological report of the site works shall be prepared by the appointed ecologist to be kept on file as part of the public record.

Reason: In the interest of the protection of biodiversity and the European sites.

8. The County Council and any agent acting on its behalf shall engage a suitably qualified archaeologist to carry out pre-development archaeological testing in areas of proposed ground disturbance and to submit an

Archaeological Impact Assessment (AIA) report and a copy shall be submitted to Department of Housing, Local Government and Heritage for comment, in advance of any site preparation works or groundworks, including site investigation works/topsoil stripping/site clearance/dredging/underwater works and/or construction works. The report shall include an archaeological impact statement and mitigation strategy. Where archaeological material is shown to be present, avoidance, preservation in-situ, preservation by record archaeological excavation and/or monitoring may be required. Any further archaeological mitigation requirements specified by the Minister for Housing, Local Government and Heritage, shall be complied with by the County Council and any agent acting on its behalf. No site preparation and/or construction works shall be carried out on site until the archaeologist's report has been submitted to and agreed in writing with the Department of Housing, Local Government and Heritage (DHLGH). The DHLGH shall be furnished with a final archaeological report describing the results of any subsequent archaeological investigative works and/or monitoring following the completion of all archaeological work on site and the completion of any necessary post-excavation work. All reports prepared shall be placed on file and retained as part of the public record.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

9. 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 local authority to facilitate the provision of broadband infrastructure within the proposed development.
Reason: In the interests of visual and residential amenity.
10. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Friday inclusive, between 0800 to 1400

hours on Saturdays and not at all on Sundays and public holidays.
Deviation from these times will only be allowed in exceptional circumstances.

Reason: To protect the amenities of nearby residential properties.

11. Proposals for an estate/street name, house numbering scheme and associated signage shall be agreed prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

9.0 Professional Declaration

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.

Aoife McCarthy
Planning Inspector
4th November 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	319738-24			
Proposed Development Summary	Proposed housing development of 44 no. Houses on a 1.5ha site in the townland of Point, at Lower Point Road, Dundalk, Co. Louth			
Development Address	Point Road Lower, 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		
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes			EIA Mandatory EIAR required	
No	X		Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?				
		Threshold	Comment (if relevant)	Conclusion
No				No EIAR or Preliminary Examination required
Yes	X	Class 10(b)(i) Construction of more than 500 dwelling units. Class 10(b)(iv) Site size.	Sub Threshold Sub Threshold.	Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: ____04/11/2024____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP 319738-24	
Proposed Development Summary	Proposed housing development of 44 no. Houses on a 1.5ha site in the townland of Point, at Lower Point Road, Dundalk, Co. Louth	
Development Address	Lower Point Road, Dundalk, Co. Louth	
<p>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.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>		
	Examination	Significant Effects Likely Yes / No / Uncertain
<p>Nature of the Development. Is the nature of the proposed development exceptional in the context of the existing environment.</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The site is located within the established built environs of Dundalk with lands in agricultural use to the south. The proposal is not exceptional in this context.</p> <p>During the construction phase, normal construction waste will be produced and managed in accordance with a Construction WMP, as referenced in the Preliminary CMP.</p> <p>During the operational phase, all waste will be collected and managed by a licenced contractor.</p>	<p>No</p> <p>No</p>
<p>Size of the Development Is the size of the proposed development exceptional in the context of the existing environment?</p>	<p>The proposed residential component is at a scale and form which integrates and is consistent with the established pattern of development in the area.</p>	<p>No</p>

<p>Are there significant cumulative considerations having regard to other existing and / or permitted projects?</p>	<p>The proposal includes the importation of 30,000m³ of material, to infill and raise the levels the site, in order to bring levels within the site to above the mid-range future climate change scenario for peak coastal flood level of 4.2mOD.</p> <p>Having reviewed the documentation as part of this file it is considered that these works, which are ancillary to the proposed development are not exceptional in the context of the existing environment, based on the implementation of all relevant mitigation measures, inclusion of SUDS measures.</p> <p>From a review of online planning files, there are no significant permitted or planning projects which would give rise to significant cumulative effects.</p>	<p>No</p>
<p>Location of the Development Is the proposed development located on, in, adjoining, or does it have the potential to significantly impact on an ecologically sensitive site or location, or protected species?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area, including any protected structure?</p>	<p>The site is not located within a European site. The site located within 175m of Dundalk Bay SAC and Dundalk Bay SPA to the east.</p> <p>The southern boundary of the site includes the Ramparts drainage channel, constituting a potential link to these sites, as well as wider bay.</p> <p>As noted above, the proposed development includes measures to mitigate flood risk, which in association with other design parameters including the use of SUDs measures would reduce the potential impacts to water quality and habitats within the Ramparts drainage channel, and</p>	<p>No</p> <p>No</p>

	<p>as a result, within Dundalk Bay SAC and SPA.</p> <p>Possible impacts of minor adverse significance are predicted on bird species.</p> <p>This is due to potential increase in noise and anthropogenic disturbance to birds from Dundalk Bay utilising adjacent fields for feeding and foraging.</p> <p>Mitigation measures as set out in the NIS/EcIA and Preliminary CMP are considered to reduce potential risk to minor adverse.</p> <p>Please also refer to AA Screening/NIS Section in this regard.</p>	
Conclusion		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA is not required.</p>	<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>Schedule 7A Information required to enable a Screening Determination to be carried out.</p>	<p>There is a real likelihood of significant effects on the environment.</p> <p>EIAR required.</p>

Inspector:

Date: 4th November 2024

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)

