



An  
Bord  
Pleanála

## Inspector's Report ABP-321442-24

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<b>Development</b>	Construction of dwelling with wastewater treatment system and all associated site works.
<b>Location</b>	Rathroal, Knockbridge, Dundalk, Co. Louth.
<b>Planning Authority</b>	Louth County Council
<b>Planning Authority Reg. Ref.</b>	24162
<b>Applicant(s)</b>	Paul Prendergast and Rachel Kindlon
<b>Type of Application</b>	Planning Permission
<b>Planning Authority Decision</b>	Refuse Planning permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Paul Prendergast and Rachel Kindlon
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	20 <sup>th</sup> February 2025
<b>Inspector</b>	Dan Aspell

## **1.0 Site Location and Description**

- 1.1. The site is located in Rathroal, Knockbridge, Dundalk, Co. Louth. It is accessed from a lane sometimes referred to as 'Newtownfane'. The lane is single width. It is finished in tarmacadam generally to the north of the site (from the L3167), however to the south of the site the lane is little more than a grassed track as far as the N52.
- 1.2. The site comprises a portion of an agricultural field. The site boundary along the lane comprises mature hedgerows and trees. To the north the boundary comprises a fence and hedge. There is no site boundary along the west and south of the site.
- 1.3. Adjacent to the north is a field, with a house a short distance further north (c.40m). Agricultural lands extend to the west and south. There is a dwelling across the lane to the east. There are 5 no. houses to the north further along the lane. There are 2 no. houses c.100m to the south.

## **2.0 Proposed Development**

- 2.1. The proposal is for construction of a bungalow dwelling in a rural area, incorporating a wastewater treatment system, new access, soakaway, and new boundary hedge and fence.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. Louth County Council issued a notification to Refuse permission for 6 no reasons, summarised as follows:
  1. Applicant failed to adequately demonstrate housing need, and would contravene rural housing policy objective HOU41 of the development plan;
  2. Inadequate laneway access, piecemeal development, landscape impact, and preservation of the rural environment;
  3. Impact on trees & hedgerows would contravene policy objectives ENV38 and ENV39;

4. Failure to demonstrate compliance with EPA code of practice for domestic wastewater treatment systems and would contravene policy objective IU 18;
5. Proposal is contrary to policy objective NBG3 of the development plan in relation to Dundalk Bay SAC and Dundalk Bay SPA;
6. Impact on setting, views or vistas of Stephenson's House and Historic Gardens.

### 3.2. Planning Authority Reports

3.2.1. Planning report: The planning authority report recommended refusal. The report made the following points:

- Rural housing: Site is in an area under strong urban influence. Local Needs Qualifying Criteria are in Table 3.5 Section 3.17.4 of the Development Plan. Applicant seeks to qualify under Criteria 8 (Divorce/Legal Separation or Repossession). Applicant submits documentary evidence. No land registry maps of family lands submitted. As per the previous application on the site the Planning Authority still has concerns the application has other options such as within nearby settlements such as Knockbridge. Proposed development is considered to be contrary to the rural housing policy objective HUO41;
- Rural area: The open countryside is a valuable resource for the County and Region. The Development Plan supports continued growth and development of rural areas;
- Access: Access from the laneway will require removal of mature trees which form a line along the laneway. From the submitted plans it is not clear how much would be removed to facilitate sightlines. The proposed entrance is in the same location as proposed previously (Ref. 22/318). Sightlines at the access are not shown correctly. The site is currently enclosed and hidden from view;
- Laneway: Circa 6 no. other houses have been constructed along the lane in recent years. The lane is in good condition to the north, but overgrown and impassable by car to the south. The proposed access exits onto the overgrown part of the laneway, extending the lane southward. The proposal would intensify use of the lane and set an undesirable precedent and

exacerbate the suburban nature of the lane and further encroach into the rural landscape. Therefore the proposal is not acceptable;

- L3167 local road: The report from Placemaking & Physical Development did not raise issue with the proposed sightlines. Notwithstanding, the Planner Report stated concerns in relation to sightlines where the laneway meets the L3167. It stated the applicant has not shown control or right of way over the laneway or the lands either side of the junction in order to improve visibility onto the L3167. It stated that no sightlines were shown at that point;
- Site boundaries: The site to the west and south does not have existing boundaries. A new native hedgerow is proposed along the southern and western edges of the site;
- Heritage: Stephenstown House is noted on Development Plan Table 9.5 as a Historic Garden & Designed Landscapes. It is listed on the 'buildings of Ireland' website. This identifies that the lands on which the house is proposed are located on the designed landscape. Permitting a further house would further carve up this designed landscape in an adverse manner, and is a reason for refusal;
- Design: The house design is dated and has incongruous proportions. The massing and mixture of ridged and hipped roof profiles do not comply with policy objectives HOU42 and HOU47 and house design guidance in Section 13.9.8 and 13.9.9 of the Development Plan;
- Amenities: It is not considered the proposal would impact residential amenities unreasonably;
- Surface water: Two soakaways are proposed. An engineering report is submitted. The Placemaking & Physical Development Section reviewed the submitted information and raised no concerns;
- Water supply: The application indicates main water supply is available, however no pre-connection enquiry or confirmation of feasibility from Uisce Eireann is submitted;
- Foul drainage: The same Site Characterisation Report (SCR) submitted with the previous application (Ref. 22/318) is resubmitted. That application was

refused on ground of wastewater treatment including the potential for detrimental impact on EU Sites from wastewater disposal. The SCR still indicates there is a high vulnerability for ground water sources in the area;

- Appropriate Assessment screening: The site is 2.6km and 3.4km from Dundalk Bay SAC and Dundalk Bay SPA. The River Fane is a direct hydrological link to these EU Sites and is located c.600m downhill to the south of the site. Planner report stated it is not in a position to adjudicate on the matter of appropriate assessment and that the proposal should be refused in this regard;
- The report noted that further information may have been sought on a number of matters, however the due to issues raised in relation to the principle of development (rural housing need) and site suitability (boundaries, landscape, and access) further information in these regards was not sought. The report stated that the site is not suitable for a house, as per refusal reasons 2, 3 and 6 of the previous refusal reason on the site (Ref. 22/318).

#### Other Technical Reports

- 3.2.2. Placemaking & Physical Development Section: Report recommended grant permission subject to conditions.
- 3.2.3. Environment Section: Report recommended further information in respect of a Ground Water Risk Assessment report and compliance with EPA Code of Practice 2021.

### **3.3. Prescribed Bodies**

- 3.3.1. None.

### **3.4. Third Party Observations**

- 3.4.1. None.

## 4.0 Planning History

### 4.1. Subject site

Reg. Ref. 22/318: Planning permission refused by the planning authority in 2022 for a 2-storey detached dwelling and ancillary works. A total of 6 no. reasons attached, summarised as follows:

1. Applicant failed to adequately demonstrate housing need;
2. Piecemeal development along a substandard laneway resulting in further encroachment into the open rural landscape, and would militate against the preservation of the rural environment;
3. Impact on trees and hedgerows to facilitate sightlines;
4. Failure to demonstrate that the proposed wastewater treatment complies with EPA codes of practice;
5. Proposal contrary to policy objective NBG3 of the development plan as the Planning Authority cannot be satisfied the proposal would not have a significant effect on Dundalk Bay SAC, Dundalk Bay SPA or any other European Site;
6. Proposal would further encroach upon the setting, views or vistas of Stephenson's House, an Historic Gardens and Designed Landscape.

### 4.2. Nearby sites (site to north):

Reg. Ref. 16368: Planning permission granted by the Planning Authority in 2017 for a proposed 2-storey dwelling and ancillary works.

## 5.0 Policy Context

### 5.1. Development Plan

The site is within the 'Rural Policy Zone 2' in the Louth County Development Plan 2021-2027 as varied. I also note the following development plan provisions in particular:

Section 3.17 'Housing in the Open Countryside', incl. Section 3.17.4 'Rural Generated Housing Need' incl. Table 3.5 'Local Housing Need Qualifying Criteria in Rural Policy Zone 2';

Policy objective HOU41: "To manage the development of rural housing in the open countryside by requiring applicants to demonstrate compliance with the Local Needs Qualifying Criteria relative to the Rural Policy Zone set out in Tables 3.4 and 3.5";

Policy objective HOU 42: *"To manage the development of rural housing in the open countryside by requiring that any new or replacement dwelling is appropriately designed and located so it integrates into the local landscape and does not negatively impact or erode the rural character of the area in which it would be located"*;

Policy objective HOU47: "To require applications for one off rural housing to comply with the standards and criteria set out in Section 13.9 of Chapter 13 Development Management Guidelines 'Housing in the Open Countryside' ....";

Policy Objective EE 79, and Section 9.6 'Architectural Heritage' in relation to Protected Structures;

Policy objective MOV56: *"To safeguard the capacity and safety of the National and Regional Road network by restricting further access onto National Primary, National Secondary, and Protected Regional Roads in accordance with the details set out in Tables 7.9 and 7.10"*;

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 Objectives NBG 23 and NBG 24 in relation to landscape;

Section 8.10 'Landscape', incl. Section 8.10.1 'Landscape Character Assessment';

Section 9.7 'Historic Gardens and Designed Landscapes', incl. Table 9.5 'Historic Gardens and Designed Landscapes';

Policy objective BHC38: *"To ensure new development will not adversely affect the site, setting or views to and from historic gardens and designed landscapes of heritage significance"*;

Policy objective BHC 39: *“To require proposals for new development in designed landscapes and demesnes include an appraisal of the landscape, designed views and vistas, and an assessment of significant trees or groups of trees, where appropriate, in order to inform site appropriate design proposals”;*

Policy objective BHC 41: *“To have regard to the 'Architectural Heritage Protection Guidelines' (2011) and the 'Guidance Notes for the 'Appraisal of Historic Gardens, Demesnes, Estates and their Settings' (2006) in the appraisal and description of Historic Gardens and Designed Landscapes, and any subsequent Guidelines”;*

Policy Objectives IU16, IU 17 and IU 19;

Policy Objective IU 18: *“To require that private wastewater treatment systems for individual houses where permitted, comply with the recommendations contained within the EPA Code of Practice Domestic Waste Water Treatment Systems, Population Equivalent  $\leq 10$  (2021);*

Policy Objective ENV38: *“To retain and protect significant stands of existing trees/hedgerows/woodlands, and seek increased planting of native trees, where appropriate, in new developments”;*

Policy Objective ENV39: *“Protect and preserve existing hedgerows in new developments, particularly species rich roadside and townland boundary hedgerows, and where their removal is necessary during the course of road works or other works seek their replacement with new hedgerows of native species indigenous to the area”;*

Section 13.9 'Housing in the Open Countryside' incl. subsections 13.9.4 'Site Selection', 13.9.5 'Ribbon Development', 13.9.6 'Backland Development', 13.9.7 'Visual Impact Assessments', 13.9.8 'House Design – New Build', 13.9.9 'Design, Detailing and Material Finishes', 13.9.10 'Garages and Outbuildings', 13.9.14 'Access', 13.9.15 'Boundary Treatments', 13.9.16 'Landscaping';

Section 13.16 'Transport' including Section 13.16.17 'Entrances and Sightlines'.

## **5.2. National guidelines and strategies**

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



Code of Practice Domestic Waste Water Treatment Systems (Population Equivalent 10 dwellings (EPA), 2021.

Design Manual for Urban Roads & Streets (DMURS), 2019.

Architectural Heritage Protection Guidelines, 2011, including Section 13.8 “Other Development Affecting the Setting of a Protected Structure or an Architectural Conservation Area” and subsections 13.8.1, 13.8.2 and 13.8.3.

Sustainable Rural Housing Guidelines for Planning Authorities, 2005.

### **5.3. Natural Heritage Designations**

5.3.1. Dundalk Bay SAC and Dundalk Bay SPA are c.4.9km to the east.

## **6.0 Environmental Impact Assessment screening**

6.1.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendix 1 of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

## **7.0 The Appeal**

### **7.1. Grounds of First-Party Appeal**

7.1.1. An appeal from the applicant was received, summarised as follows:

- In response to refusal reason 1, the appeal sets out details of one of the applicants’ divorce, family and living circumstances and history, and states that they meet the housing needs for the location;
- Regarding site selection, the appeal states that other potential site locations were ruled out at pre-planning stage with the planning authority. Appeal sets

out information on the site selection process. Appeal states the topography of the area will soften the setting of the house;

- Regarding the site, the appeal sets out details in this regard. It states the intention to extend the tarmac finish of the lane a further 30m. The appeal states the trees around the site have been surveyed. It states that minimal hedgerows will be removed and no trees will be removed to facilitate access;
- Regarding site layout, the appeal sets out details relating to orientation, boundary treatments, and site entrance. It states both the northern and eastern mature boundaries will be retained. It states the proposed entrance will provide clear forward visibility when exiting the site. It states that every effort will be made to retain as much of the existing boundary as possible, and where an existing boundary feature must be removed it will be replaced with a stone boundary and planting. It states that existing easterly boundaries will be relocated behind the line of vision required by the planning authority;
- Regarding house design, the appeal sets out details relating to design, form, roof, chimneys, windows, doors, porches, sunspaces and finishes. It states the design has sought to break down the form of the dwelling, keep the height low, and incorporate traditional features;
- Regarding the principle of development, the appeal states that an additional drawing has been provided to show the full landholding owned by the applicant's family. It states that the landholding is currently owned by one of the applicant's mother. The appeal states that one of the applicant's mothers' house is marked on the enclosed information. It states that two sites only from the landholding have been gifted, to one of the applicants and the applicant's sister. It states that no sites have been sold for development. It states that at meeting with the planning authority that the subject site was the preferred location;
- Regarding water, the appeal states that based on a successful appeal or request for further information the appellant would undertake a ground water risk assessment to ensure compliance with EPA Code of Practice;
- The appeal references a lack of housing in the area for sale or rent.

7.1.2. The appeal includes an appeal statement, Soakaway Design report, Site Suitability report, Site Characterisation Report, Design Statement, and supporting documentation.

## 7.2. Planning Authority Response

7.2.1. None.

## 7.3. Observations

7.3.1. None.

## 8.0 Assessment

8.1. 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 those set out in the reason for refusal, and related matters raised in the course of the appeal.

### Reason 1

8.2. The site is within the 'Rural Policy Zone 2' as set out in the Louth County Development Plan 2021-2027 Rural Policy Zone Map (Map 3.2). Development Plan Section 3.17.4 sets out development plan policy for rural housing in the open countryside. The plan states there are specific qualifying criteria for each of the rural policy zones (Tables 3.4 and 3.5) and that applicants are required to demonstrate that they qualify with one of the criteria in the relevant rural policy zone.

8.3. Table 3.5 related to local housing need qualifying criteria in rural policy zone 2. Criteria 8 states: "*a person who has been a resident for at least 10 years that previously owned a home and is no longer in possession of that home due to the home having been disposed of following legal separation / divorce / repossession and can demonstrate a social or economic need for a new home in the rural area*".

8.4. The applicant sets out a number of details within the submitted appeal and application in this regard. In summary, the applicant sets out details of their links to the area since childhood (the Rathroal and Stephenstown townlands which the

family landholding straddles); their childhood and marriage homes on the family landholding; details of their divorce; details of legal arrangements for the disposal of that property (located c.250 to the northwest); and of their social need for a new home in the rural area. Their stated social need relates to the care needs of their mother and their children. I note in particular the applicant sets out documentary evidence of their residence in the area over time; of their divorce; birth certs; and of their previous home of which I am satisfied they are no longer in possession of.

- 8.5. Having regard to the information submitted I consider the applicant meets the requirements of the development plan in this regard, including those of policy objective HOU 41 and Table 3.5. Accordingly, I do not consider the development would contravene policy objective HOU 41 or that the application warrants refusal on grounds of Reason 1 as stated by the planning authority, subject to conditions.

#### Reason 2

- 8.6. Refusal reason 2 refers to a number of issues, including the substandard nature of the laneway, piecemeal development, intrusive encroachment into the open rural landscape, preservation of the rural environment, and undesirable precedent. The reason also refers to development plan Section 13.9.4 which requires applicants to consider how a dwelling would integrate into the surrounding landscape and the ability of the landscape to absorb further development of one-off dwellings without eroding the rural character of the area. It also refers to development plan Section 13.9.6 which does not generally favour proposals for development along private lanes off public roads.

#### *Nature of the laneway*

- 8.7. Regarding the nature of the laneway, the northern section of the laneway generally between the L3167 and the site is single width and finished in tarmac. South of the site generally as far as the N52 the lane reduces to little more than a track. The surfaced section of the lane stops short of the proposed access by approximately 9m. No such works are set out in the application. No part of the laneway is included within the application red line area. The planning authority Placemaking & Physical Development section report raised no issue with the development in this regard, describing the lane as a private laneway. Having regard to the foregoing, given the

nature of the lane to the north and south of the site, I do not consider the development warrants refusal in these regards, subject to conditions.

*Development plan Section 13.9.6*

- 8.8. Section 13.9.6 of the development plan relates to 'Backland Development'. It states that: *"The Planning Authority will not generally favour proposals which involve development located to the rear of established buildings, located along a private lane off public roads and which introduce a piecemeal form of backland development. This type of development results in a scattered arrangement of housing or clustered to the rear of existing properties and often long laneways to reach the properties."* The subject proposal, although located along a lane, is not located to the rear of established buildings and as such I do not consider it to be backland development or to be piecemeal, and as such I do not consider this section of the development plan to be directly relevant.

*Housing in the open countryside*

- 8.9. In terms of the height, design and form, the proposal is for a single-storey bungalow. The finished floor levels are stepped in response to the topography. In terms of design and form, I consider the proposal is comparable to older single-storey bungalows located to the north along the L3167. I note the more modern houses immediately north and east are 2-storey. I am satisfied the proposal meets the requirements of the development plan in this regard, including Sections 13.9.8 'House Design – New Build', 13.9.9 'Design, Detailing and Material Finishes' and 13.9.15 'Boundary Treatments' including in terms of reasonably plain and simple construction, modest scale, and vertical emphasis of the gables, character, and overall appearance. However I consider that a condition for the agreement of materials and detailing is warranted.
- 8.10. Section 13.9 of the development plan relates to 'Housing in the Open Countryside'. Section 13.9.4 'Site Selection' sets out a number of considerations in this regard, which I consider below.
- 8.11. The appellant sets out relevant information. They refer to pre-planning discussions with the planning authority in relation to site selection. I note that no response to appeal was received from the planning authority. The appellant states the height and

form of the dwelling responds to the sloping topography of the site and surrounding area, and seeks to largely retain the existing boundaries.

- 8.12. I note that there are no designated views or prospects in the area. Given the topography of the area, I do not consider the site to be elevated or exposed. There is reasonably strong screening from the east provided by the existing mature hedgerow and tree boundary, with the existing hedge along the northern boundary also to be retained. With the exception of the existing trees and hedgerows I note no other significant ecology or heritage features on or adjacent the site, with the exception of Stephenstown House which I discuss below. Access to the development is to be from the adjacent laneway which has mature hedgerows on either side. I note that the Fane river is approximately 500m to the south.
- 8.13. The site is accessed off a small laneway, with lands to the west and south are largely agricultural with little residential development or public roads. In this way I consider the site is relatively secluded. The existing hedges and trees along the lane largely obscure visibility into the site, however from the west I acknowledge the site is more exposed. I note however that native hedgerow planting is proposed along the western and southern boundaries. I consider there is limited visibility of the site from public vantage points, be they short- and long-distance views.
- 8.14. Overall I am satisfied the proposed dwelling, including having regard to its height, the sloping topography of the site, and existing and proposed boundary planting would integrate reasonably well into the landscape. I note that there are a number of dwellings between 50-200m to the north and east, however the lands to the west and south are largely undeveloped, and as such I do not consider the proposal would lead to a proliferation of one-off houses in the area or unacceptably erode the rural character of the area, or that the landscape is unable to absorb this development.
- 8.15. Further regarding landscape, I have had regard to the provisions of the development plan in this regard, including Chapter 8, Section 8.10 'Landscape', Policy Objective NBG 23, and the Louth Landscape Character Assessment Character Areas. The site is within the Muirhevna Plain landscape character area, which is of local importance. There are no Landscape Conservation Areas, Areas of Outstanding Natural Beauty (AONB) or Areas of High Scenic Quality (AHSQ) in the area. The site is in Rural

Policy Zone 2 (Area Under Strong Urban Influence) rather than Rural Policy Zone 2 (Area Under Strong Urban Influence and of significant Landscape Value).

- 8.16. Having regard to the stated reason for refusal I do not consider that the proposal warrants refusal in these regards. I do not consider the proposed development would have an unreasonable impact on the rural character of the area or the surrounding landscape. I consider that a reasonable balance has been struck to allow the countryside to be preserved in general (Section 3.17 of the development plan), whilst facilitating the growth of the rural communities. I am satisfied the proposal generally meets the requirements of the development plan in this regard, including policy objective HOU47 and Section 13.9 'Housing in the Open Countryside'. I consider that a condition for enhanced planting along the northern elevation is warranted to enhance the screening of the proposal.
- 8.17. Regrading the proposed garage, I note its location forward of the proposed dwelling. I note that relocation of the garage would not be straightforward given the proposed drainage layout, however I consider that relocation of the garage back from the road should be agreed by condition to any permission, in line with Section 13.9.10 'Garages and Outbuildings' of the development plan.
- 8.18. In summary, in line with policy objectives HOU42, HOU 47, NBG 23, NBG 24, and Section 13.9 of the development plan, I consider the proposal is overall appropriately designed and located to integrate into the local landscape and would not have a significant negative impact or erode the rural character of the area in which it would be located. I consider the relationship of the proposed development to Stephenstown House further below.

### Reason 3

- 8.19. I have reviewed the information submitted in relation to the impacts on existing trees, hedgerows and woodlands, including Drawing No. 100-03 'Proposed Site Layout'. I note the planner report points in this regard.

#### *Impact on trees and hedgerows*

- 8.20. The submitted plans indicate that approximately 8m of hedgerow rather than 60m would be removed to facilitate the proposed site access. The drawing annotation indicates that existing trees & hedging along the eastern boundary are to be retained, and also that the existing hedging along the northern boundary is to be

retained. The drawing indicates 75m sightlines to both the north and south would be achieved along the lane.

- 8.21. Regarding sightlines, there is a wide verge from the line of the roadside to the site boundary and I am satisfied that the sightlines indicated are shown from the appropriate setback from the roadside within the proposed access (2.4m). I acknowledge that maintaining the required visibility, particularly to the north, may require normal maintenance of the hedgerow, however I am satisfied this is acceptable and within the applicant's control given the relevant section of hedgerow is within the red line area. I note the letter of consent from the landowner (that is, the applicant's mother) for the making of the application is included with the application. Given the nature of the lane, it being a single width rural lane generally to the north of the site, and reducing to what is essentially a track to the south of the site, I am satisfied the proposed arrangement is acceptable in this regard.
- 8.22. I note the planning authority Placemaking & Physical Development report stated no objection in this regard. I separately note the report's recommended conditions relating to construction management measures where the lane meets the L3167.
- 8.23. Development plan policy objective ENV 38 seeks to retain and protect significant stands of existing trees and hedgerows, and seeks increased planting of native trees, where appropriate, in new developments. Development plan policy objective ENV 39 seeks to protect and preserve existing hedgerows in new developments, particularly species-rich roadside and townland boundary hedgerows, and where their removal is necessary during the course of road works or other works seek their replacement with new hedgerows of native species indigenous to the area. The submitted application (Drawing 100-03) proposes c.135m of new indigenous hedging to be sowed along the western and southern boundaries of the site. I am satisfied that the minimum necessary section of existing hedging is to be removed to facilitate the site access, and that a significant amount of new native hedging is proposed.

#### *Site access*

- 8.24. I also note the planner report point that the site is to be accessed along the lane from the south, by the N52. I see no indication in the submitted information that this is the case, and given the information submitted the applicant appears to intend to access the site by the L3167.



8.25. I also note the planner report point that no evidence of right of access along the lane is provided by the applicant. There is no information on file as to whether the lane is taken in charge. I also see no evidence that the applicant does not have the use of the lane, and I see no observations or submissions from third parties either to the planning authority or the Board. I note the applicant's mother owns the site and adjacent field to the north which bounds the lane, and that there is an existing agricultural access from the lane to the field to the north, on which I understand the applicant's sister's home sits. In summary I see nothing on the case file that I consider would inhibit the granting of planning permission in this regard. I am satisfied such issues in this regard would be civil matters and that there is no substantive planning impediment to granting planning permission. In this regard, Section 34(13) of the Planning & Development Act as amended states that a person shall not be entitled solely by reason of a permission to carry out any development.

*Junction with local road L3167*

8.26. Regarding the junction between the L3167 and the laneway serving the site, I note the planning authority planner report points in relation to the junction of the existing laneway serving the site and the L3167 c.200m to the north of the site. The applicant's drawing 'Proposed Sightlines at L3167 / Laneway Junction' shows the road layout 200m north of the site and related sightlines. Whilst this drawing is described as 'proposed' layout, the drawing annotation largely describes the existing layout on the ground. From my site visit and review of the submitted drawings I consider that this plan generally shows the existing layout in this area. In any event, this area is well outside the application red line area and no related works are stated as being proposed in the description of development. The site is accessed by a shared lane which is publicly accessible and is currently used by 4 no. other dwellings as a means of access to the L3167. I do not consider that works to this junction form part of this application. Should permission be granted I consider that a condition should be attached in this regard, for the purposes of clarity.

8.27. Overall in this regard I am satisfied that the proposal is consistent with policy objectives ENV 38 and ENV 39 of the development plan.

Reason 4

- 8.28. Refusal reason 4 stated that the applicant failed to demonstrate to the satisfaction of the planning authority and in the absence of a Ground Water Risk Assessment that the proposed wastewater treatment system complies with the EPA Code of Practice for wastewater treatment, and that the development would therefore contravene policy objective IU18 of the development plan.
- 8.29. Policy objective IU 18 requires private wastewater treatment systems for individual houses to comply with the recommendations contained within the EPA Code of Practice 2021.
- 8.30. As part of the application the applicant submitted a Site Characterisation Report, a Soakaway Design report, and application drawings. No additional technical information in this regard is submitted with the appeal.
- 8.31. The planner report stated that the same Site Characterisation Report (SCR) submitted with the previous refused application (Ref. 22/318) is resubmitted. It states that the previous application on the site was refused on grounds of wastewater treatment including the potential for detrimental impact on EU Sites from wastewater disposal. It states that the SCR still indicates there is a high vulnerability for ground water sources in the area.
- 8.32. The planning authority Environment Section report recommended further information. It stated, amongst other items, that a ground water risk assessment was required, which should include a description of the chemical and microbiological composition of ground water at this location, with samples taken near the proposed percolation area. It also required confirmation of the person who will supervise installation of the effluent treatment system and percolation area.
- 8.33. I note that in the previous application on the site the planning authority Environmental Compliance Section also recommended further information in relation to a groundwater risk assessment and confirmation of the person to supervise installation of the effluent treatment system. Further information was also recommended for redesign and resizing of the percolation area in that case (84 sqm required minimum). Further information was not requested in that case.
- 8.34. In the subject case the appellant has stated that should the appeal be successful or further information be requested the appellant would be happy to undertake a ground water risk assessment to ensure compliance with EPA Code of Practice.

## *Assessment*

- 8.35. The submitted site characterisation form does set out information relating to groundwater. It notes the site is in an area of high ground water vulnerability, of a poor aquifer, and in a groundwater protection area. The report states that groundwater will be at risk if minimum depths required are not met or if the percolation rate is too rapid, and that wells in the area are likely to be at risk if the minimum separation distances are not adhered to. Groundwater flow direction is indicated. The report notes that there are 3 no. wells in the area and that each is over 25m distance away, however the location of the wells is not shown. The report states EPA separation distances will be strictly adhered to. Report states that based on the above the site is potentially suitable. The report concludes the site is suitable for development, that the proposed wastewater treatment options are suitable (secondary treatment systems and soil polishing filter – Klargenster Treatment Plans and Percolation Area), and that discharge to ground is proposed. The location of the treatment plant and percolation area are indicated on the attached plans. I note that the polishing filter area is to be 90sqm. Details of the installation supervisor are provided.
- 8.36. The EPA Code of Practice indicates that information on the on-site treatment system proposed and evidence as to the suitability of the site for the system proposed must accompany the planning application, as well as the type of domestic wastewater treatment systems and evidence as to the suitability of the site for the system proposed. It also states that the relevant section of the site characterisation form should be completed, to include photographs, environmental risk maps, site plans, cross sections, design details and finished levels to accompany the application.
- 8.37. I note that there is no recording of high nitrate concentrations in the wider area from the EPA. EPA mapping shows that ground waterbodies in the surrounding area are not at risk (Ref. IEGBNI-NB-G-019). GSI mapping indicates that the groundwater vulnerability of the area is high, and that soil permeability is moderate. In relation to aquifers, the site is in an area recorded as being generally unproductive except for local zones, which I am satisfied indicates there is limited aquifer groundwater storage and flow capacity in the area, with low permeability and porosity overall, except for localised areas which can yield smaller amounts of groundwater.

8.38. Having reviewed the information submitted I consider that the applicant has addressed much of the requirements of the EPA Code 2021 and of policy objective IU 18, including in relation to groundwater and soils. I note in this regard the disposal route R1 response matrix finding submitted as part of the application. However, given the number of wells and private wastewater treatment systems in the area and the lack of details submitted; the lack of clarity as to whether the site is to be served by private well or mains supply; the stated presence of a group scheme in the area, I consider that a precautionary approach as outlined in the 2021 Code (Appendix E) should be taken and that permission be withheld until a positive risk assessment as recommended by the planning authority Environment Section. The Board may be minded to seek further submissions in this regard, however I am satisfied that it is not sufficiently clear that the proposal would not pose a risk in terms to public health, and having regard to the foregoing I do not consider that permission for the development as proposed should be granted.

#### Reason 5

- 8.39. Refer to Section 8.0 'Appropriate Assessment screening' and Appendix 2 of this report.
- 8.40. Refusal reason 5 stated that the proposal was contrary to policy objective NBG3 of the development plan in relation to Dundalk Bay SAC and Dundalk Bay SPA.
- 8.41. I note that the planner report concluded that it was not in a position to adjudicate on the matter of appropriate assessment and that the proposal should be refused in this regard. It states that the site is 2.6km and 3.4km from Dundalk Bay SAC and Dundalk Bay SPA, that the River Fane is a direct hydrological link to these EU Sites, and that it is located c.600m downhill from the site. The planner report states that a new wastewater treatment system and percolation area are proposed, and that the same site characterisation report submitted with the application is the same report as submitted with the previous application refused on the site on grounds of wastewater treatment and potential detrimental impact on EU Sites from wastewater disposal. The report states that given the absence of a ground water risk assessment to conclude that the development complies with the EPA Code of Practice 2021. Thus, the report stated, the development would post a risk in terms of environmental

pollution. The report states that it is not in a position to adjudicate on the matter of appropriate assessment and that the proposal should be refused in this regard.

- 8.42. Policy Objective NBG3 seeks to protect and conserve Special Areas of Conservation (SACs) and Special Protection Areas (SPAs). Dundalk Bay SAC and Dundalk Bay SPA are c.4.9km to the east. EPA mapping shows the Fane river is c.500m to the south of the site and generally downhill of the site. It runs approximately 7.0km to the Irish Sea. I have undertaken an Appropriate Assessment screening of the proposed development (Section 8.0 and Appendix 2 of this report). I have taken account of the AA screening determination of the planning authority.
- 8.43. No information in relation to AA screening was submitted by the applicant.
- 8.44. As set out above whilst I consider the application has not demonstrated full compliance with the EPA 2021 Code of Practice to the satisfaction of the planning authority, and whilst I consider that taking a precautionary approach to protecting public health and water at the immediate local level, having regard to my screening for Appropriate Assessment set out below in which I conclude the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on the Dundalk Bay SAC and Dundalk Bay SPA, or any other European site in view of the Conservation Objectives of those sites, and Appropriate Assessment (and submission of a NIS) is not therefore required. As such I am satisfied the development is not contrary to development plan Policy Objective NBG3 and should not be refused permission in this specific regard.
- 8.45. For clarity in this regard I note that whilst localised impacts on water quality have not been ruled out, given the information submitted, I do not consider the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on the Dundalk Bay SAC and Dundalk Bay SPA.

#### Heritage impacts

- 8.46. The sixth refusal reason stated the proposed development would impact upon the setting or views and vistas of Stephenson's House Historic Gardens and Designed Landscape (Ref. No. LH0069) and would militate against the preservation of the rural environment and setting of this historic landscape.
- 8.47. I have had regard to the provisions of the Architectural Heritage Protection Guidelines and development plan in this regard, noting in particular development

plan Policy Objectives EE 79, BHC38, BHC 39 and BHC 41. I have also had regard to the content of the application and appeal, and information referenced in the planning authority planner report. No report from the planning authority conservation or heritage officers are recorded on the file.

#### *Stephenstown House – Protected Structure*

- 8.48. Stephenstown House is on the Louth County Development Plan Record of Protected Structures (No. Lhs011-042). The building is also on the National Inventory of Architectural Heritage, and is recorded as being of Regional significance. It is located approximately 650m west of the subject site and is in ruinous condition. In this regard, I note that the Architectural Heritage Protection Guidelines state that new development at a distance from a protected structure can affect its character and special interest. The Guidelines state that a development could have an impact even when it is detached from the protected structure but is visible in an important view of the protected structure. It states that the extent of the potential impact of proposals will depend on the location of the works, the character and quality of the protected structure, and its setting.

#### *Stephenstown House - Historic Gardens and Design Landscapes*

- 8.49. Section 9.7 of the development plan relates to 'Historic Gardens and Design Landscapes'. Table 9.5 'Historic Gardens and Designed Landscapes' refers to 'Stephenstown House'. Appendix 8 'Green Infrastructure Strategy' also identifies Stephenstown House as 'Historic Gardens and Designed Landscapes'. Development plan Table 9.5 sets out identification numbers related to Stephenstown House as follows: Garden identification number LH069; NIAH building number 13901114; and RPS number Lhs011-042.
- 8.50. I consider it necessary to set out some additional details in this regard, to clarify the relationship of the subject site to Stephenstown House and lands related to it:
- The NIAH and RPS numbers listed above and stated in development plan Table 9.5 refer to the same structure, described as a ruinous detached five-bay, two-storey over basement house. This is the structure located c.650 west of the subject site;

- Regarding the historic gardens and designed landscapes associated with Stephenstown House, development plan Table 9.5 refers to Garden identification number LH069, however my review of the National Built Heritage Service records indicates that there are 2 no. Garden Survey entries for Stephenstown House (Nos. LH0069 and 1287);
- I note the planner report states that the ‘buildings of Ireland’ website identifies that the lands on which the proposed house is situated are located on the above designed landscape. My review of the National Built Heritage Service records for Historic Gardens referenced in the development plan showed no maps or images for Stephenstown House. The second entry reference above (number 1287) did provide historic mapping of the lands associated with Stephenstown House. My review of that record entry indicates that those lands extended to include the subject site;
- For completeness I note that the Garden Identification number LH0069 relates to what the National Built Heritage Service describes as “*A lost demesne, now intensively farmed. Once sizeable demesne for late 18th century house, which was positioned on high ground overlooking the Fane river. Extant tower house west of late 18th century house (both buildings in ruins). Once tree-covered, but depleted from late 19th century. Heyday in late Victorian period*”. The second reference above (Garden Identification number 1287) sets out no such commentary.

8.51. In short, I consider that there is a lack of clarity within the available information as to the nature and extent of historic gardens and designed landscapes associated with Stephenstown House; the relationship of the subject site to Stephenstown House and historic gardens and designed landscapes associated with it; and the relationship of the subject site to the setting, curtilage, and attendant grounds of Stephenstown House as a protected structure. Whilst I am satisfied the subject site is located on lands once associated with Stephenstown House, it is not sufficiently clear to me that those lands equate to the historic gardens and designed landscapes referenced in the development plan.

- 8.52. This matter was a reason for refusal on the previous application on the subject site (Ref. 22/318) and has not been addressed directly by the applicant in either the application, first party appeal or submitted design statement.
- 8.53. I note the provisions of the Architectural Heritage Protection Guidelines in relation to protected structures, curtilage, attendant ground, setting and designed landscapes.
- 8.54. In summary, whilst I consider there to be a clear view and largely open lands between Stephenstown House and the subject site, the site is a considerable distance away from Stephenstown House.
- 8.55. Having regard to the foregoing, and having reviewed the requirements of the development plan in this regard, and the information referenced in the planner report, I am satisfied that the proposed dwelling appears to be located within lands associated with Stephenstown House. Whilst the site is at the edge of those lands and c.650 from Stephenstown House, and whilst the development plan does not prohibit development in the areas described above, the development plan does require an appraisal of the relevant landscape, which the applicant has not provided. I also note that it is not clear from the submitted information how the proposal may relate to the setting, curtilage, or attendant grounds of the protected structure.
- 8.56. Based on the available information I am not satisfied that the applicant has had due regard to the requirements of the development plan in this regard, or to the heritage of the area associated with Stephenstown House as set out in the development plan. The Board may be inclined to seek further submissions in this regard, however I am satisfied the proposal contravenes Policy Objectives BHC38 and BHC39 of the development plan and as such that permission should not be granted in this regard.

## **9.0 Appropriate Assessment screening**

- 9.1. Refer to Appendix 2. Having carried out Screening for Appropriate Assessment of the project in accordance with Section 177U of the Planning and Development Act 2000 (as amended), I conclude that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on the Dundalk Bay SAC and Dundalk Bay SPA, or any other European site, in view of the Conservation Objectives of those sites, and Appropriate Assessment (and submission of a NIS) is not therefore required.



## 10.0 Recommendation

- 10.1. I recommend permission be **Refused**, for the reasons and considerations set out below.

## 11.0 Reasons and Considerations

1. Having regard to the submitted foul drainage proposals, and the errors and omissions in the submitted documentation in this regard including in relation to existing and proposed wells, and the potential for significant detrimental impacts on public health in that regard; it is considered that provision of appropriate foul drainage proposal have not been clearly demonstrated having regard to the requirements of Policy Objectives IU 18 of the Louth County Development Plan 2021-2027.
2. Having regard to the proximity and relationship of the proposed development to Stephenstown House, which is a Protected Structure and which is identified as a Historic Garden and Designed Landscape under Policy Objective BHC 38 Section 9.7 'Historic Gardens and Designed Landscapes' of the Louth County Development Plan 2021-2027, and the lack of appraisal and assessment in this regard as required by Policy Objective BHC 39 of the County Development Plan, it is considered that appropriateness of the proposed development has not been clearly demonstrated having regard to the requirements of Policy Objectives BHC 38 and BHC 39, and Section 9.7 'Historic Gardens and Designed Landscapes' of the Louth County Development Plan 2021-2027.

*-I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.-*

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D. Aspell  
Inspector  
22<sup>nd</sup> April 2025

# APPENDIX 1

## Form 1 - EIA Pre-Screening

<b>Case Reference</b>	ABP-321442-24
<b>Proposed Development Summary</b>	Construction of dwelling with wastewater treatment system and all associated site works
<b>Development Address</b>	Rathroal, Knockbridge, Dundalk, Co. Louth
	<b>In all cases check box /or le</b>
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.  <input type="checkbox"/> No, No further action required.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>	State the Class here
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. <b>No Screening required.</b>	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold. <b>EIA is Mandatory. No Screening Required.</b>	State the Class and state the relevant threshold
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold. <b>Preliminary examination required. (Form 2)</b> <b>OR</b> <b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b>	<b>Class 10(b)(i)</b> <b>Construction of more than 500 dwelling units.</b>
<b>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</b>	
Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3)
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

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

Date: \_\_ 17<sup>th</sup> April 2025\_\_

## Form 2 - EIA Preliminary Examination

<b>Case Reference</b>	ABP-321442-24
<b>Proposed Development Summary</b>	Construction of dwelling with waste water treatment system and all associated site works
<b>Development Address</b>	Rathroal, Knockbridge, Dundalk, Co. Louth
<b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b>	
<b>Characteristics of proposed development</b> (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	Proposed development comprises a dwelling in a rural area. The proposed development has a modest footprint, comes forward as a standalone project, requires minimal demolition works, 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.
<b>Location of development</b> (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	The development is located in a rural area. The receiving location is not particularly environmentally sensitive and is removed from sensitive natural habitats, designated sites and landscapes of identified significance in the County Development Plan. The site is of historic and cultural significance being near a protected structure and an area identified as an historic garden & designed landscape, however given the scale and nature of development there will be no significant environmental effects arising.
<b>Types and characteristics of potential impacts</b> (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	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.
<b>Conclusion</b>	
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>
There is no real likelihood of significant effects on the environment.	EIA is not required.

Inspector: \_\_\_\_\_ Date: \_17<sup>th</sup> April 2025\_\_\_\_\_

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

## APPENDIX 2

### **Appropriate Assessment: Screening Determination (Stage 1, Article 6(3) of Habitats Directive)**

- 11.1. I have considered the proposed dwelling in light of the requirements of S177U of the Planning and Development Act 2000 as amended.
- 11.2. A screening report for Appropriate Assessment was not submitted with this planning appeal case. In the Local Authority assessment of the proposed development, Appropriate Assessment Screening was undertaken by Louth County Council as part of their planning assessment and found that it was not in a position to adjudicate on the matter of appropriate assessment.
- 11.3. A detailed description is presented in Section 2 of my report. The proposed development comprises construction of a bungalow dwelling in a rural area, incorporating a wastewater treatment system, new access, soakaway, and new boundary hedge and fence.
- 11.4. 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).
- 11.5. There are no watercourses or other ecological features of note on the site that would connect it directly to European Sites in the wider area. I note that a watercourse known as the Fane river runs c.500m to the south of the site and enters the Irish Sea Lough approximately c.7.0km from that point.

#### **European Sites**

- 11.6. The proposed development is not located within or immediately adjacent any designated European Site. The boundaries of the nearest European Sites are within 4.9km. These are:
- Dundalk Bay SAC
  - Dundalk Bay SPA

Given the site given the intervening distances, the topography of the area, and the absence of direct hydrological connection, I consider that no other viable receptor pathways are identified between the appeal site and other European Sites.

European Site	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 Salicornia and other annuals colonizing mud and sand 1330 Atlantic salt meadows ( <i>Glaucopuccinellietalia maritimae</i> ) 1410 Mediterranean salt meadows ( <i>Juncetalia maritimi</i> )	c.4.9km	No.  Potential indirect hydrological connection given the topography of the area and proximity to the Fane river.
Dundalk Bay SPA (004026)	A005 Great Crested Grebe ( <i>Podiceps cristatus</i> ) 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> )	c.4.9km	No.  Potential indirect hydrological connection given the topography of the area and proximity to the Fane river.

	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		

### **Likely impacts of the project (alone or in combination)**

- 11.25. The application site is not located fully or partly within or adjacent any European Site, therefore there will be no direct impacts on any European Site, and no risk of related habitat loss, fragmentation, or any other direct impact. The site does not contain habitats of related conservation value and does not contain habitats that supports European Sites.
- 11.26. The site comprises part of an agricultural field and adjacent trees and hedgerows. The size and nature of the proposed development is relatively minor for the area, including at both construction and operational phases. Due to the nature and small scale of the development relative to the distance between the site and the identified European Sites, and the presence of a significant green buffer area between the development site and the Fane river, I consider the project would not likely 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.
- 11.27. During site clearance, groundworks, and construction of the proposed development, possible impact mechanisms of a temporary nature include generation of noise, dust and construction related emissions to surface water. The contained nature of the site (defined site boundaries, no direct ecological connections or pathways) and distance from receiving features connected to Dundalk Bay SPA and Dundalk Bay SAC make

it highly unlikely that the proposed development could generate impacts of a magnitude that could affect European Sites.

11.28. Regarding indirect impacts, I consider potential impacts on the identified European Sites would be restricted to the potential for discharge of surface water from the site during construction, and surface water and foul water from the site which could in principle occur during the operational phases.

11.29. The surface water pathway could create the potential for an interrupted and distant hydrological connection between the proposed development, however given the SUDS attenuation measures (soakaway) and the foul drainage measures proposed as required by the development plan, which would have a positive impact on drainage from the site, and the distances involved to the identified European Site, any runoff reaching the Fane river would be diluted by the proposed SuDS and foul drainage features over a minimum of approximately 500m of land; followed by c.7.0km of intervening watercourse prior to reaching the nearest identified European Site.

11.30. In this regard I note that the planning authority reasons for refusal stated that the authority was not in a position to adjudicate on the matter of appropriate assessment. The planner report stated that the site is 2.6km and 3.4km from Dundalk Bay SAC and Dundalk Bay SPA, that the River Fane is a direct hydrological link to these EU Sites, and that it is located c.600m downhill from the site. The planner report states that a new wastewater treatment system and percolation area are proposed, and that the same site characterisation report submitted with the application is the same report as submitted with the previous application refused on the site on grounds of wastewater treatment and potential detrimental impact on EU Sites from wastewater disposal. The report stated that given the absence of a ground water risk assessment to conclude that the development complies with the EPA Code of Practice 2021. Thus, the report stated, the development would post a risk in terms of environmental pollution. The report stated that it is not in a position to adjudicate on the matter of appropriate assessment and that the proposal should be refused in this regard.

11.31. I note the incorrect distances to the Fane river, Dundalk Bay SPA and Dundalk Bay SAC stated in the planning authority planner report. I consider that the application

largely met the requirements of the EPA 2021 Code of Practice, however that given the lack of information in relation to the proximity of existing wells and the proposed nature of water supply for the site, that taking a precautionary approach in the interest of public health in the immediate area of the development, and in line with the recommendation of the planning authority Environment Section that permission should be withheld in this regard until a positive groundwater risk assessment is undertaken.

11.32. However, given the information submitted in relation to environmental impacts, and the available information in relation to the waterbodies, soils, and groundwater in the area, and given the nature of the application and scale of development, I do not consider that the development as proposed would present a significant risk to European Sites.

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

**Likely significant effects on the European sites in view of the conservation objectives**

11.34. The conservation objectives for the Dundalk Bay SAC are to maintain the favourable conservation conditions for each of the species and habitats identified. The conservation objectives for the Dundalk Bay SPA are to respectively maintain and restore the favourable conservation conditions for each of the species and habitats identified.

11.35. Given that potential indirect hydrological connection is identified to the Dundalk Bay SAC and Dundalk Bay SPA European Sites only, and given the qualifying interests of these identified SACs and SPAs (estuaries, mudflats, perennial vegetation, annuals, meadows, and waterbirds) are considered to have relatively low sensitivity to suspended sediments or related pollutants, and their conservation objectives would not be compromised and there would be no changes in ecological functions due to construction related emissions or disturbance.

11.36. Given the agricultural nature of the grassed field, I do not consider there will be direct or ex-situ effects on relevant mobile species, including ex-situ foraging, roosting or



breeding habitat during construction or operation of the proposed development due to the location of the development site and the absence of suitable habitat.

11.37. Having regard to the foregoing, I conclude that the construction and operation of the proposed development would not likely impact the habitats, species, ecological function, or features necessary for qualifying interests, or significantly decrease water quality for those habitats or species. I consider that the proposed development will not likely result in indirect impacts that could affect or undermine the conservation objectives of any of the qualifying interests or special conservation interests of European sites within or associated with the Dundalk Bay SAC and Dundalk Bay SPA. Due to distance and lack of meaningful ecological connections it is not likely there will be significant changes in ecological functions due to any construction related emissions or disturbance.

#### **In combination effects**

11.38. No other proposed developments are recorded in the area. I do not consider the proposed development will result in any effects that could contribute to an additive effect with other developments in the area.

11.39. No mitigation measures are required to come to these conclusions.

#### **Overall Conclusion**

#### **Screening Determination**

11.40. Having carried out Screening for Appropriate Assessment of the project in accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on Dundalk Bay SAC, Dundalk Bay SPA, or any European Site [or name relevant site] and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

1. The small scale and nature of the development in a rural area;

2. Distance to, weak indirect connections to, and flow distance to, Dundalk Bay SAC and Dundalk Bay SPA, with which there is potential hydrological connectivity being at distances of c.7.0km to the east;
3. No ex-situ impacts on wintering birds;
4. Possible impacts identified would not be significant in terms of site-specific conservation objectives for the Dundalk Bay SAC and Dundalk Bay SPA, or any other European site and would not undermine the maintenance of favorable conservation conditions or delay or undermine the achievement of restoring favorable conservation status for those qualifying interest features of unfavorable conservation status.